

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Walker D. Miller

Civil Action No. 06-cv-01142-WDM-MJW

KARYN S. PALGUT,

Plaintiff,

v.

CITY OF COLORADO SPRINGS,

Defendant.

ORDERS

Given the reality of the impending start of trial next Monday and the parties' filing of numerous pretrial motions, and in consideration of the parties' efforts to efficiently prepare for trial, I enter the following orders concerning five pending motions for the reasons to be articulated at the trial preparation conference tomorrow:

1. Defendant's partial motion to dismiss, filed March 8, 2010 (Doc. No. 434) is granted to dismiss the Plaintiff's claim of disparate impact and is otherwise denied.
2. Defendant's partial motion to dismiss (Doc. No. 470) is denied as allegations of discriminatory use of test scores is sufficiently like or reasonably related to the intentional discriminatory treatment claim alleged.
3. Defendant's motion in limine to preclude back and front pay damages (Doc. No. 463) is granted to the extent that Plaintiff's failure to timely supplement disclosure results in the sanction of allowing Defendant to assert the affirmative defense of mitigation of damages pursuant to Fed. R. Civ. P. 37(b)(2)(A)(ii) and, upon Defendant's

request, I will inform the jury of Plaintiff's failure to timely supplement her disclosures pursuant to Fed. R. Civ. P. 37(c)(1)(B). The motion is otherwise denied.

4. Defendant's motion to amend its answer and the pretrial order (Doc. No. 478) is granted in part to allow the defense of mitigation of damages but is otherwise denied with regard to the affirmative defenses of statute of limitations, *res judicata* and collateral estoppel.

5. Plaintiff's motion in limine to exclude affirmative defenses (Doc. No. 438) is granted as to the affirmative defenses of statute of limitations, *res judicata* and collateral estoppel, but otherwise denied.

DATED at Denver, Colorado, on April 7, 2010.

BY THE COURT:



s/ Walker D. Miller
United States District Judge