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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DOUGLAS R. FENTON, Plaintiff, v. CAROLYN W. COLVIN, Defendant.	)	Case No. 2:16-cv-02356-RFB-CWH **ORDER**

Presently before the Court is Plaintiff's reply in support of his complaint (ECF No. 16), filed on April 27, 2017. In his reply, Plaintiff argued, for the first time, that the ALJ failed to consider Plaintiff's limited ability to reach as the result of shoulder impairment. The Commissioner did not have an opportunity to respond to that argument.

The decision to consider arguments or facts raised for the first time in a reply brief is, to some degree, at the discretion of the trial court. *Backcountry Against Dumps v. Chu*, 215 F. Supp. 3d 966, 975 (S.D. Cal. 2015). Although Plaintiff's arguments could have been raised earlier, given their importance to Plaintiff's claims, the Court will consider them. Since the Court will consider the new arguments in Plaintiff's reply, the Court will also grant leave for the Commissioner to file a surreply.

IT IS THEREFORE ORDERED that Defendant may file a surreply to Plaintiff's reply (ECF No. 16), no later than thirty days from the date of this order.

DATED: January 9, 2018

C.W. Hoffman, Jr.
United States Magistrate Judge

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