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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-LJO-DLB PC

**ORDER GRANTING PLAINTIFF’S
MOTION TO EXCUSE LATE FILING OF
OPPOSITION NUNC PRO TUNC (ECF No.
43)**

**ORDER DENYING DEFENDANT’S
MOTION TO FILE SUPPLEMENTAL
BRIEF IN SUPPORT OF DEFENDANT’S
OPPOSITION (ECF No. 39)**

Plaintiff Brian Ellis Porter (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983. This action is proceeding against Defendant Cherylee Wegman for violation of the Free Exercise Clause of the First Amendment and the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”). On February 3, 2011, Plaintiff filed a motion for preliminary injunction.¹ On February 6, 2012, Defendant filed her opposition. On March 20, 2012, Plaintiff filed his reply.

Pending before the Court is Defendant’s motion, filed April 3, 2012, to file a supplemental opposition. ECF No. 39. On May 7, 2012, Plaintiff filed his opposition.² The matter is submitted pursuant to Local Rule 230(I).

¹ The Court has not adjudicated the motion.
² On May 7, 2012, Plaintiff filed a motion requesting that his opposition untimely filing be excused. ECF No. 39. Plaintiff contends that he was on lockdown and there were numerous law library access problems. Good cause appearing, Plaintiff’s motion is HEREBY granted, and Plaintiff’s opposition is deemed timely.

1 Defendant moves to supplement their opposition to include a declaration and additional
2 exhibits which demonstrate vendor receipts and food item purchases. ECF No. 39. Plaintiff opposes
3 this filing, contending that Defendant is responding to arguments raised by Plaintiff in his reply, and
4 a circumvention of Local Rule 230(l). ECF No. 44.

5 The Court agrees with Plaintiff. Pursuant to Local Rule 230(l), a motion in a prisoner action
6 is deemed submitted after the filing of the reply. The Court did not request additional briefing.
7 Accordingly, it is HEREBY ORDERED that Defendant's motion to file a supplemental opposition,
8 filed April 3, 2012, is denied.³

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10 IT IS SO ORDERED.

11 Dated: February 26, 2013

/s/ Dennis L. Beck
12 UNITED STATES MAGISTRATE JUDGE

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³ The Court has not yet adjudicated Plaintiff's motion for preliminary injunction. Such adjudication will not occur until after the screening of Plaintiff's Third Amended Complaint, filed December 17, 2012.