

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JERAMIAH BROWN,

Plaintiff,

v.

**5:20-CV-1339
(TJM/ML)**

**7-ELVEN INCORP., TIM HORTONS, and
BRAD GOLDSTEIN,**

Defendants.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

Petitioner filed this action pursuant to the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12101, *et seq.*, and New York state law, alleging that Defendants discriminated against him because of his disability, defamed him, and violated an agreement to settle a previous federal claim Plaintiff brought regarding the discrimination at issue in this case. Plaintiff also attempted to state a claim for judicial misconduct, alleging that a judge who presided over an earlier matter had damaged his case. The Court referred the matter to the Hon. Miroslav Lovric, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation, dated December 15, 2020, recommends that the Court dismiss with prejudice Plaintiff’s Second Amended Complaint. See dkt. # 10. Magistrate Judge Lovric finds that Plaintiff knowingly and willfully agreed to settle the

claims raised in this lawsuit when he resolved an earlier matter filed in this District, and that the settlement agreement contained an enforceable waiver preventing him from filing the claims raised here. In addition, Judge Lovric found that, even if Plaintiff had properly named Magistrate Judge Andrew T. Baxter as a defendant in this matter, Magistrate Judge Baxter would be immune to suit. Because the Court lacked diversity jurisdiction over Plaintiff's remaining state-law claims, Magistrate Judge Lovric recommended that the Court dismiss those claims as well. Finally, Magistrate Judge Lovric found that amending the Complaint would be futile and recommended dismissing the action.

Petitioner filed objections to the Report-Recommendation. See *dk.* # 12. When a party objects to a magistrate judge's Report-Recommendation, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record *de novo* and having considered the other issues raised in the Petitioner's objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Lovric for the reasons stated in the Report-Recommendation, with the exception that, having dismissed the federal-question claims in this case, the Court explicitly declines to exercise supplemental jurisdiction over any state law claims. Courts "may decline to exercise supplemental jurisdiction . . . if . . . (3) the district court has dismissed all claims over which it has original jurisdiction." 28 U.S.C. § 1367(c)(3). "Courts must consider 'the values of judicial economy, convenience, fairness,

and comity' when deciding whether to exercise supplemental jurisdiction." Kroshnyi v. U.S. Pack Courier Servs., 771 F.3d 93, 102 (2d Cir. 2014) (quoting Carnegie-mellon Univ. v. Cohill, 484 U.S. 343, 350 (1988)). Still, "if a plaintiff's federal claims are dismissed before trial, 'the state claims should be dismissed as well.'" Brzak v. UN, 597 F.3d 107, 113-114 (2d Cir. 2010) (quoting Cave v. E. Meadow Union Free Sch. Dist., 514 F.3d 240, 250 (2d Cir. 2008)). Those claims will therefore be dismissed without prejudice to repleading in an appropriate state forum.

It is therefore **ORDERED** that Plaintiff's objections to the Report-Recommendation of Magistrate Judge Lovirc, dkt. # 12, are hereby OVERRULED. The Report-Recommendation, dkt. # 10, is hereby ACCEPTED and ADOPTED. The Plaintiff's Second Amended Complaint is hereby DISMISSED with prejudice insofar as Plaintiff raises ADA claims and claims against Magistrate Judge Andrew T. Baxter. Plaintiff's state-law claims are DISMISSED without prejudice to re-pleading in an appropriate non-federal forum.

IT IS SO ORDERED.

Dated: March 15, 2021