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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

_____	)
THOMAS J. ROMANO,	)
	)
Plaintiff,	)
	)
vs.	)
	)
NEVADA DIVISION OF WATER	)
RESOURCES,	)
	)
Defendant.	)
_____	)

3:16-cv-00204-RCJ-WGC

**ORDER**

This case arises out of a water rights dispute. Pending before the Court are a Motion for Sanctions (ECF No. 15) and a Motion to Strike (ECF No. 16). The Court denies the motions.

**I. FACTS AND PROCEDURAL HISTORY**

The facts as alleged in the Complaint are difficult to follow. It seems clear that Plaintiff Thomas Romano believes Defendant Nevada Division of Water Resources has improperly refused to recognize his right to use 82.62 acre feet of water to benefit certain land. Plaintiff appears to allege that the prior owner quitclaimed the water rights to him in 2010, but Defendant is allegedly of the position that it cancelled the rights in 2004 such that the thing quitclaimed was of no value. In any case, Plaintiff sued Defendant *in pro se* in this Court. Defendant has answered. Plaintiff has asked the Court to strike Defendant's affirmative defenses and to sanction defendant for asserting them.

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1 **II. DISCUSSION**

2 “The court may strike from a pleading an insufficient defense or any redundant,  
3 immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f). There is no such material  
4 in the Answer. Moreover, the motion to strike is itself improper and should be stricken, insofar  
5 as it also constitutes a “reply” to Defendant’s Answer. Such a pleading is not allowed without a  
6 court order. *See* Fed. R. Civ. P. 7(a)(7).

7 “[A] motion [for sanctions] must be served under Rule 5, but it must not be filed or be  
8 presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn  
9 or appropriately corrected within 21 days after service or within another time the court sets.”  
10 Fed. R. Civ. P. 11(c)(2). Plaintiff attests to having served the motion on May 24, 2016. (*See*  
11 *Mot. 10, ECF No. 15*). He filed the motion on May 25, 2016, without waiting 21 days for a  
12 potential withdrawal or correction. The motion is therefore improper.

13 **CONCLUSION**

14 IT IS HEREBY ORDERED that the Motion for Sanctions (ECF No. 15) and the Motion  
15 to Strike (ECF No. 16) are DENIED.

16 IT IS FURTHER ORDERED that the Reply (ECF No. 17) is STRICKEN.

17 IT IS SO ORDERED.

18 Dated this 29<sup>th</sup> day of June, 2016.

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21 \_\_\_\_\_  
22 ROBERT C. JONES  
23 United States District Judge  
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