

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**ROBERTO RAMIREZ and THOMAS
IHLE,** §
§
§
Plaintiffs, §
§
v. §
§
J.C. PENNEY CORPORATION INC., §
MICHAEL DASTUGUE, JANET §
DHILLON, KENNETH HANNAH, §
MICHAEL KRAMER, RONALD §
JOHNSON, and MYRON E. ULLMAN, §
III, §
§
Defendants. §

**CIVIL ACTION NO. 6:14-CV-601-
MHS-KNM**

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED
STATES MAGISTRATE JUDGE**

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of this action, has been presented for consideration. The Report and Recommendation (Doc. No. 32) recommends that Defendants’ Motion to Dismiss be denied as to Count I and granted without prejudice as to Count II and the Request for Judicial Notice be granted. On September 25, 2015, Defendants filed Objections to the Magistrate Judge’s Report and Recommendation (Doc. No. 33).

Having made a de novo review of the objections filed by Defendants, the Court concludes that the findings and conclusions of the Magistrate Judge are correct and the objections are without merit. In light of the foregoing, it is

ORDERED that Defendants' Motion to Dismiss The First Amended Class Action Complaint (Doc. No. 25) be **DENIED** as to Count I and **GRANTED WITHOUT PREJUDICE** as to Count II. Plaintiffs are given leave to amend their Complaint and replead Count II. It is also **ORDERED** that the Request for Judicial Notice (Doc. No. 26) be **GRANTED**.

SIGNED this 29th day of September, 2015.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a horizontal line underneath it.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE