

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MICHAEL THOMAS,)	
)	
Plaintiff,)	
)	
vs.)	CIV. ACT. NO. 1:23-cv-223-TFM-B
)	
SERVBANK,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

On December 7, 2024, the Magistrate Judge entered a Report and Recommendation which recommends the Defendant’s motion to dismiss (Doc. 6) be granted in part and this action dismissed with prejudice. *See* Doc. 12. No objections were filed and the deadline passed. The Court does note that Plaintiff attempted to, without leave of court, file an amended complaint. *See* Doc. 13. The Magistrate Judge properly struck the pleading as noncompliant with the rules. *See* Doc. 14. However, out of an abundance of caution and because the Report and Recommendation recommends dismissal with prejudice, the Court looked at the proposed amended complaint to see if it would correct any of the deficiencies noted. It would not. Therefore, the Court does find that the Court need not give Plaintiff an additional opportunity to file an amended complaint and stands behind the Report and Recommendation’s analysis. *See EEOC v. STME, LLC*, 938 F.3d 1305, 1320 (11th Cir. 2019) (citation and internal quotation omitted) (“[A] district court may deny a motion for leave to amend as futile when the complaint as amended would still be properly dismissed.”); *Hall v. United Ins. Co. of Am.*, 367 F.3d 1255, 1262-63 (11th Cir. 2004) (quotations omitted) (“[A] district court may properly deny leave to amend the complaint under Rule 15(a)

when such amendment would be futile . . . This court has found that denial of leave to amend is justified by futility when the complaint as amended is still subject to dismissal.”)

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and there having been no objections filed, the Report and Recommendation of the Magistrate Judge (Doc. 12) is **ADOPTED** as the opinion of this Court. Accordingly, the motion to dismiss (Doc. 6) is **GRANTED** and this action **DISMISSED with prejudice**.

DONE and ORDERED this 25th day of January, 2024.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES DISTRICT JUDGE