

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA
3

4 Scott Johnson,

5 Plaintiff,

6 v.

7 Redwood Barn Nursery, Inc., a
8 California Corporation; and
9 Does 1-10,

10 Defendants.

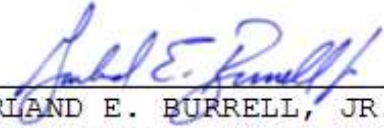
No. 2:14-cv-02467-GEB-CKD

**ORDER DENYING DEFENDANT'S MOTION
TO DISMISS**

11 Defendant moves for dismissal of the federal question
12 in Plaintiff's Complaint under Federal Rules of Civil Procedure
13 12(b)(1) and 12(h)(3). Specifically, Defendant argues since
14 subject matter jurisdiction is premised on Plaintiff's three
15 injunctive relief claims that are alleged under Title III of the
16 Americans with Disabilities Act ("ADA"), these claims should be
17 dismissed because they are now moot. (Mot. to Dismiss, 5:26-6:3,
18 ECF No. 4.) Further, Defendant argues that following this
19 requested dismissal, the Court should decline to exercise
20 supplemental jurisdiction over Plaintiff's remaining state law
21 claims, and those claim should be dismissed under 28 U.S.C.
22 1367(c)(3). (Id. 6:13-26.)

23 However, the conclusory assertions in Defendant's
24 opening brief fail to show that one of Plaintiff's ADA claims is
25 moot. Therefore, the motion is denied

26 Dated: February 18, 2015
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GARIAND E. BURRELL, JR.
Senior United States District Judge