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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SCOTT JOHNSON,

 Plaintiff,

 v.

LARRY D. COMPTON; EL MONTE
RENTS, INC., a California
corporation; and Does 1-10,

 Defendants.

No. 2:16-cv-02961-JAM-CKD

**ORDER DENYING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

Scott Johnson ("Plaintiff") sued Larry D. Compton ("Defendant") alleging that Defendant's business, El Monte RV Rental, does not comply with the Americans with Disabilities Act (ADA) and California's Unruh Civil Rights Act. Compl., ECF No. 1. Plaintiff now moves for summary judgment. Mot., ECF No. 30. Defendants oppose, arguing Plaintiff's ADA claim is moot and that the Court should decline to exercise supplemental jurisdiction. Opp'n, ECF No. 32. Finding Plaintiff's ADA claim is moot, the
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1 Court dismisses the remaining claim for want of jurisdiction.¹

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3 **I. FACTUAL AND PROCEDURAL BACKGROUND**

4 Plaintiff suffers from quadriplegia and manual dexterity
5 impairments. Johnson Decl. ¶ 2. He uses a wheelchair for
6 mobility. Id. Plaintiff went to Defendant's RV rental business
7 on October 24, 2016. Id. at ¶ 4. Plaintiff states that he
8 encountered barriers in the parking lot and along the path to the
9 business office entrance. Id. at ¶¶ 5-18.

10 In December 2016, Plaintiff sued Defendant in this Court
11 alleging violations of the ADA and the Unruh Civil Rights Act.
12 See Compl. After being sued, Defendant made alterations to the
13 business to improve its accessibility. Def. Suppl. Resp. to
14 Pl.'s Req. for Produc. of Docs., ECF No. 30-15. In September
15 2017, Plaintiff's expert found three remaining barriers. Waters
16 Decl., ECF No. 30-11. Defendant submits evidence in his
17 opposition that all barriers have been removed. Compton Decl.
18 ¶ 6. Plaintiff no longer disputes that Defendant has brought the
19 property into ADA compliance. Reply, ECF No. 33, p. 1.

20 Plaintiff now moves for summary judgment on the sole
21 remaining issue of whether he should be awarded \$8,000 in
22 statutory penalties under the Unruh Civil Rights Act. Mot. at
23 13-15, Reply at 1. Defendant opposes summary judgment, arguing
24 that since Plaintiff's ADA claim is now moot, the Court should
25 decline to exercise supplemental jurisdiction. Opp'n at 4-8.

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¹ 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 June 5, 2018.

1 Plaintiff requests the Court retain jurisdiction of his state law
2 claim. See Reply.

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4 **II. OPINION**

5 **A. ADA Claim**

6 Private plaintiffs may only seek injunctive relief (i.e.,
7 barrier removal) under the ADA. Oliver v. Ralphs Grocery Co.,
8 654 F.3d 903, 905 (9th Cir. 2011). When a defendant voluntarily
9 removes the alleged barriers prior to trial, a plaintiff's ADA
10 claim can be mooted. Id. See, e.g., Vogel v. Winchell's Donut
11 Houses Operating Co., LP, 252 F. Supp. 3d 977, 985 (C.D. Cal.
12 2017) (determining an ADA claim was moot after defendant repaved
13 parking space and access aisle); Johnson v. BBVA Compass Fin.
14 Corp., No. 2:14-CV-2416-JAM-KJN, 2016 WL 1170855, at *1 (E.D.
15 Cal. Mar. 25, 2016) (holding ADA claim was moot after barrier
16 repair).

17 Here, Defendant argues that his repair of all the identified
18 barriers moots Plaintiff's ADA claim. Opp'n at 4-5. Plaintiff
19 does not dispute Defendant's argument that the business is now in
20 compliance with the ADA. Reply at 1. Additionally, Plaintiff
21 has not argued that Defendant is likely to lapse in future ADA
22 compliance or had any history of reverting back to ADA
23 noncompliance after repairs. See BBVA Compass, 2016 WL 1170855,
24 at *2. Instead, the evidence presented with the motion for
25 summary judgment shows that Defendant dutifully brought the
26 business into ADA compliance after being made aware of
27 accessibility barriers.

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1 The Court therefore finds that Plaintiff is not entitled to
2 injunctive relief on his ADA claim. Plaintiff's ADA cause of
3 action is moot, and the Court accordingly dismisses it.

4 **B. State Law Claim**

5 By dismissing Plaintiff's ADA claim, the Court has disposed
6 of "all claims over which it ha[d] original jurisdiction." 28
7 U.S.C. § 1367(c)(3). Plaintiff's sole remaining claim, arising
8 under state law, may only be decided if the Court exercises
9 supplemental jurisdiction. Plaintiff seeks an award of \$8,000 on
10 his Unruh Civil Rights Act claim—\$4,000 for his June 2016 visit
11 and \$4,000 for deterrence. Reply at 6.

12 "[I]n the usual case in which all federal-law claims are
13 eliminated before trial, the balance of factors to be considered
14 under the pendent jurisdiction doctrine—judicial economy,
15 convenience, fairness, and comity—will point toward declining to
16 exercise jurisdiction over the remaining state-law claims."
17 Carnegie-Mellon Univ. v. Cohill, 484 U.S. 343, 350 n.7 (1988);
18 Johnson v. Kim, No. 214CV00196KJMCKD, 2016 WL 232326, at *3 (E.D.
19 Cal. Jan. 20, 2016).

20 The Court finds that the factors of "judicial economy,
21 convenience, fairness, and comity" do not favor exercise of
22 supplemental jurisdiction over Plaintiff's state law claim. See
23 Oliver, 654 F.3d at 911 (finding the district court did not error
24 in declining to exercise supplemental jurisdiction on state law
25 claims after dismissing ADA claim). In an overburdened judicial
26 district like the Eastern District of California, the Court has
27 an interest in avoiding needless adjudication of state law
28 claims. Although Plaintiff's state law claim is predicated on an

1 alleged violation of the ADA, this alone does not justify use of
2 the Court's scarce resources to adjudicate the merits of the
3 remaining state law claim.

4 Plaintiff's arguments to the contrary are unavailing. His
5 argument that this case has been "heavily litigated" is
6 overstated. Id. at 4. The Court issued one prior substantive
7 order, granting Defendant El Monte summary judgment because it
8 did not own or operate a business on the property. Order, ECF
9 No. 22. Plaintiff then argues that supplemental jurisdiction
10 must be exercised to prevent him from having to file his Unruh
11 claim in state court "while, simultaneously, wrapping up his
12 prosecution of the ADA claim in federal court." Reply at 4.
13 This argument is irreconcilable with Plaintiff's earlier
14 acquiescence to the fact that his ADA claim is now moot. See id.
15 at 3. Also, the cases relied upon by Plaintiff are inapposite.
16 See Baker v. Palo Alto University, Inc., No. 5:13-CV-00546 EJD,
17 2014 WL 631452, at *2 (N.D. Cal. Feb. 18, 2014) (exercising
18 supplemental jurisdiction where federal claim remained); Delgado
19 v. Orchard Supply Hardware Corp., 826 F. Supp. 2d 1208, 1221
20 (E.D. Cal. 2011) (same); Kohler v. Islands Restaurants, LP, 956
21 F. Supp. 2d 1170, 1174 (S.D. Cal. 2013) (same).

22 The Court therefore declines to exercise supplemental
23 jurisdiction over Plaintiff's Unruh claim.

24 25 **III. ORDER**


26 For the reasons set forth above, Plaintiff's ADA claim is
27 DISMISSED AS MOOT. The Court declines to retain supplemental
28 jurisdiction over the Unruh Civil Rights Act claim and dismisses

1 this claim without prejudice to refiling it in state court.

2 Plaintiff's motion for summary judgment is DENIED AS MOOT.

3 IT IS SO ORDERED.

4 Dated: June 27, 2018

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6 JOHN A. MENDEZ,
7 UNITED STATES DISTRICT JUDGE
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