

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

JERRY DON O'NEAL
*as Guardian of the Person and
the Estate of Rosie Pearl Cox O'Neal*

PLAINTIFF

vs.

Civil No. 4:10-cv-04061

REGIONS BANK

DEFENDANT

REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Before this Court is Defendant's Motion to Dismiss Plaintiff's Amended Complaint. ECF No. 17. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2009), the Honorable Harry F. Barnes referred this Motion to this Court for the purpose of making a report and recommendation. In accordance with that referral, this Court enters the following report and recommendation.

On this same date, this Court entered a Report and Recommendation recommending Defendant's Motion to Compel Arbitration (ECF No. 15) be granted, and Plaintiff's case be stayed pending arbitration. Thus, this Court recommends Defendant's Motion to Dismiss Plaintiff's Amended Complaint (ECF No. 17) be **DENIED AS MOOT**.

The parties have fourteen (14) days from receipt of this Report and Recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger *de novo* review by the district court. See *Thompson v. Nix*, 897 F.2d 356, 357 (8th Cir. 1990).

ENTERED this 6th day of December, 2010.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE