

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 16-cv-00057-CMA-NYW

RONNIE R. ROLLAND,

Plaintiff,

v.

CARNATION BUILDING SERVICES, INC.,

Defendant.

ORDER

Magistrate Judge Nina Y. Wang

This matter is before the court on Defendant Carnation Building Services, Inc.'s ("Defendant") Motion to Strike. [#28, filed Mar. 8, 2016]. The Motion to Strike was referred to the undersigned Magistrate Judge pursuant to the Order of Reference dated February 16, 2016 [#12] and the Memorandum dated March 9, 2016 [#29].

Defendant requests that the court strike requests for production and requests for admissions that it received from Mr. Rolland prior to service of the Complaint in this matter. [#28 at 1]. Defendant asks the court to strike these documents because no discovery was authorized at the time of service due to the facts that the Complaint had not yet been served and a Scheduling Order had not yet been entered. [#28 at 1-2].

The Federal Rules of Civil Procedure do not provide for the service of discovery prior to service of a complaint. Indeed, even the newly amended Rule 26(d)(2) and Rule 34 that

contemplate early requests for production do not permit service of such discovery until after 21 days following the service of the summons and complaint.

Accordingly, **IT IS ORDERED** that Defendant Carnation Building Services, Inc.'s Motion to Strike [#28] is **GRANTED**. Nothing in this Order will be interpreted to prohibit Plaintiff from re-serving the same discovery requests, so long as such service is consistent with the Federal Rules of Civil Procedure. Furthermore, nothing in this Order will be interpreted as striking any document other than the requests for production and requests for admission which Defendant specifically named in its Motion.

DATED: March 11, 2016

BY THE COURT:

s/Nina Y. Wang
United States Magistrate Judge