

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge David L. West**

Civil Action No. 12-CV-00238-MSK-DLW

DEBRA A. HART,

Plaintiff,

vs.

**DILLON COMPANIES, INC.,
a Kansas Corporation, d/b/a CITY MARKET,**

Defendant.

**ORDER RE: DEFENDANT DILLON COMPANIES, INC., d/b/a
CITY MARKET'S MOTION TO AMEND ANSWER [DOC. #22]**

ORDER ENTERED BY MAGISTRATE JUDGE DAVID L. WEST

The Defendant, Dillon Companies, Inc., Motion to Amend Answer [Doc. #22] was referred to the Magistrate Judge on June 11, 2012 by Judge Martha S. Krieger.

Defendant, Dillon Companies, Inc., filed the Motion to Amend its Answer to add a defense of after acquired evidence based on misconduct uncovered during discovery. That alleged misconduct is the Plaintiff's taping a conversation with Labor Relations Manager of Defendant, Deborah Ross. That conversation discussed Plaintiff's appeal of the decision to terminate her employment.

The Court finds that *McKennon v. Nashville Banner Pub. Co.*, 512 U.S. 339 applies and this Court finds that Plaintiff is suing Defendant over its handling of the post-termination appeals

procedure and that the allegation of post-termination misconduct could be applicable in this case, therefore:

IT IS HEREBY ORDERED that the Defendant's Motion to Amend Answer [Doc. #22] is **GRANTED**.

DATED: September 27, 2012.

BY THE COURT:

s/David L. West
United States Magistrate Judge