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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

BRIAN ELLIS PORTER,  
Plaintiff,  
v.  
CHERYLEE WEGMAN,  
Defendant.

Case No. 1:10-cv-01500-BAM (PC)  
ORDER OVERRULING PLAINTIFF’S  
OBJECTIONS TO PRETRIAL ORDER  
(ECF No. 180)

Plaintiff Brian Ellis Porter (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. All parties have consented to magistrate judge jurisdiction. (ECF Nos. 5, 150.) This matter is set for trial on August 29, 2017.

Currently before the Court are Plaintiff’s objections to the Court’s July 12, 2017 pretrial order.<sup>1</sup> (ECF No. 180.) Plaintiff objects to the exclusion from the Court’s pretrial order of his Fourteenth Amendment Equal Protection claim against Defendant Wegman, asserting that he has maintained this claim throughout this lawsuit. Plaintiff further requests reconsideration of the Court’s denial of his motion for attendance of incarcerated witnesses. (Id.)

On July 28, 2014, Defendants Biter, Castro, Grewal, and Wegman filed a motion for summary judgment. (ECF No. 103.) On July 1, 2015, the Court granted the entirety of summary

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<sup>1</sup> As Plaintiff’s objections apparently crossed in the mail with the Court’s amended pretrial order, (ECF No. 179), the Court will address the objections in full.

1 judgment, entered judgment, and closed the case. (ECF No. 135.) Plaintiff appealed, and on  
2 November 23, 2016, the United States Court of Appeals for the Ninth Circuit reversed summary  
3 judgment solely with respect to Plaintiff's Free Exercise of Religion claim against Defendant  
4 Wegman only. (ECF No. 141.) Contrary to Plaintiff's assertion, his Fourteenth Amendment  
5 Equal Protection claim did not survive summary judgment.

6 With respect to Plaintiff's request for reconsideration of the Court's denial of his motion  
7 for attendance of incarcerated witnesses, Plaintiff was provided with ample opportunities to  
8 proffer grounds for the testimony of Inmates Williams and Hamilton. That Plaintiff now asserts  
9 the witnesses will corroborate his own testimony does not justify reconsideration.

10 Accordingly, Plaintiff's objections to the July 12, 2017 pretrial order, (ECF No. 180), are  
11 OVERRULED.

12 IT IS SO ORDERED.

13  
14 Dated: August 7, 2017

/s/ Barbara A. McAuliffe  
15 UNITED STATES MAGISTRATE JUDGE