

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

VICKI L. PINERO, individually and on)	Civil Action No. 08-03535
behalf of all others similarly situated,)	
)	Sec. R
Plaintiffs,)	JUDGE SARAH S. VANCE
)	
v.)	Mag. 3
)	MAGISTRATE JUDGE DANIEL E.
JACKSON HEWITT TAX SERVICE)	KNOWLES, III
INC.; JACKSON HEWITT INC.; and,)	
CRESCENT CITY TAX SERVICE,)	
INC. d/b/a JACKSON HEWITT TAX)	
SERVICE,)	
)	
Defendants.)	

**MOTION FOR DE NOVO REVIEW OF
APRIL 21, 2009 DISPOSITIVE MAGISTRATE RULING**

NOW INTO COURT, through undersigned counsel, comes plaintiff, Vicki L. Pinero, who, pursuant to Fed. R. Civ. P. 72(b) and L.R. 74.1, objects to and seeks *de novo* review of the April 21, 2009 dispositive ruling issued by Magistrate Judge Daniel E. Knowles, III (Docket No. 117), denying plaintiff leave to file an amended complaint to include a claim under La. Rev. Stat. § 9:3572.1, *et seq.* (the “LA Loan Broker Statute”).

On February 26, 2009, plaintiff filed a Motion for Leave to File Third Amended

Class Action Complaint against the defendants, Jackson Hewitt Tax Service Inc. (“JHTSI”); Jackson Hewitt Inc. (“JHI”); and, Crescent City Tax Service, Inc. d/b/a Jackson Hewitt Tax Service (jointly referred to as “Defendants”). As noted, plaintiff sought to include a claim under the LA Loan Broker Statute. *See* Docket No. 77. Defendants opposed the leave motion. *See* Docket Nos. 81 & 86. Plaintiff filed a reply to Defendants’ opposition. *See* Docket No. 96.

On April 1, 2009, Judge Knowles heard argument on plaintiff’s leave motion. *See* Docket No. 98. The Court permitted further briefing on the statute of limitations. *Id.*

On April 6, 2009, plaintiff filed her supplemental memorandum in support of her leave motion, addressing the prescription issue. *See* Docket No. 101. On April 8, 2009, JHTSI and JHI filed their supplemental opposition memorandum. *See* Docket No. 105. On April 13, 2009, plaintiff filed her reply to JHTSI and JHI’s supplemental opposition memorandum. *See* Docket No. 112.

On April 21, 2009, Judge Knowles denied plaintiff’s leave motion. *See* Docket No. 117. As more fully explained in the supporting memorandum filed concurrently herewith, Judge Knowles incorrectly concluded the proposed amendment is “futile” because Judge Knowles believed plaintiff’s proposed claim under the LA Loan Broker Statute is “barred by the applicable statute of limitations[.]” *Id.* at p. 1.

Pursuant to Fed. R. Civ. P. 72, any party may object to a Magistrate Judge’s dispositive ruling within 10 days after being served with a copy of such ruling. Plaintiff was served via ECF with a copy of Judge Knowles’ ruling on April 21, 2009. Accordingly, this motion and objection is timely filed.

WHEREFORE, plaintiff prays the Court grant *de novo* review of Judge Knowles' April 21, 2009 ruling (Docket No. 117), set aside said ruling, and grant plaintiff leave to amend her complaint to include a claim under the LA Loan Broker Statute.

Respectfully Submitted,

/s/ Bryan C. Shartle
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been forwarded to all counsel of record by ECF; by email; by hand; by fax; by FedEx; by placing a copy of same in the U.S. Mail, postage prepaid this 30th day of April 2009.

/s/ Bryan C. Shartle
Bryan C. Shartle

Attorneys for Plaintiff,
Vicki L. Pinero