

# **EXHIBIT A**

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April 7, 2009

**VIA EMAIL AND US MAIL**

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Re: *Vicki L. Pinero, et al. v. Jackson Hewitt Tax Service Inc., et al.,*  
Case No. 08-3535, U.S.D.C., E.D. La.

Dear David and Bryan:

We are writing with regard to the supplemental brief and attachments you filed with the Court yesterday, as well as the pleading you filed today, which was styled as an "*Ex Parte* Motion to Amend Document Number 77 (the "*Ex Parte* Motion"). Document Number 77 is Plaintiff's pending Motion for Leave to file a proposed Third Amended Complaint pursuant to Rule 15(a) (the "Rule 15(a) Motion").

As you know, at last week's hearing Magistrate Judge Knowles heard argument on the fully-briefed Rule 15(a) Motion, and directed the parties to file supplemental briefing on the narrow issue of whether the applicable statute of limitations barred Plaintiff from filing her Proposed Third Amended Complaint, a copy of which was attached to her Rule 15(a) Motion. However, without seeking leave whatsoever from the Court, you attached approximately 500 pages of documents to your 14-page supplemental memorandum. These documents included a newly-revised version of your originally proposed Third Amended Complaint, and your memorandum sought to argue that this newly-revised version met the requirements of Rule 15(a). Notwithstanding that this new version of the Third Amended Complaint added a new

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plaintiff, new allegations, and new claims, you mis-styled this new version as a "Proposed Third Amended Complaint." Today, the court's Clerk struck these attachments, including your new "Proposed Third Amended Complaint," noting that the Court had only permitted Plaintiff to file a supplemental memorandum of law – not a substantively revised version of her Proposed Third Amended Complaint.

In response, this afternoon you filed an *ex parte* motion to amend Plaintiff's Rule 15(a) Motion. Notwithstanding that it implies correction of a mere clerical error, your *Ex Parte* Motion seeks to retroactively substitute the Proposed Third Amended Complaint that was originally attached to and is the subject of Plaintiff's pending Rule 15(a) Motion with the new version of the Proposed Third Amended Complaint that the Court's Clerk struck earlier today as improperly filed.

At last week's hearing, Judge Vance expressly reminded Plaintiff's counsel of their ethical obligations under the federal rules. The pleadings Plaintiff filed yesterday and today are improper, violate the federal and local rules, and impermissibly attempt to subvert Magistrate Judge Knowles' Order. We hereby request that you withdraw those portions of the supplemental memorandum filed yesterday pertaining to the new version of Plaintiff's Proposed Third Amended Complaint – which again, you had never previously presented to either this Court or Jackson Hewitt and is not the subject of your pending Rule 15(a) Motion -- as well the *Ex Parte* Motion you filed with the Court today.

Given the *ex parte* form of relief you are seeking from the Court, we request that you respond by noon tomorrow as to whether you will agree to withdraw these pleadings. If you fail to respond or fail to withdraw these pleadings, we reserve all of our rights to seek appropriate relief, including fees, costs, and sanctions.

Yours truly,



Donna L. Wilson

cc: Glenn Farnet, Esq.  
Thomas Buck, Esq.