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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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11 SCOTT JOHNSON,

No. 2:14-cv-2416-JAM-KJN

12 Plaintiff,

13 v.

**ORDER GRANTING DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT AND  
DENYING PLAINTIFF'S CROSS MOTION  
FOR PARTIAL SUMMARY JUDGMENT**14 BBVA COMPASS FINANCIAL  
15 CORPORATION,

16 Defendant.

17 Following an Americans with Disabilities Act ("ADA") lawsuit  
18 by Plaintiff Scott Johnson ("Plaintiff"), Defendant BBVA Compass  
19 Financial Corporation ("Defendant") completely repaired the  
20 accessibility barriers at its Stockton bank. Because there is no  
21 further injunctive relief available to Plaintiff under federal  
22 law, the ADA claim is moot and the Court dismisses all remaining  
23 claims for want of jurisdiction.<sup>1</sup>

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27 <sup>1</sup> This motion was determined to be suitable for decision without  
28 oral argument. E.D. Cal. L.R. 230(g). The hearing was  
scheduled for March 22, 2016.

1 I. FACTUAL AND PROCEDURAL BACKGROUND

2 Plaintiff suffers from quadriplegia and manual dexterity  
3 impairments. Johnson Decl. ¶ 2. He uses a wheelchair for  
4 mobility. Id. Plaintiff went to Defendant's bank on August 7  
5 and 8, 2014 when he "had reason to get [] quarters[.]" Johnson  
6 Decl. ¶¶ 4, 13. Plaintiff states that he encountered barriers in  
7 the parking lot and at the entrance doors. He specifically  
8 identified that the parking lot did not have a wheelchair logo,  
9 "NO PARKING" lettering, a blue perimeter boundary line, or a sign  
10 warning of a \$250 fine, and that the entry doors did not have  
11 appropriate door hardware nor adequate clearance space due to a  
12 planter. Johnson Decl. ¶¶ 5-12.

13 In October 2014, Plaintiff sued Defendant in this Court  
14 alleging violations of the ADA and California state law (Doc.  
15 #1). Within the next year, Defendant had made alterations to its  
16 property. See Layman Decl. ¶¶ 3, 10-15. The parties agree that  
17 these alterations completely resolved the accessibility issues.  
18 See Plaintiff's Response to Defendant's Statement of Facts ¶¶ 10-  
19 15.

20 Defendant now moves for summary judgment, arguing that the  
21 ADA claim is moot (Doc. #13). Plaintiff opposes the motion (Doc.  
22 #15) and also filed a cross-motion for summary judgment on  
23 injunctive relief and damages (Doc. #14). Defendant opposes the  
24 cross-motion (Doc. #20).<sup>2</sup>

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27 <sup>2</sup> Because the Court dismisses this case on mootness grounds, the  
28 Court does not reach the issues raised in Plaintiff's motion for  
summary judgment.

1 II. OPINION

2 A. Legal Standard

3 "Mootness is a jurisdictional issue, and federal courts have  
4 no jurisdiction to hear a case that is moot[.]" Foster v.  
5 Carson, 347 F.3d 742, 745 (9th Cir. 2003) (citation and quotation  
6 marks omitted). The question of mootness turns on whether  
7 changes in circumstances since Plaintiff filed suit have  
8 "forestalled any meaningful relief." Moeller v. Taco Bell Corp.,  
9 816 F. Supp. 2d 831, 860 (N.D. Cal. 2011) (citing West v. Sec'y  
10 of Dep't of Transportation, 206 F.3d 920, 925 (9th Cir. 2000)).

11 B. Analysis

12 1. ADA Claim

13 Defendant argues that repairing all the identified barriers  
14 moots Plaintiff's ADA claim, rendering the Court without  
15 jurisdiction. Defendant's Mot. at 1-2. Plaintiff agrees that  
16 the barriers have in fact been repaired, but contends that  
17 injunctive relief is still available because the violations "can  
18 easily recur." Plaintiff's Opp. at 5.

19 The Court rejects Plaintiff's argument, because there is "no  
20 evidence or any reason to suggest that Defendant will revert back  
21 to non-compliance[.]" Kohler v. Bed Bath & Beyond of California,  
22 LLC, 2012 WL 3018320, at \*4 (C.D. Cal. July 23, 2012) aff'd, 778  
23 F.3d 827 (9th Cir. 2015) and aff'd, 780 F.3d 1260 (9th Cir. 2015)  
24 (citing Friends of the Earth v. Laidlaw Env'tl. Servs., 528 U.S.  
25 167, 170 (2000)). Defendant dutifully repaired the barriers  
26 after this suit brought them to its attention. And reverting to  
27 non-compliance would be "illogical [], because doing so would  
28 actually cost Defendant more than maintaining compliance."

1 Kohler v. In-N-Out Burgers, 2013 WL 5315443, at \*7 (C.D. Cal.  
2 Sept. 12, 2013) (citation and quotation marks omitted).

3 Plaintiff nonetheless contends that two cases with "almost  
4 identical facts" should compel the Court to retain jurisdiction.  
5 See Plaintiff's Opp. at 7-9. The Court disagrees and finds those  
6 cases distinguishable, because in both cases the record contained  
7 evidence that the defendant was in fact likely to lapse in their  
8 ADA compliance duties. That is, the defendants in those cases  
9 had a history of reverting to noncompliance and their existing  
10 policies for maintaining compliance were demonstrably inadequate.  
11 See Lozano v. C.A. Martinez Family Ltd. P'ship, 2015 WL 5227869,  
12 at \*3 (S.D. Cal. Sept. 8, 2015) (defendant had been previously  
13 sued for ADA violations, repaired the barriers, then let the  
14 repairs lapse, and defendant's policy had failed to maintain  
15 compliance in the past); Moeller, 816 F. Supp. 2d at 860-61  
16 (extensive evidence "demonstrate[d] that [the defendant was] not  
17 [] following its own [disability] access policies, and had a  
18 history of not doing so" and had a history of repeated  
19 violations).

20 Here, in contrast, there is no evidence that Defendant will  
21 let the repairs lapse or otherwise change the conditions at its  
22 bank to make it noncompliant. There is no evidence that  
23 Defendant has a history of recurring violations or that it is  
24 unwilling or unable to maintain the current state of the  
25 property. Even Plaintiff acknowledged that Defendant "take[s]  
26 its obligations [under the ADA] seriously[.]" Plaintiff's Opp.  
27 at 1. The Court is therefore persuaded that Plaintiff cannot  
28 obtain any meaningful injunctive relief in this action. The ADA

1 cause of action is moot, and the Court must accordingly dismiss  
2 it.

3 2. State Law Claims

4 The parties apparently agree that the only basis for federal  
5 jurisdiction over Plaintiff's state claims was supplemental  
6 jurisdiction derived from the ADA cause of action. Now that the  
7 Court has dismissed the ADA claim as moot, the "primary  
8 responsibility for developing and applying state law belongs to  
9 the state courts." Kohler, 2013 WL 5315443, at \*8. The Court  
10 therefore declines to exercise supplemental jurisdiction over  
11 these claims in the interest of comity and fairness.  
12

13 III. ORDER

14 For the reasons set forth above, the Court GRANTS  
15 Defendant's motion for summary judgment. Each of Plaintiff's  
16 claims is hereby DISMISSED. Plaintiff's motion is DENIED as the  
17 Court lacks jurisdiction.

18 IT IS SO ORDERED.

19 Dated: March 24, 2016

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21 JOHN A. MENDEZ,  
22 UNITED STATES DISTRICT JUDGE  
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