


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

JAN 11 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY

KRISTEN MICHAEL, AN §
INDIVIDUAL ON BEHALF OF §
HERSELF AND ALL OTHERS §
SIMILARLY SITUATED, §
PLAINTIFF, §
§
V. §
§
OPPORTUNITY FINANCIAL, LLC, §
DEFENDANT. §

CAUSE NO. 1:22-CV-529-LY

ORDER ON REPORT AND RECOMMENDATION

Before the court in the above-styled and numbered case are Defendant Opportunity Financial, LLC’s Opposed Motion to Compel Arbitration and Dismiss or Stay filed June 27, 2022 (Doc. #12); Plaintiff Kristen Michael’s Opposition to Opportunity Financial’s Motion to Compel Arbitration filed July 11, 2022 (Doc. #14); and Defendant’s Reply filed July 18, 2022 (Doc. #16). The motion, response, and reply were referred to the United States Magistrate Judge for findings and recommendations. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72; Loc. R. W.D. Tex. Appx. C, R. 1(d).

The magistrate judge filed a Report and Recommendation on October 24, 2022 (Doc.#17), recommending that the court grant the motion and dismiss the case without prejudice.

Plaintiff Kristen Michael’s Objections to Magistrate Judge’s Report and Recommendation on Defendant Opportunity Financial’s Motion to Compel Arbitration was filed November 5, 2022 (Doc. #18). Defendant Opportunity Financial, LLC’s Response to Plaintiff’s Objections to Magistrate Judge’s Report and Recommendation on Defendant Opportunity Financial’s Motion to Compel Arbitration was filed November 21, 2022 (Doc. #20). In light of Plaintiff’s objections, the court has undertaken a *de novo* review of the

entire case file and finds that the magistrate judge's Report and Recommendation should be approved and accepted by the court for substantially the reasons stated therein.

Plaintiff's objections raise arguments fully addressed by the magistrate judge in the Report and Recommendation. The court finds that the magistrate judge properly concludes that the arbitration clause is enforceable and that the choice-of-law provision excludes the arbitration clause. Therefore, the court will overrule Plaintiff's objections.

Because Plaintiff's claims are subject to arbitration, the court has the authority to dismiss the case. This court agrees with the magistrate judge's recommendation that the case should be dismissed without prejudice.

IT IS THEREFORE ORDERED that Plaintiff Kristen Michael's Objections to Magistrate Judge's Report and Recommendation on Defendant Opportunity Financial's Motion to Compel Arbitration (Doc. #18) are **OVERRULED**.

IT IS FURTHER ORDERED that the Report and Recommendation of the United States Magistrate Judge (Doc. #17) is **ACCEPTED AND ADOPTED** by the court as follows: Plaintiff Kristen Michael's claims against Defendant Opportunity Financial, LLC are compelled to arbitration.

IT IS FINALLY ORDERED that the case is **DISMISSED WITHOUT PREJUDICE**.

SIGNED this 11th day of January, 2023.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE