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UNITED STATES DISTRICT COURT

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DISTRICT OF NEVADA

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RONALD COLLINS,

Case No. 3:16-cv-00111-MMD-WGC

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Plaintiff,

ORDER

8

v.

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JOSHUA COLLINS, et. al.,

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Defendants.

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On August 29, 2018, Plaintiff filed a motion for an order that claims three and four be admitted due to Defendants' failure to deny them in their answer. (ECF No. 107.) Defendants filed a response stating that there was no Count III or Count IV in the Amended Complaint. (ECF No. 119.) Plaintiff filed a reply. (ECF No. 120.)

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On September 18, 2018, the court issued an order explaining to Defendants that Counts III and IV (labeled by Plaintiff as Count IIII) were part of the Amended Complaint, set forth at ECF Nos. 20-1 and 20-2, and that the Screening Order specifically discussed claims proceeding with respect to those counts. (ECF No. 122.) Since Defendants apparently overlooked those counts, the court gave them until September 25, 2018, to supplement their opposition to Plaintiff's motion to have those counts admitted due to Defendants' failure to address them in their answer. (*Id.*)

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On September 25, 2018, Defendants filed both an amended answer (ECF No. 127) and a supplemental response to Plaintiff's motion (ECF No. 128). Defendants did not have leave to file an amended answer under Federal Rule of Civil Procedure. Nor did they make a good cause showing for exceeding the scheduling order deadline of April 16, 2018, to file an amended pleading or motion for leave to amend a pleading. (ECF No. 45.) In addition, the supplemental response to Plaintiff's motion contains only a brief, and vague explanation for the failure to

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address the claims.

As the court was preparing this order, Plaintiff filed a motion to strike the answer as untimely. (ECF No. 132.) The court agrees with Plaintiff that the amended answer was filed without leave of court, and is untimely.

Therefore, Plaintiff's motion (ECF No. 132) is **GRANTED**, and the amended answer (ECF No. 127) is **STRICKEN**. Defendants have up to and including **October 12, 2018**, to file and serve a motion for leave to amend their answer which comports with Federal Rule of Civil Procedure 15, Local Rule 15-1 (which requires the proposed amended pleading to be attached), and must satisfy the good cause standard required when a party seeks to file an amended pleading or motion for leave to amend a pleading outside of the scheduling order deadline. Plaintiff will have up to and including **October 26, 2018** to file and serve a response. Defendants will then have up to and including **November 2, 2018** to file and serve a reply brief.

IT IS SO ORDERED.

DATED: September 27, 2018



WILLIAM G. COBB
UNITED STATES MAGISTRATE JUDGE