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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTT N. JOHNSON,)	Case No. 2:11-CV-00204-JAM-EFB
)	
Plaintiff,)	ORDER DENYING DEFENDANTS'
)	MOTION TO DISMISS AND MOTION
v.)	FOR A MORE DEFINITE STATEMENT
)	
UNITED RENTALS NORTHWEST, INC.,)	
individually and d/b/a UNITED)	
RENTALS; U.S. RENTALS, INC., a)	
California Corporation; NANCY)	
BERRY,)	
)	
Defendants.)	

This matter comes before the Court on Defendants United Rentals Northwest, Inc., U.S. Rentals, Inc., and Nancy Berry's (collectively "Defendants") Motion to Dismiss (Doc. #8) Plaintiff Scott Johnson's ("Plaintiff") Complaint (Doc. #1) pursuant to Federal Rule of Civil Procedure 12(b)(1). Defendants, alternatively, move for a more definite statement (Doc. #8). Plaintiff opposes the motions (Doc. #14).¹ For the reasons set forth below, Defendants' Motion to Dismiss and Motion for a More Definite Statement are denied.

¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was originally scheduled for May 18, 2011.

1 I. FACTUAL AND PROCEDURAL BACKGROUND

2 Plaintiff brings this action for injunctive relief and damages
3 pursuant to Title III of the Americans with Disabilities Act
4 ("ADA") and sections 51(f) and 52 of the California Civil Code
5 ("Unruh Act"). Plaintiff's Complaint ("Comp."), (Doc. #1).
6 Plaintiff is considered a disabled individual under the ADA and
7 Unruh Act, and Defendants are the owners, operators, managers,
8 lessees or lessors of both locations of "United Rentals," the
9 properties at issue in this case ("Defendants' stores"). Id. at
10 ¶¶ 1-3, 9.

11 On May 27, June 3, June 8, and October 13, 2010, Plaintiff
12 alleges he encountered architectural barriers in violation of the
13 ADA while visiting one or both of Defendants' stores in Lodi and
14 Sacramento, California, which are considered "public
15 accommodations" under the ADA and Unruh Act. Comp. at ¶¶ 2, 4.
16 Plaintiff further alleges that the same architectural barriers
17 deterred him from visiting Defendants' stores on two other
18 occasions "during this past year" and remained in existence at the
19 time Plaintiff filed his complaint. Id. at ¶ 4.

20
21 II. OPINION

22 A. Legal Standard

23 1. Federal Rule of Civil Procedure 12(b)(1)

24 Rule 12(b)(1) provides that a motion to dismiss may be made on
25 the basis of a "lack of subject-matter jurisdiction." FED. R. CIV.
26 P. 12(b)(1). A Rule 12(b)(1) motion tests "whether the plaintiff
27 has a right to be in the particular court. . . ." Trs. of Screen
28 Actors Guild-Producers Pension & Health Plans v. NYCA, Inc., 572

1 F.3d. 771, 775 (9th Cir. 2009) (internal quotation marks and
2 citations omitted). Federal courts are limited in jurisdiction,
3 and it is presumed that a case lies outside the jurisdiction of the
4 court unless the plaintiff proves otherwise. Kokkonen v. Guardian
5 Life Ins. Co. of Am., 511 U.S. 375, 377 (1994); Stock W., Inc. v.
6 Confederated Tribes, 873 F.2d 1221, 1225 (9th Cir. 1989).

7 2. Supplemental Jurisdiction

8 When a district court has original jurisdiction over a claim,
9 it "shall have supplemental jurisdiction over all other claims that
10 are so related to claims in the action . . . that they form part of
11 the same case or controversy" 28 U.S.C. § 1367(a). A
12 state claim is part of the same "case or controversy" as a federal
13 claim when the two "'derive from a common nucleus of operative fact
14 and are such that a plaintiff would ordinarily be expected to try
15 them in one judicial proceeding.'" Kuba v. 1-A Agricultural Ass'n,
16 387 F.3d 850, 855-56 (9th Cir. 2004) (quoting Trs. Of the Constr.
17 Indus. & Laborers Health & Welfare v. Desert Valley Landscape &
18 Maint., Inc., 333 F.2d 923, 925(9th Cir. 2003)).

19 Under section 1367, a court has discretion to:

20 decline to exercise supplemental jurisdiction over a
21 claim [] if: (1) the claim raises a novel or complex
22 issue of State law, (2) the claim substantially
23 predominates over the claim [] over which the district
24 court has original jurisdiction, (3) the district
25 court has dismissed all claims over which it has
26 original jurisdiction, or (4) in exceptional
27 circumstances, there are other compelling reasons for
28 declining jurisdiction.

28 U.S.C. § 1367(c).

26 3. Bell Requirements for Declining Jurisdiction

27 Jurisdictional dismissals in cases premised on federal-
28 question jurisdiction are exceptional, and a court may decline

1 jurisdiction only if the "requirements specified in Bell v. Hood"
2 are satisfied. Roberts v. Corrothers, 812 F.2d 1173, 1177 (9th
3 Cir. 1987) (citing Sun Valley Gasoline, Inc. v. Ernst Enterprises,
4 711 F.2d 138, 140 (9th Cir. 1983)). In Bell, "the Supreme Court
5 held that such dismissals are permitted 'where the alleged claim
6 under the constitution or federal statutes appears to be immaterial
7 and made solely for the purpose of obtaining federal jurisdiction
8 or where such a claim is wholly insubstantial and frivolous.'" Id.
9 (quoting Bell v. Hood, 327 U.S. 678, 682-83 (1946)).

10 4. Federal Rule of Civil Procedure 12(e)

11 "A party may move for a more definite statement . . . [where a
12 claim] is so vague or ambiguous that the party cannot reasonably
13 prepare a response." FED. R. CIV. P. 12(e). A 12(e) motion cannot
14 succeed "if the complaint is specific enough to notify defendant of
15 the substance of the claim being asserted," and "the detail sought
16 by the motion for a more definite statement is obtainable through
17 discovery." Abarca Franklin County Water District, 2009 WL 1393508
18 at *2 (E.D. Cal. May 18, 2009) (citing San Bernardino Pub.
19 Employees Ass'n v. Stout, 946 F.Supp. 790, 804 (C.D. Cal. 1996);
20 Davidson v. Santa Barbara High Sch. Dist., 48 F.Supp.2d 1225, 1228
21 (C.D. Cal. 1998)).

22 B. Motion to Dismiss for Lack of Subject-Matter Jurisdiction

23 Defendants argue that Plaintiff's claims must be dismissed for
24 lack of subject-matter jurisdiction because the remedial provisions
25 of the Unruh Act present novel and complex issues of unresolved
26 state law, Plaintiff's ADA claim is wholly immaterial to this case,
27 and Plaintiff is forum-shopping by initiating this case in the
28 Eastern District. Defendants' Motion to Dismiss, Points and

1 Authorities (“MTD”) (Doc. #8). The United States Supreme Court’s
2 “precedent makes clear that whether a court has subject-matter
3 jurisdiction is distinct from whether a court chooses to exercise
4 supplemental jurisdiction.” Carlsbad Technology, Inc. v. HIF Bio,
5 Inc., 129 S.Ct. 1862, 1866 (2009) (citing Quackenbush v. Allstate
6 Ins. Co., 517 U.S. 706, 712 (1996)) (other citations omitted).
7 Although Defendants conflate the issues of subject-matter and
8 supplemental jurisdiction, the Court will address both Defendants’
9 Bell argument and their request that this Court decline to exercise
10 supplemental jurisdiction over Plaintiff’s state law claim, in
11 turn.

12 1. Jurisdiction over Plaintiff’s Federal Claim

13 Defendants argue Plaintiff’s ADA claim is “wholly immaterial
14 to his case,” because Plaintiff seeks only injunctive relief
15 through this claim. MTD at pg. 8-9. Citing Organization for the
16 Advancement of Minorities with Disabilities v. Brick Oven
17 Restaurant, 406 F.Supp.2d 1120 (S.D. Cal. 2005) (“Brick Oven”), for
18 support, Defendants argue Plaintiff’s sole purpose for asserting a
19 claim under the ADA was to obtain federal jurisdiction. Id. at 9.

20 In Brick Oven, the court was presented with the issue of
21 whether to dismiss the plaintiff’s ADA claim under Bell. 406
22 F.Supp.2d at 1125, 1132. In analogizing Brick Oven to the instant
23 case, Defendants fail to acknowledge the court in that case did not
24 decline to exercise jurisdiction over that plaintiff’s ADA claim.
25 Id. Instead, the Brick Oven court declined to exercise
26 supplemental jurisdiction over the plaintiff’s state law claims,
27 under the Unruh Act and Disabled Persons Act, and retained
28 jurisdiction over the plaintiff’s ADA claim, finding the Bell

1 requirements were not satisfied. Id.

2 Defendants fail to cite any case demonstrating the existence
3 of the "extraordinary circumstances" contemplated by Bell, nor do
4 Defendants cite any cases binding on this court. See MTD at pg. 8-
5 9 (Brick Oven is a Southern District of California case, not a
6 "Ninth Circuit" case). Moreover, Plaintiff's ability to succeed on
7 his state law claim depends on him proving a violation of the ADA.
8 See Comp. at ¶¶ 22-28; CAL. CIV. CODE § 51(f) ("A violation of the
9 right of any individual under the [ADA] shall also constitute a
10 violation of this section."). Accordingly, Defendants have failed
11 to satisfy the Bell requirements, and Defendants' Motion to Dismiss
12 Plaintiff's ADA claim is denied.

13 2. Supplemental Jurisdiction

14 Defendants argue that the Court may decline to exercise
15 supplemental jurisdiction over Plaintiff's claim under the Unruh
16 Act on any of the following three grounds in 28 U.S.C. § 1367(c):
17 Plaintiff's Unruh Act claim raises a novel or complex issue of
18 State law, Plaintiff's Unruh Act claim substantially predominates
19 over Plaintiff's ADA claim, and other compelling reasons exist for
20 declining jurisdiction. MTD at pg. 4-8; see also 28 U.S.C. §
21 1367(c) (1), (2), (4). In the Ninth Circuit, courts:

22 have declined to exercise supplemental jurisdiction
23 over state law claims when a plaintiff abandons his
24 federal ADA claims, or a plaintiff's request for
25 injunctive relief subsequently becomes moot, or a
26 plaintiff's numerous state law claims outnumber a
27 solitary federal claim under the ADA, or when a
28 plaintiff's federal claims are dismissed before trial.
Johnson v. Barlow, 2007 WL 1723617 at *3 (E.D. Cal. June 9, 2007);
see also Johnson v. Makinen, 2009 WL 2137130 at *3 (E.D. Cal. Jul.
15, 2009) (quoting and agreeing with Johnson v. Barlow). While

1 none of these concerns are implicated in this case, the Court will
2 address each of the grounds presented by Defendants for declining
3 supplemental jurisdiction.

4 a. Novel & Complex Issues of State Law

5 Defendants argue that this Court should decline to exercise
6 supplemental jurisdiction over Plaintiff's state law claim because
7 the damages provision of the Unruh Act is ill defined and
8 ambiguous. MTD at pg. 4-5 (citing Brick Oven, 406 F.Supp.2d 1120,
9 1130 (S.D. Cal. 1998)). Specifically, they assert the provision
10 authorizing damages for "each and every offense" is unclear as to
11 whether damages are appropriate for each architectural barrier
12 encountered or for each actual or forgone visit to the Defendants'
13 properties. Id.

14 Defendants again rely on Brick Oven, alleging it shows there
15 are conflicting authorities in the Ninth Circuit regarding damages.
16 MTD at pg. 4-5 (citing Brick Oven, 406 F.Supp.2d 1120, 1130 (S.D.
17 Cal. 1998)). In that case, the court noted different rulings by
18 other courts in the Ninth Circuit on whether a plaintiff could
19 recover "daily damages" under the ADA, which is not at issue in
20 this case. See Brick Oven, 406 F.Supp.2d at 1130.

21 Moreover, as pointed out by Plaintiff, the California Civil
22 Code resolves the ambiguity alleged by Defendants. See Plaintiff's
23 Opposition to MTD ("Plt. Opp.") (Doc. #14) at pg. 3-4 (referring to
24 CAL. CIV. CODE § 55.56(e), improperly cited as "California 1608(b)
25 legislation"). Section 55.56(e) of the Civil Code provides that
26 statutory damages under the Unruh Act based on violations of the
27 ADA "may be assessed . . . based on each particular occasion that
28 the plaintiff was denied full and equal access, and not upon the

1 number of violations of construction-related accessibility
2 standards identified at the place of public accommodation where the
3 denial of full and equal access occurred." CAL. CIV. CODE § 55.56;
4 see also id. at § 55.52(a)(6) ("Construction related accessibility
5 standard' means a provision, standard, or regulation under state or
6 federal law requiring compliance with standards for making new
7 construction and existing facilities accessible to persons with
8 disabilities, including, but not limited to, any such provision,
9 standard, or regulation set forth in [the Unruh Act], . . . [and]
10 the Americans with Disabilities Act. . . .").

11 Accordingly, it is clear that the alleged conflict in the law
12 regarding the calculation of damages alleged by Defendants is
13 actually well settled under California Law. Compare MTD at pg. 4-6
14 with CAL. CIV. CODE § 55.56. Therefore, supplemental jurisdiction
15 over Plaintiff's Unruh Act claim is proper because it does not
16 present a novel or complex issue of state law.

17 b. State Law Claim Substantially Predominates

18 Defendants allege that Plaintiff's state law claim
19 substantially predominates over his federal claim due to the
20 statutory damages available under the Unruh Act, relying again on
21 Brick Oven for support. MTD at pg. 6-7. However, as pointed out
22 by other Courts in the Eastern District, accepting Defendants'
23 argument "would effectively preclude a district court from ever
24 asserting supplemental jurisdiction over a state law claim under
25 the Unruh Act [in an ADA case]." Johnson v. Barlow, 2007 WL
26 1723617 at *3 (E.D. Cal. June 9, 2007); see also Johnson v.
27 Makinen, 2009 WL 2137130 at *3 (E.D. Cal. Jul. 15, 2009) (quoting
28 and agreeing with Johnson v. Barlow). This is true "even where a

1 plaintiff's state law claim for damages is the driving force behind
2 the action. . . ." Johnson v. Makinen, 2009 WL 2137130 at *3
3 (E.D. Cal. Jul. 15, 2009). Moreover, as Defendants' acknowledge,
4 the burdens of proof and standards of liability under the ADA and
5 Unruh Act are the same. MTD at pg. 6. Without any other authority
6 supporting Defendants' position, this Court finds that Plaintiff's
7 state law claim does not substantially predominate over his federal
8 claim. Accord, e.g., Johnson v. Barlow, 2007 WL 1723617 at *3
9 (E.D. Cal. June 9, 2007).

10 c. Compelling Reasons

11 Defendants argue that supplemental jurisdiction over
12 Plaintiff's state law claim is improper because Plaintiff engaged
13 in forum shopping. MTD at pg. 7-8 (citing Brick Oven, 460
14 F.Supp.2d 1120, 1132 (S.D. Cal. 1998)). Defendants point to
15 Plaintiff's excessive and improper litigation tactics, noting
16 Plaintiff has filed over 1,000 cases in this district. Id.

17 While this Court acknowledges Plaintiff's extensive litigation
18 history, it agrees with other courts in this district that have
19 found exercising supplemental jurisdiction is appropriate under
20 similar circumstances. "[C]ompeting principles of judicial economy
21 and convenience weigh strongly in favor of asserting supplemental
22 jurisdiction. Plaintiff's state and federal law claim involve the
23 identical nucleus of operative fact, and require a very similar, if
24 not identical, showing in order to succeed. If this court forced
25 plaintiff to pursue his state law claim in state court, the result
26 would be two highly duplicative trials, constituting an unnecessary
27 expenditure of plaintiff's, defendants', and the courts'
28 resources." E.g., Johnson v. Barlow, 2007 WL 1723617 at *5 (E.D.

1 Cal. June 11, 2007). Accordingly, this Court does not find
2 compelling reasons exist that require it to decline to exercise
3 supplemental jurisdiction over Plaintiff's state law claim.

4 C. Motion for a More Definite Statement

5 Defendants move for a more definite statement, alleging
6 material allegations in Plaintiff's complaint are unclear. MTD at
7 pg. 10. Specifically, Defendants point out that Plaintiff does not
8 specify whether it was the Lodi or Sacramento store he visited on
9 the dates set forth in his complaint, nor does Plaintiff clarify
10 which barriers are present at which store. Id.

11 As Plaintiff points out, the information sought by Defendants
12 is obtainable through discovery, and therefore Defendants' motion
13 must be denied. Plt. Opp. at pg. 6-7; see also Abarca Franklin
14 County Water District, 2009 WL 1393508 at *2 (E.D. Cal. May 18,
15 2009) (citing San Bernardino Pub. Employees Ass'n v. Stout, 946
16 F.Supp. 790, 804 (C.D. Cal. 1996); Davidson v. Santa Barbara High
17 Sch. Dist., 48 F.Supp.2d 1225, 1228 (C.D. Cal. 1998)).

18
19 III. ORDER

20 For the reasons set forth above, Defendants' Motion to Dismiss
21 is DENIED and Defendants' Motion for a More Definite Statement is
22 DENIED.

23 IT IS SO ORDERED.

24 Dated: July 12, 2011

25 
26 JOHN A. MENDEZ,
27 UNITED STATES DISTRICT JUDGE
28