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4 **IN THE UNITED STATES DISTRICT COURT**
5 **FOR THE DISTRICT OF ARIZONA**
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7 Brandon Smith,
8 Plaintiff,
9 v.
10 City of Chandler, et al.,
11 Defendants.
12

No. CV-12-02391-PHX-FJM

ORDER

13 We held a status conference to discuss the options available on remand. This
14 court's final judgment pursuant to a jury verdict in favor of former defendant Keith Smith
15 and against the plaintiff Brandon Smith on plaintiff's Fourth Amendment claim (the
16 federal claim) remains undisturbed. But the judgment in favor of the defendant City of
17 Chandler and against the plaintiff Brandon Smith on plaintiff's negligence claim (the
18 state claim) has been remanded. All that is left is the state claim.

19 We discussed trial scheduling and settlement. But we also discussed the dismissal
20 of the state claim so that it could be tried in state court. This court has supplemental
21 jurisdiction over the state claim under 28 U.S.C. §1367, but has discretion under sub-
22 section 1367(c) to decline to exercise supplemental jurisdiction over the state claim,
23 where a novel issue of state law is raised, the state claim predominates over the federal
24 claim, the federal claim has been dismissed, or for other compelling reasons. Although
25 any one of these conditions would be sufficient to dismiss, here all statutory conditions
26 counsel in favor of resolving the lone surviving state claim in state court.

27 Whether attempted suicide is a supervening intervening cause that breaks the
28 chain of proximate causation has been a hotly contested issue in this case. Ultimate

1 resolution of this issue by the Arizona courts, unlike resolution in this court and the court
2 of appeals, would be authoritative.

3 Now that the federal claim is merged in the final judgment, the sole remaining
4 state claim obviously predominates.

5 And, most importantly, the federal claim has gone to final judgment and is no
6 longer subject to further judicial review.

7 It could be said that the interests of judicial efficiency would be served by keeping
8 the state claim for re-trial. After all, discovery is closed and all that remains is the
9 resolution of new dispositive motions (the defendant proposes to file one under state
10 substantive law) and trial. But the state court can do the same. Moreover, the
11 opportunity to get an authoritative ruling on the substantive state law issue is compelling.

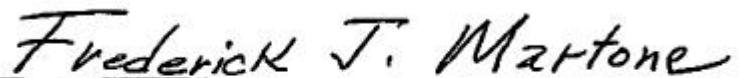
12 Plaintiff supports dismissal so his state law claim can be tried in state court. The
13 defendant prefers to stay here, but is open to dismissal and acknowledges that as long as
14 plaintiff files his state law negligence claim in state court within 30 days of dismissal, the
15 period of limitations is tolled under 28 U.S.C. §1367(d).

16 Balancing all the interests and conditions, we conclude that declining to exercise
17 supplemental jurisdiction over the sole remaining state law negligence claim against the
18 defendant would promote the wise use of federal resources, comity, the interests of
19 federalism, and give the parties an opportunity to obtain an authoritative ruling on any
20 state law substantive issue that separates them.

21 Accordingly, it is ORDERED DISMISSING WITHOUT PREJUDICE plaintiff
22 Brandon Smith's negligence claim against the defendant City of Chandler.

23 All the claims of all the parties having been resolved, the Clerk is directed to enter
24 a final judgment.

25 Dated this 28th day of January, 2020.

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28 **Frederick J. Martone**
Senior United States District Judge