

**MINUTE ENTRY  
KNOWLES, M.J.  
APRIL 2, 2009**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**VICKI L. PINERO**

**CIVIL ACTION**

**VERSUS**

**NO. 08-3535**

**JACKSON HEWITT, INC., ET AL**

**SECTION "R" (3)**

On April 1, 2009, the undersigned Magistrate Judge conducted an oral hearing regarding Defendants' Motion to Stay Discovery (Doc. No. 46) and Plaintiff's Motion for Leave to File Third Amended Class Action (Doc. No. 77). Present were Bryan C. Shartle and Justin H. Homes on behalf of Vicki L. Pinero, Donna L. Wilson and Andrew S. Wein on behalf of Jackson Hewitt Tax Service, Inc., and Thomas G. Buck on behalf of Crescent City Tax Service, Inc.

Pursuant to the hearing, the Court ordered further briefing with respect to the prescriptive or peremptive period applicable to plaintiff's proposed Count 10 purporting to state a claim under La. Rev. Stat. §9: 3572.12(D) ( LA Loan Broker Statute) to recover fees, interest and charges.

Having reviewed the record and in particular the instructions of the district judge, the undersigned is persuaded by the defendants' argument with respect to the motion seeking a temporary stay of discovery (Doc. No. 58). Accordingly, the Court issues the following order:

MJSTAR (00:14)

**IT IS ORDERED** that, to the extent that Defendant's Motion for Stay (Doc. No. 58) may appear to conflict with the district judge's order to submit a discovery schedule it is DENIED IN PART; however, defendants' motion to stay is GRANTED IN PART, that is, insofar as the defendant seeks to temporarily delay merits based discovery until after the class certification phase of this case.<sup>1</sup>

**IT IS FURTHER ORDERED** that, no later than Monday, April 6, 2009, plaintiff shall file a supplemental brief regarding the prescription issue identified more specifically above. Any reply shall be filed no later than Wednesday, April 8, 2009. Plaintiff's Motion for Leave to File Third Amended Class Action Complaint (Doc. No. 77) shall be deemed submitted for determination on April 8, 2009 at 5:00 P.M.

  
**DANIEL E. KNOWLES, III**  
**UNITED STATES MAGISTRATE JUDGE**

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<sup>1</sup>See Transcript December 3, 2008 Hearing at p. 42 (noting that "we will issue an order to come up with a schedule for class certification, to brief that and do whatever discovery you need to do on that, and then we will take up class certification")[Rec. Doc. No. 80]; Order and Reasons dated January 7, 2009 (instructing the parties to present "a schedule for refiling their motion for class certification *which incorporates a period for discovery on the class issues*") (all emphasis added) [Rec. Doc. No. 29]. The undersigned further observes that confecting a discovery schedule with respect to the issues attendant to class discovery assumes that the putative class has been identified.