

**ORDER REGARDING APPELLANT'S COMBINED MOTIONS FOR DEPOSITION,
TO INTERVIEW POTENTIAL WITNESS, TO ENLARGE TIME, AND
ORDER REGARDING APPELLANT'S MOTION TO ENDORSE NEW WITNESSES**

IN THE MATTER OF THE APPEAL OF:

MATHEW CAROTHERS, Appellant,

vs.

DEPARTMENT OF SAFETY, DENVER SHERIFF'S DEPARTMENT,
and the City and County of Denver, a municipal corporation, Agency.

Appellant has appealed his dismissal from employment. An order regarding discovery entered on March 25, 2011 which, in pertinent part, required discovery and witness lists to be completed by May 9, 2011. [Notice of Hearing and Pre-hearing Order]. Appellant recently filed several motions regarding discovery and witnesses all of which are opposed by the Agency. This Order disposes of the following filings: "Appellant's Combined Motion[s] for Leave to Take Oral Deposition of Sgt. Denovellis, and to Interview Capt. Gale and Request for Extension of Deadline [to do so]," filed July 19, 2011; "Appellant's Motion for Leave to Endorse Two New Witnesses and Request for Subpoenas," filed July 19, 2011; "Agency's Opposition [to the Appellant's deposition and interview motions]," filed July 22, 2011; "Agency's Opposition to Appellant's Motion to Add Witnesses," filed July 22, 2011.

1. Appellant's Motion for leave to depose Sgt. Denovellis.

Appellant did not state cause why his request was made after the above-referenced deadline for discovery. This request is, therefore, DENIED. Even in the absence of timeliness issues, the relevance of Denovellis' testimony is dubious. Appellant states Denovellis "presumably developed his own personal insights in to the case and his own personal opinions about the appropriate discipline, if any against Appellant." [Appellant's Motion @ #16]. The potential for such discovery during hearing would be outweighed by the need for maintaining an expeditious hearing. CSR 19-30 A., 19-50 A. [balancing the need for fair yet expeditious hearings].

2. Appellant's Motion for leave to interview Capt. Gale.

Appellant did not state cause why his request was made after the above-referenced deadline for discovery. This request is, therefore, DENIED. Even in the absence of timeliness issues, the relevance of Gale's testimony is questionable. Appellant states Gale "may have information regarding the credibility and character of some of the Agency's witnesses against him..." For reasons as stated above, the balance of expediency outweighs the

vague potential for exculpatory or credibility testimony by permitting a pre-hearing interview with Gale. Moreover, it is questionable the Hearing Office is empowered to enforce such a request to interview a potential witness. Finally, it is likely a few brief questions during hearing should permit Appellant to determine whether either of these endorsed witnesses has relevant information that bears significant weight in a determination of the outcome.

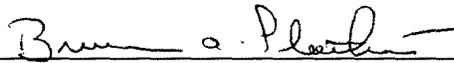
3. Appellant's motion to extend discovery deadline.

Contained within his first motion, Appellant requests an extension of discovery to complete the above-requested deposition and interviews. As the underlying requests are denied, the request to extend has become MOOT.

4. Appellant's Motion for Leave to Endorse Two new Witnesses and request for Subpoenas.

Appellant's request is untimely and therefore DENIED. Appellant infers the request is timely based upon my April 22 order requiring parties to exchange and submit final will-call witness lists at least two days before hearing. This order does not permit the endorsement of new witnesses.

DONE June 26, 2011.



Bruce A. Plotkin
Career Service Hearing Office

I certify that, on June 26, 2011, I delivered a correct copy of this Order to the following, in the manner indicated:

Mr. Mathew Carothers, mattcarothers@hotmail.com	(via email);
Marcy McDermott, Esq., mmcdermott@fostergraham.com	(via email);
Dan Foster, Esq., danny@fostergraham.com	(via email);
Lori Uhlberg, Esq. luhlberg@fostergraham.com	(via email);
City Attorney's Office at Dlefilng.litigation@denvergov.org	(via email);
Ms. Lili Tran, HR., Lili. Tran@denvergov.org	(via email).