

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

12	STEPHEN HENDRICKS,)	CV 14-02989-RSWL-SSx
13)	
14	Plaintiff,)	ORDER re: Plaintiff
15	v.)	Stephen Hendricks Motion
16)	to Dismiss, Without
17	BBC AMERICA, INC.; TEMPLE)	Prejudice [73]
18	STREET PRODUCTIONS; TEMPLE)	
19	STREET PRODUCTIONS (US))	
20	INC.; DAVID FORTIER; GRAEME)	
21	MANSON; JOHN FAWCETT; and)	
22	DOES 1 to 50,)	
23)	
24	Defendants.)	

21 Currently before the Court is Plaintiff Stephen
 22 Hendricks' ("Plaintiff") Motion to Dismiss, Without
 23 Prejudice [73] ("Motion"). Having reviewed all papers
 24 submitted pertaining to this Motion, the Court **NOW**
 25 **FINDS AND RULES AS FOLLOWS:** the Court **GRANTS**
 26 Plaintiff's Motion [73] and **DISMISSES** the case **WITHOUT**
 27 **PREJUDICE.**

28 / / /

1 **A. Procedural Background**

2 On April 17, 2014, Plaintiff filed a Complaint [1]
3 against BBC America, Inc., Temple Street Productions,
4 Temple Street Productions (US), Inc., David Fortier,
5 Graeme Manson, and John Fawcett (collectively,
6 "Defendants") alleging claims for: (1) federal
7 copyright infringement, and (2) breach of implied
8 contract. The trial is currently set for May 24, 2016
9 [70].

10 On March 2, 2016, the parties stipulated to dismiss
11 Plaintiff's claim for copyright infringement with
12 prejudice and to dismiss Defendant BBC America, Inc.
13 with prejudice. See Joint Stipulation, ECF No. 71;
14 Amended Stipulation, ECF No. 76.

15 That same day, Plaintiff filed the instant Motion
16 [73], in which Plaintiff seeks to dismiss his remaining
17 breach of implied contract claim and toll the statute
18 of limitations so that he may file his claim in state
19 court. Pl.'s Mot. 1:5-7. At the request of the
20 parties, the Court advanced the hearing on Plaintiff's
21 Motion to March 15, 2016 [75]. Finding the Motion to
22 be suitable for decision without oral argument, the
23 Court took the Motion under submission on March 14,
24 2016 [79].

25 **B. Legal Standard**

26 Under 28 U.S.C. § 1367(c), a district court may
27 decline to exercise supplemental jurisdiction over a
28 claim if:

- 1 (1) the claim raises a novel or complex issue
2 of State law,
3 (2) the claim substantially predominates over
4 the claim or claims over which the
5 district court has original jurisdiction,
6 (3) the district court has dismissed all
7 claims over which it has original
8 jurisdiction, or
9 (4) in exceptional circumstances, there are
10 other compelling reasons for declining
11 jurisdiction.

12 28 U.S.C. § 1367(c).

13 The decision to retain jurisdiction over state law
14 claims is within the district court's discretion,
15 weighing factors such as economy, convenience,
16 fairness, and comity. Brady v. Brown, 51 F.3d 810, 816
17 (9th Cir. 1995). When the federal law claim in the
18 action is eliminated at an early stage of the
19 litigation, the district court may choose not to
20 continue to exercise jurisdiction. Carnegie-Mellon
21 Univ. v. Cohill, 484 U.S. 343, 351 (1988); see also
22 United Mine Workers of Am. v. Gibbs, 383 U.S. 715, 726-
23 27 (1966) ("Needless decisions of state law should be
24 avoided both as a matter of comity and to promote
25 justice between the parties, . . . [and] [c]ertainly,
26 if the federal claims are dismissed before trial, even
27 though not insubstantial in a jurisdictional sense, the
28 state law claims should be dismissed as well.").

1 "In the usual case in which federal-law claims are
2 eliminated before trial, the balance of factors . . .
3 will point toward declining to exercise jurisdiction
4 over the remaining state law claims." Reynolds v.
5 Cnty. of San Diego, 84 F.3d 1162, 1171 (9th Cir. 1996),
6 overruled on other grounds by Acri v. Varian Assocs.,
7 Inc., 114 F.3d 999, 1001 (9th Cir. 1997).

8 **C. Discussion**

9 Here, the Court declines to continue to exercise
10 jurisdiction over Plaintiff's state law claim for
11 breach of implied contract because the federal-law
12 claim for copyright infringement has been dismissed,
13 and considerations of economy, comity, and fairness
14 weigh in favor of dismissal. See 28 U.S.C. §
15 1367(c)(3).

16 Although discovery in this case is almost complete,
17 and the motion filing cut-off is just days away,
18 minimal filings and proceedings have been brought
19 before this Court. These proceedings have involved
20 procedural matters, and this Court has not yet
21 considered the merits of Plaintiff's claims.
22 Accordingly, dismissal of the breach of implied
23 contract claim will not be an inefficient use of
24 judicial resources. Moreover, although Defendants
25 claim that they have completed a motion for summary
26 judgment, that motion has not yet been filed, and the
27 parties have not finished preparing for a trial that is
28 more than two months away. Contra Trustees of Constr.

1 Indus. and Laborers Health and Welfare Trust v. Desert
2 Valley Landscape & Maint., Inc., 333 F.3d 923, 926 (9th
3 Cir. 2003) (granting voluntary dismissal of case seven
4 days before trial was an abuse of discretion).

5 Defendants also cannot show that they will suffer
6 legal prejudice as a result of the dismissal. "Legal
7 prejudice is 'prejudice to some legal interest, some
8 legal claim, some legal argument.'" Hepp v. Conoco,
9 Inc., 97 Fed. App'x 124, 125 (9th Cir. 2004).(citations
10 omitted). "Legal prejudice does not result merely
11 because the defendant will be inconvenienced by having
12 to defend in another forum or where a plaintiff would
13 gain a tactical advantage by that dismissal." Id.
14 (citing Smith v. Lenches, 263 F.3d 972, 975 (9th Cir.
15 2001)). Expenses incurred in defending against a
16 lawsuit also does not amount to legal prejudice.
17 Westlands Water Dist. v. United States, 100 F.3d 94, 97
18 (9th Cir. 1996); see also Hamilton v. Firestone Tire &
19 Rubber Co., Inc., 679 F.2d 143, 146 (9th Cir. 1982).
20 Therefore, Defendants will not be prejudiced or
21 unfairly affected by dismissal.¹

22
23 ¹ The Court **DENIES** Defendants' request for costs and fees.
24 The imposition of costs and fees as a condition for dismissing
25 without prejudice is not mandatory. Westlands, 100 F.3d at 97.
26 A defendant may be awarded fees and costs only for work performed
27 prior to a plaintiff's motion for voluntary dismissal, and then
28 only for work that cannot be used in any future litigation of the
same or similar matters. Hepp, 97 Fed. App'x at 125. Defendants
argue that they have incurred \$200,000 in costs, but have not
adequately demonstrated that any particular portion of their work
or expenditures, including the alleged \$30,000 in expert fees,
will not be useful in the state litigation. The same discovery

1 In weighing the values set forth in Gibbs, the
2 Court finds no circumstances that would require the
3 retention of jurisdiction over Plaintiff's state law
4 claim. Accordingly, the Court **GRANTS** Plaintiff's
5 Motion and **DISMISSES** the case **WITHOUT PREJUDICE**. See
6 Cohill, 484 U.S. at 350 n. 7 ("[I]n the usual case in
7 which all federal-law claims are eliminated before
8 trial, the balance of factors . . . will point toward
9 declining to exercise jurisdiction over the remaining
10 state-law claims."); Gibbs, 383 U.S. at 726-27 (when
11 all federal claims have been dismissed, pendent state
12 claims should be dismissed without prejudice).²

13 **IT IS SO ORDERED.**

14
15 DATED: March 16, 2016

/s/ RONALD S.W. LEW

16 **HONORABLE RONALD S.W. LEW**
17 Senior U.S. District Judge
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25 that has been conducted in this Court would have been conducted
26 if the matter was originally in state court. Additionally, the
27 discovery that has been conducted in this Court may be used in
28 state court.

² Because Plaintiff has already filed an action in Los Angeles Superior Court, there is no reason to toll the statute of limitations pursuant to 28 U.S.C. § 1367(d).