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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF CALIFORNIA  
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10 HENRY GONZALES et al.,  
11 Plaintiffs,  
12 v.  
13 CITY OF SAN DIEGO,  
14 Defendant.

Case No.: 15-cv-1033-L(RBB)

**ORDER REMANDING ACTION TO  
STATE COURT**

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16 This action against the City of San Diego for excessive force was removed from  
17 state court based on federal question jurisdiction under 28 U.S.C. § 1331. Federal  
18 question was raised by Plaintiffs' claim under 42 U.S.C. § 1983 for violation of their  
19 Fourth Amendment rights. The Court had supplemental jurisdiction under 28 U.S.C. §  
20 1367(a) over related state law tort claims.

21 The action has been pending in this Court without any motion practice since the  
22 filing of the amended complaint on August 31, 2015 until it was set for a final pretrial  
23 conference. According to the Proposed Joint Pretrial Order, Plaintiffs abandoned their  
24 sole federal claim and intended to proceed only on their state law tort claims. (Pl.'s Reply  
25 to Def.'s Resp. to OSC (doc. no. 40) at 1.) In the absence of any remaining basis for  
26 federal jurisdiction, the Court issued an Order to Show Cause why this action should not  
27 be remanded to state court. Defendant responded, arguing remand would be contrary to  
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1 judicial economy, convenience and fairness to the parties. Plaintiffs counter that remand  
2 is appropriate.

3 A district court "may decline to exercise supplemental jurisdiction [if it] has  
4 dismissed all claims over which it has original jurisdiction, ... ." 28 U.S.C. § 1367(c)(3).  
5 The Court is not obligated to continue to exercise its jurisdiction when the basis for  
6 original jurisdiction is no longer present. *Acri v. Varian Assoc., Inc.*, 114 F.3d 999, 1000  
7 (9th Cir. 1997) (*en banc*). "While discretion to decline to exercise supplemental  
8 jurisdiction over state law claims is triggered by the presence of one of the conditions in §  
9 1367(c), it is informed by the *Gibbs* values of economy, convenience, fairness, and  
10 comity." *Id.* at 1001 (referring to *United Mine Workers v. Gibbs*, 383 U.S. 715 (1966);  
11 internal quotation marks and citations omitted.) "[I]n the usual case in which all federal-  
12 law claims are eliminated before trial, the balance of factors ... will point toward  
13 declining to exercise jurisdiction over the remaining state-law claims." *Carnegie-Mellon*  
14 *Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988) (quoted in *Acri*, 114 F.3d at 1001).

15 The Court disagrees with Defendant's argument that remand would be contrary to  
16 judicial economy, convenience and fairness to the parties. With the exception of an  
17 unopposed motion to dismiss more than three years ago, which culminated in the  
18 voluntary filing of the operative amended complaint, there has been no motion practice.  
19 The discovery cut-off date was repeatedly extended during a series of settlement  
20 conferences held before the Magistrate Judge. In the absence of any motion practice, this  
21 Court is unfamiliar with the case. Aside from settlement conferences, the parties did  
22 hardly anything to avail themselves of this Court so far. Judicial economy and fairness  
23 therefore do not favor retaining jurisdiction. As stated in *Carnegie-Mellon*, comity  
24 counsels against it. In light of the foregoing, Defendant's proposition that it would be  
25 more convenient to try the case in this Court is not persuasive.

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1           The action is therefore remanded to the Superior Court for the State of California,  
2 County of San Diego, Central Division.

3           **IT IS SO ORDERED.**

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5 Dated: August 7, 2017

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7 Hon. M. James Lorenz  
8 United States District Judge

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