

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

VICKI L. PINERO, individually and on behalf of all others similarly situated,)	Civil Action No. 08-03535
)	
)	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.)	

**MEMORANDUM IN SUPPORT OF
MOTION TO MODIFY SCHEDULING ORDER**

Plaintiff, Vicki L. Pinero (“Plaintiff”), respectfully submits this memorandum in support of her Motion to Modify Scheduling Order. Plaintiff requests the Court consider the following:

1. As the Court will recall, this is a class action against defendants, Jackson Hewitt Tax Service Inc. and Jackson Hewitt Inc. (jointly referred to as “Jackson Hewitt”) and Crescent City Tax Service, Inc. (referred to as “CCTSI”).

2. On January 7, 2009, the Court entered an Order directing the parties “to present the Court a schedule for refileing the [plaintiff’s] motion for class certification which incorporates a period for discovery on the class issues.” Rec. Doc. 54, at p. 29.

3. Prior to the July 30, 2009 Preliminary Conference, undersigned counsel held a Rule 26(f) conference with counsel for Jackson Hewitt, Andrew S. Wein. Although counsel for CCTSI was invited to attend, counsel for CCTSI did not participate.

4. During the conference, Mr. Wein and undersigned counsel reached an agreement on the deadline for Plaintiff to re-file her motion for class certification. Specifically, Mr. Wein and undersigned counsel agreed Plaintiff would re-file her class certification motion on or before February 15, 2010.

5. The Court held a Preliminary Conference with the parties on July 30, 2009, at which time the parties agreed to a trial date. The parties were told that all other deadlines would be set by the Court automatically and that if the automatic deadlines were inadequate the parties could seek to change the deadlines.

6. Per the Court’s Scheduling Order [Rec. Doc. 161], August 31, 2009 was automatically set as the deadline to amend the pleadings. Plaintiff requests this deadline be extended by 60 days, or until October 31, 2009 for 3 reasons. First, currently pending before the Court is Plaintiff’s Motion for *De Novo* Review of April 21, 2009 Dispositive Magistrate Ruling [Rec. Doc. 121]. The Court’s ruling on that motion may impact Plaintiff’s amendment to the pleadings. Second, the current 30-day deadline to amend the pleadings is inadequate in light of the complexity of this case. Third, Plaintiff has *not* previously requested an extension of the amendment deadline.

7. Plaintiff also requests the Scheduling Order be modified to include a deadline for Plaintiff to file her class certification motion, as required by the Court's January 7, 2009 Order [Rec. Doc. 54, at p. 29]. Plaintiff requests the deadline be set for February 15, 2010, which is within the deadline agreed to by Mr. Wein at the parties' Rule 26(f) conference.

CONCLUSION

In light of the foregoing, Plaintiff prays the Court grant Plaintiff's Motion to Modify Scheduling Order and modify the scheduling order by (1) extending for 60 days, or until October 31, 2009, the deadline for the parties to file amended pleadings, and (2) establishing a new deadline of February 15, 2010 for Plaintiff to re-file her motion for class certification.

Respectfully Submitted,

/s/ Bryan C. Shartle

David Israel (LSBA No. 7174) (T.A.)

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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 12th day of August 2009.

/s/ Bryan C. Shartle

Bryan C. Shartle

Attorneys for Plaintiff,

Vicki L. Pinero