

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 10-cv-02022-WYD-KMT

WYATT T. HANDY JR.,

Plaintiff,

v.

CHIEF DIGGINS,
MAJOR V. CONNORS, and
CHAPLAIN SCOTT,

Defendants.

ORDER

This matter is before the court on “Plaintiff’s Motion Requesting Jury Trial” (Doc. No. 27, filed December 16, 2010).

Prisoner Complaint did not contain a demand for a jury trial. (*See* Doc. No. 3.) Fed. R. Civ. P. 38(b) requires that a demand for a jury trial on an issue so triable be made within ten days of the last pleading directed to the issue. “The ‘last pleading directed to such issue’ will generally be an answer or a reply, if appropriate, and is determined on a claim by claim basis.” *In re Kaiser Steel Corp.*, 911 F.2d 380, 388 (10th Cir. 1990) (quoting *E.R. Christenson v. Diversified Builders, Inc.*, 331 F.2d 992, 994-95 (10th Cir.1964)). Defendants have not filed an answer to Plaintiff’s Complaint. As such, Plaintiff’s demand for a jury trial is timely under Rule 38. Therefore, it is

ORDERED that “Plaintiff’s Motion Requesting Jury Trial” (Doc. No. 27) is GRANTED and that all issues so triable will be tried to a jury.

Dated this 17th day of December, 2010.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge