

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

Civil Action No. 12-cv-01134-CMA-KMT

HAZHAR A. SAYED,

Plaintiff,

v.

LT. NORVA COURTNEY, individual capacity,  
DR. KLENKE WILLIAM, individual capacity,  
LPN, HINIGER TWINKLE, individual capacity, and  
UNKNOWN JOHN/JANE DOES, individual capacity,

Defendants.

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**ORDER**

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This matter is before the court on Plaintiff's Motion to Strike. (Doc. No. 46, filed Mar. 20, 2013.) Plaintiff's Motion seeks to strike Defendants' Answer (Doc. No. 44) as untimely under Fed. R. Civ. P. 12(a)(1).

Ordinarily, a defendant must serve an answer either within twenty-one days of being served with the summons or complaint, or, if it has waived service under Rule 4(m), within sixty days after the request for a waiver of service was sent. Fed. R. Civ. P. 12(a)(1)(A)(i)–(ii). However, if the defendant files a motion under Rule 12, the deadline for filing a responsive pleading is altered. Fed. R. Civ. P. 12(a)(4). More specifically, “[u]nless the court sets a different time, serving a motion under [Rule 12]” alters the above period as follows: “if the court

denies the motion or postpones its disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action." *Id.*

Here, by filing their Motion to Dismiss (Doc. No. 16, filed Aug. 10, 2012), Rule 12(a)(4) altered the time for Defendants to file a responsive pleading to 14 days after ruling on the Motion to Dismiss. The District Court's Order granting in part and denying in part Defendants' Motion to Dismiss was issued on February 26, 2013 (*see* Doc. No. 39); as such, Defendants had until March 12, 2013 to file an Answer. Defendant's Answer was filed on March 8, 2013 (*see* Answer) and was therefore timely under Rule 12(a)(4). Accordingly, it is

ORDERED that Plaintiff's Motion to Strike (Doc. No. 46) is DENIED.

Dated this 21st day of March, 2013.

**BY THE COURT:**



Kathleen M. Tafoya  
United States Magistrate Judge