

**HEARING OFFICER, CAREER SERVICE BOARD
CITY AND COUNTY OF DENVER, COLORADO**

Appeal No. 62-09

SECOND DISCOVERY ORDER 11/20/09

IN THE MATTER OF THE APPEAL OF:

RONNIE SANDERS

Appellant,

vs.

DEPARTMENT OF PARKS & RECREATION

and the City and County of Denver, a municipal corporation,
Agency.

Following the issuance of my "Order re Agency's Motion for Partial dismissal" on October 26, 2009, the remaining issues in this case have been reduced to Appellant's layoff and retaliation claims. On November 11, 2009, a discovery order issued denying Appellant's motion for discovery. Apparently, Appellant subsequently filed a request for informal discovery with the Agency which was rejected by Agency's filing on November 16, 2009 captioned "Agency's Objections to Appellant's Discovery Requests." The Appellant, without filing his request for discovery, filed his "Appellant's Response to Agency's Objections to discovery and Appellant's Request for Hearing" on November 18, 2009. This order assumes the Appellant's second discovery request is the same as the attachment to the Agency's November 16 filing. The Appellant's request is timely. The Appellant's current request for discovery must relate, or must be reasonably calculated to lead to discoverable information related to the remaining claims only. With that proviso in mind, the Appellant requests, and the Agency objects to, the following Interrogatories.

1. *Please identify when and by how much the Agency's budget was reduced that necessitated Mr. Sanders' layoff and state why the funding for the newly created positions that were transferred to Career Service Authority was not used to fund Mr. Sanders' position.*

This request is compound, and therefore the second request is stricken. The Agency shall respond to the first request only.

2. *When the safety and industrial hygiene duties for Parks and Recreation were transferred to the Career Service Authority why was Mr. Sanders, as the encumbered [sic] in the position, recommended for layoff rather than retained in the position and transferred to Career Service Authority in accordance with Rule 7 of the Career Service Rules.*

This request is GRANTED as relevant or reasonably calculated to lead to the discovery of relevant information.

3. *Identify all individuals who had any input in the reorganization decision or in the decision to lay Mr. Sanders off. For each individual identified state the nature/content of their input including the date of the communication, the identity of the individual recipient of the communication and any responses or other feedback to the input.*

This request is DENIED as overbroad.

4. *Provide all information related to the CSA Performance Assessment of the Park & Recreation Human Resources/Safety Office performed on request of the Park and Recreation Manager. Provide details of the assessment procedure including but not limited to a list of all persons interviewed, who the interviewer was, notes from each interview, summaries, conclusions, and any recommendation related to the assessment as well as any follow-up or other information related to the assessment.*

This request is DENIED as overbroad.

5. *Explain how the implemented reorganization meets the requirement of Executive Order 65 that requires the head of each City agency to appoint Safety Representatives and explain the rationale for identifying positions as internal only posting versus internal/external posting as described in the February 11, 2009 Human Resources and Safety Reorganization document.*

This request is compound. The Agency SHALL RESPOND to the first request only.

The Appellant requested, and the Agency objected to, the production of the following documents.

1. *Produce all documents which support your answers to the interrogatories above, or which you referred to, relied upon or identified in answering the interrogatories.*

This request is DENIED as cumulative. The Agency is already required, by pre-hearing order to share all documents upon which it relied in laying off the Appellant. Notice of Hearing and Pre-hearing Order, #B.3.

2. *Produce all documents, recordings, e-mails, phone messages of any kind arising from or related to the 2009 Human Resources and Safety Reorganization.*

This request is DENIED for the same reason stated immediately above.

3. *Produce all documents, recordings, e-mails, phone messages of any kind related to any lay-off resulting from the Human Resources and Safety Reorganization.*

This request is DENIED for reasons stated immediately above, and as overbroad.

4. *Produce all records or documents, recordings, e-mails, phone messages of any kind related to or evidencing the budget reductions as set forth in the August 18, 2009 letter to Mr. Sanders notifying him of his lay-off.*

To the extent this discovery has not already been produced, the Agency SHALL PROVIDE the documents requested in this #4.

5. *Produce all records or documents, recordings, e-mails, phone messages of any kind related to the assessment process, feedback/indicators and recommendations referred to in the Human Resources and Safety Reorganization document dated February 11, 2009.*

This request is DENIED as overbroad or irrelevant.

6. *Produce all records or documents, recordings, e-mails, phone messages of any kind related to the elimination of any position or creation of new positions in the Career Service Authority resulting from the Human Resources and Safety Reorganization.*

This request is DENIED as overbroad or irrelevant.

7. *Produce the rank order list or any other document related to any lay-off resulting from the Human Resources and Safety Reorganization.*

This request is DENIED as overbroad.

8. *Produce all documents related to any audit or approval of any decision related to the reorganization or any layoff resulting from the Human Resources and Safety Reorganization.*

To the extent not already produced, the Agency SHALL PROVIDE the documents requested in this request #9.

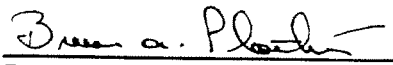
9. *Produce all calendars, diaries or other similar documents, whether hard copy or electronic, for Kevin Patterson, Ann King or any other individual involved in the reorganization or any layoff resulting from the reorganization.*

This request is DENIED as overbroad or irrelevant.

10. *Produce a copy of the lay-off unit for any lay-off resulting from the reorganization.*

This request is DENIED as irrelevant. The Agency shall provide discovery, as ordered above, on or before December 1, 2009.

DONE November 23, 2009.



Bruce A. Plotkin
Career Service Hearing Officer