

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

LASALLE BANK, NATIONAL ASSOCIATION  
AS TRUSTEE FOR THE REGISTERED HOLDERS  
OF LB-UBS COMMERCIAL MORTGAGE TRUST  
2005-C2, COMMERCIAL MORTGAGE PASS  
THROUGH CERTIFICATION, SERIES 2005-C2

CIVIL ACTION

VERSUS

MASSACHUSETTS BAY INSURANCE COMPANY

NO. 06-444

**RULING ON APPEAL**

This matter is before the court on an appeal taken by Plaintiff, LB-UBS 2005-C2 Meraux Shopping Center (Doc. 124). An opposition brief was filed (Doc. 125). Plaintiff appeals the Order issued by Magistrate Judge Dalby on November 14, 2008, (Doc. 119) which granted Ackel Real Estate LLC and River Park Real Estate LLC's Motion for Leave to Amend their Answer to Third Party Complaint (Doc. 117). Jurisdiction exists pursuant to 28 U.S.C. § 1332.

**Law and Analysis**

Non-dispositive rulings by magistrate judges are reviewed under a "clearly erroneous" or "contrary to law" standard. Fed. R. Civ. P. 72(a). When a party objects to a magistrate judge's ruling on the ground that it is contrary to law, the party must demonstrate that the magistrate judge erred in some respect in his legal conclusions. *Smith v. Smith*, 154 F.R.D. 661, 665 (N.D. Tex. 1994). The magistrate judge's legal conclusions are freely reviewable by the district judge, who applies a de novo standard. *Id.*

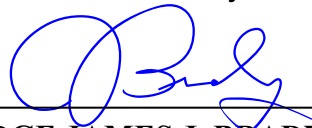
LB-UBS asserts that Magistrate Judge Dalby's Order filed into the record on November 14, 2008 (Doc. 119) was contrary to law. LB-UBS claims that Ackel and River Park are seeking to amend their answer to circumvent the established fact that River Park was the insured. Additionally, LB-UBS claims that Ackel and River Park have delayed amendment to the prejudice of LB-UBS and that the amendment would hinder judicial economy.

This Court finds that Magistrate Judge Dalby's Order was not contrary to law and should be affirmed. However, this Court also notes that it has previously ruled at oral argument that River Park and Ackel will be treated as the same entity in this litigation. Thus, the amendment will be allowed to be filed, but the court maintains its decision to treat Ackel and River Park as the same entity.

### **Conclusion**

Accordingly, Magistrate Judge Dalby's Order of November 14, 2008, is hereby AFFIRMED. However, as previously ruled by this Court, River Park Real Estate LLC and Ackel Real Estate LLC will be treated as the same entity for purposes of this litigation.

Signed in Baton Rouge, Louisiana, on January 8, 2009.



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**JUDGE JAMES J. BRADY  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**