

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KRISTINA M. CARTER,

Plaintiff,

vs.

CITY OF OMAHA, a political
subdivision of the State of Nebraska,
et al.,

Defendants.

8:16-CV-389

ORDER

This matter is before the Court on its own motion, with respect to the plaintiff's "Reply to Defendant's Answer and Affirmative Defenses" ([filing 28](#)). The filing will be stricken.

[Fed. R. Civ. P. 7\(a\)](#) provides that the only pleadings allowed in federal court are: "(1) a complaint; (2) an answer to a complaint; (3) an answer to a counterclaim designated as a counterclaim; (4) an answer to a crossclaim; (5) a third-party complaint; (6) an answer to a third-party complaint; and (7) if the court orders one, a reply to an answer." The plaintiff's reply is not a permitted pleading. The defendants' answer ([filing 5](#)) does not contain a counterclaim. So, "a reply was not only not required but was not even permissible, except by leave or order of the trial court granted in its sound discretion." [Traylor v. Black, Sivalls & Bryson](#), 189 F.2d 213, 216 (8th Cir. 1951). The Court has not ordered a reply to the defendants' answer, nor is there any reason to do so.¹

¹ A substantial reason must be given or necessity must be demonstrated by the movant to justify the Court ordering a reply to an answer. [5 Charles Alan Wright and Arthur R. Miller, Federal Practice and Procedure § 1185 \(3d ed. 2004\)](#).

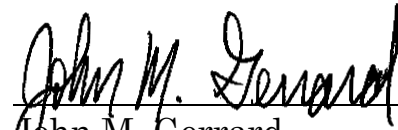
In addition, the Court notes that even if a reply was permitted, it would have been due 21 days after service of the answer. [Fed. R. Civ. P. 12\(a\)\(1\)\(B\)](#). The plaintiff's purported reply was filed over 9 months after the defendants' answer was filed, and there is no justification for its extreme untimeliness. *See* [Fed. R. Civ. P. 6\(b\)\(1\)\(B\)](#).

In sum, the plaintiff's "reply" is both impermissible and untimely. Accordingly,

IT IS ORDERED that the plaintiff's "Reply to Defendant's Answer and Affirmative Defenses" ([filing 28](#)) is stricken.

Dated this 25th day of July, 2017.

BY THE COURT:



John M. Gerrard
United States District Judge