

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

GERALD VAUGHN,
Plaintiff,

vs.

Case No. 3:12cv410/MCR/CJK

21st CENTURY SECURITY INSURANCE
COMPANY, f/k/a NEW HAMPSHIRE
INDEMNITY COMPANY, INC.,
Defendant.

ORDER

On October 16, 2012, the magistrate judge filed an order denying a motion to remand and a report and recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B), on Defendant's motion to dismiss. The court has construed the entire order as a report and recommendation, subject to *de novo* review, pursuant to Fed. R. Civ. P. 72(b).¹ No timely objections have been filed. However, Plaintiff filed a motion to amend the complaint (doc. 16). The court should freely grant leave to amend when justice so requires. Fed. R. Civ. P. 15(a)(2). The court concludes that the motion to amend the complaint should be granted. Therefore, the report and recommendation to deny the motion to remand will be adopted, and the recommendation addressing the motion to dismiss the original complaint is moot.

Accordingly, it is now ORDERED as follows:

1. The magistrate judge's order on the motion to remand (doc. 13) is construed as a report and recommendation.

¹ Because of the dispositive nature of a motion to remand on the issue of federal jurisdiction, the undersigned has concluded that magistrate judges should address such motions on a report and recommendation. See *Williams v. Beemiller, Inc.*, 527 F.3d 259, 265-66 (2d Cir. 2008) (citing consistent authority from the Third, Sixth and Tenth Circuits). Accordingly, the magistrate judge's order on the motion to remand will be construed as a report and recommendation, and the court will apply *de novo* review pursuant to Fed. R. Civ. P. 72(b) to any part of the magistrate judge's disposition of the motion to remand or the motion to dismiss that is properly objected to.

2. The report and recommendation (doc. 13) is adopted with regard to the recommendation on the motion to remand and is moot with regard to the motion to dismiss.
3. Plaintiff's Motion to Remand (docs. 8 & 11) is DENIED.
4. Defendant's Motion to Dismiss (doc. 6) is MOOT.
5. Plaintiff's Motion to Amend the Complaint (doc. 16) is GRANTED.

DONE AND ORDERED this 26th day of November, 2012.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE