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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ESTABAN SANTOS, JR.,

Plaintiff,

v.

WINREAL OPERATING CO., L.P;
and WINREAL, INC.,

Defendants.

CASE NO. 17cv0854 JM(AGS)

ORDER DENYING MOTIONS FOR
SUMMARY JUDGMENT ON THE
ADA CLAIM AS MOOT;
DECLINING TO EXERCISE
JURISDICTION OVER STATE LAW
CLAIM

Plaintiff Estaban Santos, Jr. moves for summary judgment on all claims alleged in his architectural barriers disability discrimination complaint. Defendants Winreal Operating Co., L.P. and Winreal, Inc. (collectively "Winreal") cross-move for summary judgment. All motions are opposed. Pursuant to Local Rule 7.1(d)(1), the court finds the matters presented appropriate for resolution without oral argument. For the reasons set forth below, the court denies the motions for summary judgment on the Americans with Disabilities Act ("ADA") claim as moot, declines to exercise jurisdiction over the Unruh Act claim, and instructs the Clerk of Court to dismiss the action without prejudice and to close the file.

BACKGROUND

Filed on February 2, 2018, the federal question First Amended Complaint ("FAC") alleges two causes of action: violation of the ADA, 42 U.S.C. §12101 et seq., and violation of the Unruh Civil Rights Act, Cal. Civ. §51-53. Plaintiff seeks an

1 injunction to compel Winreal to comply with the ADA, statutory damages pursuant to
2 the Unruh Act, and attorney’s fees. Plaintiff’s claims arise from architectural barriers
3 he encountered when he attempted to visit a MetroPCS store in a shopping center
4 owned by Winreal in El Centro, California. (FAC ¶¶8-11).

5 Plaintiff alleges that he encountered architectural barriers with respect to
6 disability parking and the entrance door to the business. More specifically, Plaintiff
7 alleges that the accessible parking space is non-compliant with the ADA because
8 (1) the required “Minimum Fine \$250 signage” is missing; (2) the tow-away sign is
9 missing; (3) the sign in front of accessible parking space is too low; (4) there is no
10 accessible parking space/access aisle; and (5) the slopes within previously designated
11 accessible parking space and access aisle are too steep. With respect to the entrance
12 door, Plaintiff alleges that the (1) entrance door is too narrow; (2) entrance door
13 requires too much force to open; and (3) entry doors have non-compliant door handles.
14 (FAC ¶¶3, 16, 17, 22-25, 29-31).

15 At the time of filing the cross-motions for summary judgment, the parties
16 disputed whether Winreal had remedied the above identified architectural barriers. By
17 the time of filing the reply briefs, each party represents that all deficiencies have been
18 remedied.

19 DISCUSSION

20 **The ADA Claim**

21 In light of the parties’ representation that the alleged architectural barriers have
22 been remedied and presently meet current accessibility standards, the court dismisses
23 this claim with prejudice as moot. See United States v. Geophysical Corp. of Alaska,
24 732 F.2d 693, 698 (9th Cir. 1984).

25 **Supplemental Jurisdiction, The Unruh Act Claim**

26 This court is authorized by 28 U.S.C. §1367(a) to exercise supplemental
27 jurisdiction over state law claims whenever the relationship between the federal and
28 state claims is such that they “form part of the same case or controversy under Article

1 III of the United States Constitution.” 28 U.S.C. §1367(a). However, 28 U.S.C.
2 §1367(c) provides:

3 (c) The district courts may decline to exercise supplemental jurisdiction
4 over a claim under subsection (a) if - -

5 (3) the district court has dismissed all claims over which it
6 has original jurisdiction.

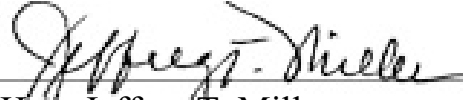
7 28 U.S.C. §1367(c). As noted by the Supreme Court, supplemental “jurisdiction is a
8 doctrine of discretion.” City of Chicago v. International College of Surgeons, 522 U.S.
9 156, 172 (1997).

10 Here, the court has dismissed the federal ADA claim, the basis for original
11 jurisdiction in federal court. Consequently, the court declines to exercise jurisdiction
12 over the state law Unruh Act claim. See San Pedrio Hotel Co., Inc. v. City of Los
13 Angeles, 159 F.3d 470, 478 (9th Cir. 1988) (district court not required to provide
14 explanation when declining jurisdiction under 28 U.S.C. §1367(c)(3)).

15 In sum, the court denies the motion for summary judgment on the ADA claim as
16 moot, and declines to exercise supplemental jurisdiction over the Unruh Act claim.
17 The Clerk of Court is instructed to close the file.

18 **IT IS SO ORDERED.**

19 DATED: June 4, 2018

20 
21 Hon. Jeffrey T. Miller
22 United States District Judge

23 cc: All parties

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