

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-01661-LTB-KLM

ESTATE OF DAVID RANCE ROSSITER, by Charles Rossiter and Erin Rossiter as Co-Personal Representatives,
CHARLES ROSSITER, as Parent and Co-Personal Representative of the Estate of David Rance Rossiter, and
ERIN ROSSITER, as Parent and Co-Personal Representative of the Estate of David Rance Rossiter,

Plaintiffs,

v.

BOARD OF COUNTY COMMISSIONERS OF ARAPAHOE COUNTY, COLORADO,
SHERIFF GRAYSON ROBINSON, in his individual and official capacity, and
OFFICER DANIEL JOSEPH MONTANA, JR., in his individual capacity,

Defendant(s).

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiffs' **Unopposed Motion for Leave to Take Videotaped Preservation Deposition of Kacey Smart** [Docket No. 195; Filed October 25, 2010] (the "Motion"). Although discovery is closed, "the discovery cut-off 'does not prevent a party from memorializing a witness' testimony in order to offer it at trial,'" *Estenfelder v. Gates Corp.*, 199 F.R.D. 351, 354 (D. Colo. 2001) (citation omitted), particularly in circumstances where the nonmoving party would not be prejudiced and no bad faith is present. *Summers v. Mo. Pac. R.R. Sys.*, 132 F.3d 599, 604 (10th Cir. 1997). Accordingly,

IT IS HEREBY **ORDERED** that the Motion is **GRANTED**. The parties may conduct a preservation deposition of Kacey Smart on October 27, 2010.

Dated: October 26, 2010