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United States District Court
Central District of California

MARCO SAAVEDRA,

Plaintiff,

v.

JIMMY PHAI CHU; LANG DU CHAU;
ADVANCED OIL, INC.; and DOES 1–10,
inclusive,

Defendants.

Case No. 5:17-cv-00607-ODW(Ex)

**ORDER DENYING DEFENDANTS'
MOTION TO DISMISS [14, 17]**

19 Plaintiff Marco Saavedra brings this lawsuit under the Americans with
20 Disabilities Act (“ADA”) and the California Unruh Civil Rights Act. (ECF No. 1.)
21 Plaintiff alleges that there are several accessibility barriers at a gas station owned by
22 Defendants Jimmy Phai Chu, Lang Du Chau, and Advanced Oil, Inc., each of which
23 violates either the ADA Accessibility Guidelines or the California Building Code.
24 (*Id.*) Defendants move to dismiss the Unruh Act claim, arguing that (1) the claim
25 raises a novel issue of state law and (2) it substantially predominates over the ADA
26 claim. (ECF No. 14.) The Court disagrees with both arguments.¹

27 ¹ After considering the papers filed in connection with the Motion, the Court deems it
28 appropriate for decision without oral argument. Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-15.
Accordingly, the Court **VACATES** the hearing on this Motion.

1 Generally, “in any civil action of which the district courts have original
2 jurisdiction, the district courts shall have supplemental jurisdiction over all other
3 claims that are so related to claims in the action within such original jurisdiction that
4 they form part of the same case or controversy under Article III of the United States
5 Constitution.” 28 U.S.C. § 1367(a). However, “[t]he district courts may decline to
6 exercise supplemental jurisdiction over a claim . . . if the claim raises a novel or
7 complex issue of State law, [or if] the claim substantially predominates over the claim
8 or claims over which the district court has original jurisdiction.” *Id.* § 1367(c)(1), (2).
9 A state law claim may substantially predominate over other claims “in terms of proof,
10 of the scope of the issues raised, or of the comprehensiveness of the remedy sought.”
11 *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 726 (1966). Under either prong,
12 the ultimate question is whether exercising supplemental jurisdiction over the state
13 law claim “most sensibly accommodat[es] the values of economy, convenience,
14 fairness, and comity.” *Exec. Software N. Am., Inc. v. U.S. Dist. Court for Cent. Dist.*
15 *of Cal.*, 24 F.3d 1545, 1557 (9th Cir. 1994), *overruled on other grounds by Cal. Dep’t*
16 *of Water Res. v. Powerex Corp.*, 533 F.3d 1087 (9th Cir. 2008).

17 First, Plaintiff’s Unruh Act claim does not raise a novel or complex issue of
18 state law. Defendants argue that Plaintiff filed this case in federal court to evade
19 certain state law pleading requirements for construction-related accessibility claims.
20 *See generally* Cal. Code Civ. Proc. § 425.50. Defendants argue that these
21 requirements “were intended as a prerequisite to the award of state law damages,” and
22 that the state courts “should be allowed an opportunity to interpret the amendments
23 further to give guidance as to their substantive impact.” (Mot. at 12.) However,
24 Defendants do not explain, and the Court cannot discern, how Section 425.50 could be
25 construed as a substantive element of a claim under the Unruh Act. Indeed, pleading
26 requirements are quintessentially procedural in nature, *see Vess v. Ciba-Geigy Corp.*
27 *USA*, 317 F.3d 1097, 1103 (9th Cir. 2003), and because Section 425.50’s pleading
28 requirements conflict with Rule 8, they do not apply in federal court. *See, e.g., Clark*

1 *v. Allstate Ins. Co.*, 106 F. Supp. 2d 1016, 1018 (S.D. Cal. 2000) (“Where state law
2 directly conflicts with applicable provisions of the Federal Rules of Civil Procedure,
3 federal courts must apply the Federal Rules—not state law.”); *Anglin v. Bakersfield*
4 *Prosthetics & Orthotics Ctr. Inc.*, No. 2:13-CV-01847-JAM, 2013 WL 6858444, at *5
5 (E.D. Cal. Dec. 30, 2013) (“[T]he requirements of CCP section 425.50 do not govern
6 Plaintiff’s complaint in federal court . . .”). Accordingly, Plaintiff’s Unruh Act claim
7 here does not genuinely “raise” any issue with respect to Section 425.50, and thus this
8 is not a basis on which to decline to exercise jurisdiction.

9 Second, Plaintiff’s Unruh Act claim does not substantially predominate over the
10 ADA claim. A violation of the ADA also constitutes a violation of the Unruh Act,
11 Cal. Civ. Code § 51(f), and Plaintiff expressly alleges that his Unruh Act claim is
12 based entirely on his ADA claim. (Compl. ¶ 38, ECF No. 1.) While it is true that the
13 Unruh Act affords Plaintiff relief not otherwise available under the ADA, such as
14 monetary damages and mandatory (as opposed to discretionary) attorney’s fees, this
15 alone does not show that it *substantially* predominates over the ADA claim.² Indeed,
16 the obvious inefficiency of requiring separate lawsuits for two substantively identical
17 claims, as well as the concomitant possibility of inconsistent judgments, highlights
18 precisely why this Court should retain jurisdiction over the Unruh Act claim.

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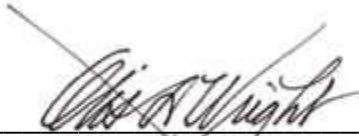
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24 ² Defendants also argue that Plaintiff must prove intentional conduct under the Unruh Act,
25 whereas he need not do so for claims under the ADA. (Mot. at 8, 10.) This is not true. It is only
26 where the plaintiff’s Unruh Act claim does *not* depend on an ADA violation that the plaintiff must
27 prove intent. *Harris v. Capital Growth Inv’rs XIV*, 52 Cal. 3d 1142, 1148 (1991). Where the
28 plaintiff’s Unruh Act *does* depend on an ADA violation, however, the plaintiff need *not* prove intent.
Munson v. Del Taco, Inc., 46 Cal. 4th 661, 672 (2009). Because Plaintiff here asserts only an ADA-
dependent Unruh Act claim, the question of intent is irrelevant to that claim—and thus does not
demonstrate that the Unruh Act claim predominates over the ADA claim.

1 To the extent the court in *Schutz v. McDonald's Corp.*, 133 F. Supp. 3d 1241,
2 1246 (S.D. Cal. 2015), holds that courts should decline to exercise supplemental
3 jurisdiction over Unruh Act claims in these circumstances, the Court does not find it
4 persuasive. The Court therefore **DENIES** Defendants' Motion to Dismiss. (ECF No.
5 14.)

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7 **IT IS SO ORDERED.**

8
9 June 7, 2017

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12 **OTIS D. WRIGHT, II**
13 **UNITED STATES DISTRICT JUDGE**