

United States District Court
Southern District of Texas

ENTERED

January 23, 2024

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

REGINALD A. BROWDER,	§	
	§	
	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO. H-22-2896
	§	
H-E-B, LP,	§	
	§	
Defendant.	§	
	§	
	§	
	§	

MEMORANDUM AND OPINION

The court previously adopted Magistrate Judge Sam Sheldon’s report and recommendation, granting the defendant, H-E-B’s motion to dismiss but granting the plaintiff, Reginald A. Browder, leave to file a third amended complaint. (Docket Entry No. 29). Because Browder did not file a third amended complaint within the time allotted, the court dismissed this case. (Docket Entry No. 30). Browder now moves the court to consider his motion to amend, (Docket Entry No. 27), filed before the court adopted the report and recommendation, and to grant him leave to file the attached third amended complaint. (Docket Entry No. 31). Browder also moves to compel mediation or arbitration “before any dismissal is granted.” (Docket Entry No. 32).

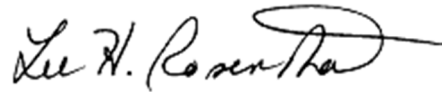
Browder’s motion to compel is denied because he has not produced evidence that the parties agreed to mediate or arbitrate any disputes.

Browder’s motion for leave to file a third amended complaint is also denied. Browder’s second amended complaint was dismissed in part because the only allegation offered to support an inference of discrimination was that “[p]eople of other races are treated differently [sic] when it

comes to refunds and calling the police.” (Docket Entry No. 26 at 5). Amendment would be futile because Browder’s proposed third amended complaint does not add any additional, sufficient allegations of discrimination.

As stated in the court’s January 9, 2024 order, this case is dismissed without prejudice because Browder has failed to state a federal claim upon which relief can be granted.

SIGNED on January 23, 2024, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lee H. Rosenthal
United States District Judge