



1 immunity. (ECF No. 36.) Following the filing of Plaintiff's opposition papers, Defendant's reply  
2 brief is currently due on or before October 22, 2024.<sup>1</sup> (ECF Nos. 38, 39.)

3 On October 16, 2024, Plaintiff filed a cross-motion for summary judgment. (ECF No.  
4 40.) Defendant's opposition or statement of non-opposition is due on or before November 6,  
5 2024.

6 Currently before the Court is Defendant's *ex parte* application to modify the deadlines to  
7 file a reply in support of Defendant's motion for summary judgment and to file an opposition to  
8 Plaintiff's motion for summary judgment. (ECF No. 41.) Although Plaintiff has not had an  
9 opportunity to respond to Defendant's request, the Court finds a response unnecessary. The  
10 motion is deemed submitted. Local Rule 230(l).

11 Defendant argues that good cause exists for the requested extensions of time because  
12 Plaintiff's motion for summary judgment introduces new issues requiring further consideration,  
13 and additional time is required to ensure that Defendant's responses are consistent between the  
14 reply in support of Defendant's motion for summary judgment and the opposition to Plaintiff's  
15 cross-motion. (ECF No. 41.) Defendant plans to supplement evidence presented in Defendant's  
16 motion for summary judgment, and obtain additional evidence to address Plaintiff's arguments.  
17 In addition, defense counsel has been battling the flu and has taken sick leave, leaving counsel  
18 unable to fully commit to the demands of this case. Defense counsel's availability is also limited  
19 due to several time conflicts and the commitments in other cases. As this is Defendant's first  
20 request, Defendant does not believe this delay will prejudice Plaintiff. Defendant requests that  
21 both the reply and opposition deadlines be extended to December 6, 2024. (*Id.*)

22 Having considered the request, the Court finds it appropriate to modify the briefing  
23 schedule in this matter. Fed. R. Civ. P. 6(b). The Court further finds that Plaintiff will not be  
24 prejudiced by the brief extension requested here.

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27 <sup>1</sup> The Court notes that although the docket reflects a filing date of October 7, 2024, the deadline for Defendant's reply  
28 brief did not begin to run until October 8, 2024, the date Plaintiff's opposition papers were actually entered on the  
docket. (ECF Nos. 38, 39); Local Rule 230(l) (providing that a reply to a motion in a prisoner action may be filed  
"not more than fourteen (14) days after the opposition has been filed in CM/ECF").

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Based on the foregoing, IT IS HEREBY ORDERED that:

1. Defendant’s *ex parte* application to modify the deadlines, (ECF No. 41), is GRANTED, as follows:
  - a. Defendant’s reply to Plaintiff’s opposition to Defendant’s motion for summary judgment is due on or before **December 6, 2024**;
  - b. Defendant’s opposition to Plaintiff’s cross-motion for summary judgment is due on or before **December 6, 2024**; and
2. Plaintiff’s reply in support of his cross-motion for summary judgment, if any, is due within **fourteen (14) days** from the date of filing of Defendant’s opposition.

IT IS SO ORDERED.

Dated: October 23, 2024

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE