

DISCOVERY ORDER

TENAJ TANNENBAUM, Appellant,

v.

OFFICE OF THE CLERK AND RECORDER,
and the City and County of Denver, a municipal corporation, Agency.

This is an appeal of Appellant's two-week suspension for alleged CSR violations. Appellant also asserted claims of religious, age, and political affiliation discrimination. She also claimed her suspension and transfer were in retaliation for her whistleblowing for reporting: (1) unpaid, off-duty work by a co-worker, Eddie Gurrola, (2) that her former boss, Sindee Wagner, demanded unpaid off-duty work, and (3) reported a conflict of interest to the Board of Ethics - the Agency's re-hiring of Sindee Wagner after her resignation.

On March 21, 2016, Appellant filed a discovery motion seeking 10 requests for production (RFPs). The Agency agreed to produce RFPs 1 and 10 subject to privilege. The Agency also stated it produced documents responsive to RFPs 8 and 9, and objected to RFPs 2 – 7 for the following reasons.

RFP 2 seeks Sindee Wagner's personnel file, including letters pertaining to her alleged meltdown. The Agency objected to the request as irrelevant, overbroad, and failing to establish good cause. Further, the Agency stipulated Wagner's conduct on the date sought was unprofessional, and that she was disciplined for the misconduct. The stipulation offered by the Agency, to the facts and outcome surrounding this incident, renders this request moot.

RFP 3 seeks the 2014 – 2016 Kronos Record of Leroy Gurrola. The Agency objected the request is not relevant, not supported by good cause, and that it is related to Appellant's transfer for reporting Mr. Gurrola's unscheduled work. The Agency further agreed to stipulate that the Agency investigated Mr. Gurrola's unauthorized overtime work, found that he had worked overtime, and paid him for the overtime hours he had worked. The stipulation offered by the Agency, to the facts and outcome surrounding this incident, render this request moot.

RFP 4 seeks MDS software indicating Mr. Gurrola's electronic signature of work processed since 2014. The Agency objected on the same bases it did in RFP 3, and offered the same stipulation. The stipulation offered by the Agency, to the facts and outcome surrounding this incident, render this request moot.

RFP 5 seeks Mr. Gurrola's 2015 PEPR. The Agency objected the information is not relevant, not supported by good cause, and because 2015 PEPRs are drafted and administered in 2016, outside the time frame of this Appeal. Mr. Gurrola's testimony is not relevant to the narrow issues to be decided in this appeal.

RFP 6 seeks documents and communications from Management, including Tracy Steers, about Ms. Wagner's resignation, and Ms. Steers' appointment as acting supervisor of the

Agency's Public Trustee division. The Agency objected the request is not relevant, is not supported by good cause, and that the incident occurred outside the timeframe permitted Appellant under CSR 19-20. Information related to the hiring of Appellant's new supervisor is not relevant to the narrow issues to be decided in this appeal.

RFP 7 seeks all documents and communications regarding Appellant's move from her position in the Public Trustee division to Recording. The Agency objected the request is vague and ambiguous, not relevant, and outside the timeframe permitted Appellant under CSR 19-20. I find that documents and communications related to Appellant's allegedly retaliatory transfer is relevant to her whistleblower, and discrimination claims.

Order

1. RFP 1, and 8-10 are **moot**.
2. RFPs 2 – 6 are **denied**.
3. RFP 7 is **granted**.
4. On or before **April 1, 2016**, the Agency shall produce documents it has agreed to produce, and RFP 7 to Appellant.
5. On or before **April 1, 2016**, for any documents over which the Agency claims privilege, they shall provide a privilege log.

DONE March 25, 2016.



Bruce A. Plotkin
Career Service Hearing Officer