IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00737-MSK-KLM

KEITH PARKER,

Plaintiff,

v.

CAPTAIN HALL,
MRS. DONNA WEBSTER,
LT. M. MCCORMICK,
LT. PIPER,
COLORADO DEPARTMENT OF CORRECTIONS, and
COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on **Plaintiff's Motion to Re-Open Discovery** [Docket No. 502; Filed January 17, 2012] (the "Motion"). "Whether to extend or reopen discovery is committed to the sound discretion of the trial court . . . ." *Smith v. United States*, 834 F.2d 166, 169 (10th Cir. 1987). The Tenth Circuit

> identified several relevant factors in reviewing decisions concerning whether discovery should be reopened, including: 1) whether trial is imminent, 2) whether the request is opposed, 3) whether the non-moving party would be prejudiced, 4) whether the moving party was diligent in obtaining discovery within the guidelines established by the court, 5) the foreseeability of the need for additional discovery in light of the time allowed for discovery by the district court, and 6) the likelihood that the discovery will lead to relevant evidence.

Smith, 834 F.2d at 169 (citation omitted).

Counsel for Plaintiff asks the Court to reopen discovery for the purpose of deposing ten individuals identified by Plaintiff, but does not identify the individuals, explain the purpose of the testimony, or state an estimated length of deposition for each individual. Counsel for Plaintiff further failed to include in the Motion any analysis pursuant to the

factors identified in *Smith*. Accordingly,

IT IS HEREBY **ORDERED** that the Motion is **DENIED WITHOUT PREJUDICE**. Plaintiff may re-file the Motion, but he must apply the *Smith* factors to his request, and he must state with specificity the identity of the individuals to be deposed, the purpose of each individual's testimony, and the expected hours required for each deposition.

Dated: January 19, 2012