



THE SESSIONS FIRM
**SESSIONS
FISHMAN
NATHAN &
ISRAEL LLP**
ATTORNEYS AT LAW

BRYAN C. SHARTLE
Direct: (504) 846-7917
bshartle@sessions-law.biz

June 8, 2009

Via Email and FedEx

Donna L. Wilson, Esq.
Andrew S. Wein, Esq.
KELLEY DRYE & WARREN LLP
3050 K Street, NW, Suite 400
Washington, DC 20007-5108

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 Donna and Andrew:

In light of today's ruling, we enclose our First Request for Production of Documents. Please disregard all previously issued discovery and timely respond to the enclosed discovery, which includes only one Request for Production.

Thanking you for your expected cooperation,

Very truly yours,


Bryan C. Shartle

Pinero v. Jackson Hewitt Tax Service Inc. et al.
BCS/ct

Doc. 156 Att. 4

Enclosures

cc: Thomas G. Buck (via FedEx)
Glenn M. Farnet/ (via Email)
Gina D. Banks
David Israel (via email)
Justin H. Homes (via email)

N:\1-DI-Non-Collector-Misconduct\Pinero, Vicki-Class Action\Correspondence\Wein Ltr. Re. Disc.06.08.09.doc

Lakeway Two Suite 200 3850 N. Causeway Blvd. Metairie, Louisiana 70002-7227
(504) 828-3700 (504) 828-3737 F www.sessions-law.com

LOUISIANA ■ CALIFORNIA ■ COLORADO ■ FLORIDA ■ ILLINOIS ■ NEW YORK ■ TEXAS

**Exhibit
A**

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 INC.; JACKSON HEWITT INC.; and,)	KNOWLES, III
CRESCENT CITY TAX SERVICE, INC.)	
d/b/a JACKSON HEWITT TAX)	
SERVICE,)	
)	
Defendants.)	

**FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT
JACKSON HEWITT INC.**

NOW INTO COURT, through undersigned counsel, comes plaintiff, Vicki L. Pinero, who, pursuant to Fed. R. Civ. P. 34, propounds the following discovery upon defendant, Jackson Hewitt Inc. (“JHI”). The Request for Production of Documents must be answered separately, fully, in writing, and under oath. As required by the Federal Rules of Civil Procedure, discovery must be answered and produced within 30 days of service thereof.

INSTRUCTIONS

(A) Restate each Interrogatory or Request for Production in full immediately before answering.

(B) In answering these discovery requests, defendant shall furnish all information available to it at the time of its answers and shall supplement its answers in accordance with the Federal Rules of Civil Procedure. Defendant shall answer each Interrogatory. Combined or general answers shall be considered non-responsive, unless accompanied by an express statement that the answer is full, complete, and specific as to each Interrogatory to which the combined or general answer is meant to be responsive.

(C) Answer each discovery request fully, providing all information actually or constructively available to defendant or any other persons or entities who defendant knows to possess or have access to the requested information.

(D) If you fail to answer any discovery request in accordance with these instructions, specifically state the reason(s) therefor.

(E) If you interpose any objection to any discovery request, fully state the grounds for the objection and the legal authority upon which you would rely in response to a Motion to Compel.

(F) With respect to each document otherwise called for by these Interrogatories or Requests for Production as to which you assert a claim of privilege, or the applicability of the work product doctrine, state separately the following, in addition to the information otherwise requested:

- (1) the type of document(s);
- (2) its date;
- (3) the name, business address, and present position of its author(s);
- (4) the business affiliation and position of its author(s) at the time of preparation of the document;
- (5) the name, business address, and present position of its addressee and all other recipients of the document;
- (6) the business affiliation and position of its addressee and all other recipients at the time of receipt of the document;
- (7) a general description of the subject matter of the document;
- (8) the basis of the claim of privilege; and
- (9) the facts and law upon which you will rely in support of that contention in response to a Motion to Compel.

DEFINITIONS

- (A) The terms “you,” “your,” and “JHI” refer to Jackson Hewitt Inc.
- (B) The term “person” means any individual, partnership, firm, corporation, association, joint venture, or any other business, legal entity, or institution.
- (C) The term “document” means the original and all non-identical copies (whether different from the original because of additional notations or otherwise) of all written, printed, typed, recorded, electronic, or graphic matter, however produced or reproduced, in the actual or constructive possession, custody, or control of the defendant including, without

limitation, all writings, drawings, graphs, charts, photographs, photographic records, sound reproduction tapes, data compilations (whether tangible or intangible from which information can be obtained or can be translated through detection devices into reasonably usable tangible form), correspondence, memoranda, data, notes, diaries, papers, letters, communications, telegrams, messages of any kind, minutes of meetings, stenographic or hand-typed and written notes, studies, estimates, reports, instructions, requests, pamphlets, brochures, applications, returns, pictures, books, journals, ledgers, corporate records, accounts, contracts, leaflets, administrative or governmental reports or returns, exhibits, maps, surveys, sketches, microfilm, xerox or any other tangible things which constitute or contain matters within the scope of Fed. R. Civ. P. 26.

(D) The terms “identify” and “describe” mean:

- (1) when used in reference to an individual: his full name, present or last known business and residence address, and his last known business affiliation and position;
- (2) when used in reference to a corporation: its full name, its state of incorporation, its date of incorporation, and its principal place of business;
- (3) when used in reference to a person other than an individual or corporation: its official name, its organizational form, and its address;
- (4) when used in reference to a document: the type of document, its date, author, addressee, title; its present location; the name and address of its

custodian; and the substance of the contents thereof (in lieu of identifying any documents, copies may be furnished);

- (5) when used in reference to any communication, act, occurrence, occasion, meeting, transaction, or conduct: the event or events constituting such acts; its (their) location(s); the date and time; particular persons participating or present; and all related documents;
- (6) when used in reference to any discussion, conversation, communication, or statement: in addition to the definition of ¶ (D) (5) above, the substance of the discussion;
- (7) when used in reference to the calculation of damages: the manner in which such figure was calculated, an itemization and detailed description of each fact and incident of damage, all data and documentation supporting the figure, the person(s) so calculating those damages, and the relationship of that person or those persons to you.

(E) “Pertaining to” shall mean commenting upon, including, concerning, containing, regarding, discussing, reflecting, relating to, relevant to, used in connection with, embodying or evidencing, and should be construed in the broadest sense possible.

(F) The term “communication” shall mean any oral or written representation, promise, conversation, statement, message, or transmission of information and should be construed in the broadest sense possible.

(G) The use of the masculine gender herein includes the feminine and vice versa; the singular includes the plural and vice versa.

(H) The term “Complaint” shall mean plaintiff’s original complaint and amending and supplemental complaints, if any.

(I) “CCTSI” refers to Crescent City Tax Service, Inc. d/b/a Jackson Hewitt Tax Service.

(J) “JHTSI” refers to Jackson Hewitt Tax Service Inc.

(K) “JH Customers and Potential Customers” shall mean all individuals, partnerships, firms, corporations, associations, joint ventures, and any other person or legal entity that you or any of the defendants in this case provided tax or tax related services, or who otherwise sought tax or tax related services from you or any other defendant in this case.

(L) “JH Franchisees” shall mean all individuals, partnerships, firms, corporations, associations, joint ventures, and any other person or legal entity that currently holds, or has held, a franchise license for the Jackson Hewitt brand.

(M) “JH Customer Information and Customer Documents” shall mean all information and documents provided or supplied by a JH Customer or Potential Customer, which includes personal identifying information.

(N) “JH Privacy Policy” shall mean your policy regarding maintaining the confidentiality of JH Customer Information and Customer Documents.

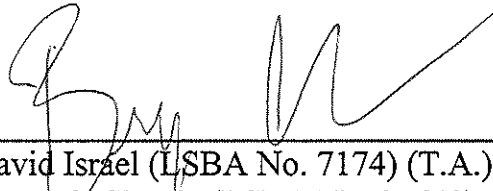
(O) “JH Tax Returns” shall mean the tax returns prepared by you for JH Customers.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NUMBER 1:

Produce all documents that you believe evidence JHI's attempt(s) to comply with the Federal Trade Commission's Safeguards Rule, 16 C.F.R. §§ 314.3-314.4, from January 1, 2005 until June 8, 2009. Include in your response all written policies and procedures designed to (1) insure the security and confidentiality of customer information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

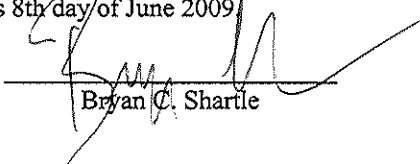
Respectfully Submitted,



David Israel (LSBA No. 7174) (T.A.)
Bryan C. Shartle (LSBA No. 27640)
Justin H. Homes (LSBA No. 24460)
SESSIONS, FISHMAN, NATHAN & ISRAEL, L.L.P.
3850 N. Causeway Blvd.
Lakeway II, Suite 200
Metairie, Louisiana 70002
Telephone: (504) 828-3700
Facsimile: (504) 828-3737

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been forwarded to all counsel of record by email; by hand; by fax; by FedEx; by placing a copy of same in the U.S. Mail, postage prepaid this 8th day of June 2009.



Bryan C. Shartle

Attorneys for Plaintiff,
Vicki L. Pinero

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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

**FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT
JACKSON HEWITT TAX SERVICE INC.**

NOW INTO COURT, through undersigned counsel, comes plaintiff, Vicki L. Pinero, who, pursuant to Fed. R. Civ. P. 34, propounds the following discovery upon defendant, Jackson Hewitt Tax Service Inc. (“JHTSI”). The Request for Production of Documents must be answered separately, fully, in writing, and under oath. As required by the Federal Rules of Civil Procedure, discovery must be answered and produced within 30 days of service thereof.

INSTRUCTIONS

(A) Restate each Interrogatory or Request for Production in full immediately before answering.

(B) In answering these discovery requests, defendant shall furnish all information available to it at the time of its answers and shall supplement its answers in accordance with the Federal Rules of Civil Procedure. Defendant shall answer each Interrogatory. Combined or general answers shall be considered non-responsive, unless accompanied by an express statement that the answer is full, complete, and specific as to each Interrogatory to which the combined or general answer is meant to be responsive.

(C) Answer each discovery request fully, providing all information actually or constructively available to defendant or any other persons or entities who defendant knows to possess or have access to the requested information.

(D) If you fail to answer any discovery request in accordance with these instructions, specifically state the reason(s) therefor.

(E) If you interpose any objection to any discovery request, fully state the grounds for the objection and the legal authority upon which you would rely in response to a Motion to Compel.

(F) With respect to each document otherwise called for by these Interrogatories or Requests for Production as to which you assert a claim of privilege, or the applicability of the work product doctrine, state separately the following, in addition to the information otherwise requested:

- (1) the type of document(s);
- (2) its date;
- (3) the name, business address, and present position of its author(s);
- (4) the business affiliation and position of its author(s) at the time of preparation of the document;
- (5) the name, business address, and present position of its addressee and all other recipients of the document;
- (6) the business affiliation and position of its addressee and all other recipients at the time of receipt of the document;
- (7) a general description of the subject matter of the document;
- (8) the basis of the claim of privilege; and
- (9) the facts and law upon which you will rely in support of that contention in response to a Motion to Compel.

DEFINITIONS

(A) The terms “you,” “your,” and “JHTSI” refer to Jackson Hewitt Tax Service Inc.

(B) The term “person” means any individual, partnership, firm, corporation, association, joint venture, or any other business, legal entity, or institution.

(C) The term “document” means the original and all non-identical copies (whether different from the original because of additional notations or otherwise) of all written, printed, typed, recorded, electronic, or graphic matter, however produced or reproduced, in the actual or constructive possession, custody, or control of the defendant including, without

limitation, all writings, drawings, graphs, charts, photographs, photographic records, sound reproduction tapes, data compilations (whether tangible or intangible from which information can be obtained or can be translated through detection devices into reasonably usable tangible form), correspondence, memoranda, data, notes, diaries, papers, letters, communications, telegrams, messages of any kind, minutes of meetings, stenographic or hand-typed and written notes, studies, estimates, reports, instructions, requests, pamphlets, brochures, applications, returns, pictures, books, journals, ledgers, corporate records, accounts, contracts, leaflets, administrative or governmental reports or returns, exhibits, maps, surveys, sketches, microfilm, xerox or any other tangible things which constitute or contain matters within the scope of Fed. R. Civ. P. 26.

(D) The terms “identify” and “describe” mean:

- (1) when used in reference to an individual: his full name, present or last known business and residence address, and his last known business affiliation and position;
- (2) when used in reference to a corporation: its full name, its state of incorporation, its date of incorporation, and its principal place of business;
- (3) when used in reference to a person other than an individual or corporation: its official name, its organizational form, and its address;
- (4) when used in reference to a document: the type of document, its date, author, addressee, title; its present location; the name and address of its

custodian; and the substance of the contents thereof (in lieu of identifying any documents, copies may be furnished);

- (5) when used in reference to any communication, act, occurrence, occasion, meeting, transaction, or conduct: the event or events constituting such acts; its (their) location(s); the date and time; particular persons participating or present; and all related documents;
- (6) when used in reference to any discussion, conversation, communication, or statement: in addition to the definition of ¶ (D) (5) above, the substance of the discussion;
- (7) when used in reference to the calculation of damages: the manner in which such figure was calculated, an itemization and detailed description of each fact and incident of damage, all data and documentation supporting the figure, the person(s) so calculating those damages, and the relationship of that person or those persons to you.

(E) “Pertaining to” shall mean commenting upon, including, concerning, containing, regarding, discussing, reflecting, relating to, relevant to, used in connection with, embodying or evidencing, and should be construed in the broadest sense possible.

(F) The term “communication” shall mean any oral or written representation, promise, conversation, statement, message, or transmission of information and should be construed in the broadest sense possible.

(G) The use of the masculine gender herein includes the feminine and vice versa; the singular includes the plural and vice versa.

(H) The term “Complaint” shall mean plaintiff’s original complaint and amending and supplemental complaints, if any.

(I) “CCTSI” refers to Crescent City Tax Service, Inc. d/b/a Jackson Hewitt Tax Service.

(J) “JHI” refers to Jackson Hewitt Inc.

(K) “JH Customers and Potential Customers” shall mean all individuals, partnerships, firms, corporations, associations, joint ventures, and any other person or legal entity that you or any of the defendants in this case provided tax or tax related services, or who otherwise sought tax or tax related services from you or any other defendant in this case.

(L) “JH Franchisees” shall mean all individuals, partnerships, firms, corporations, associations, joint ventures, and any other person or legal entity that currently holds, or has held, a franchise license for the Jackson Hewitt brand.

(M) “JH Customer Information and Customer Documents” shall mean all information and documents provided or supplied by a JH Customer or Potential Customer, which includes personal identifying information.

(N) “JH Privacy Policy” shall mean your policy regarding maintaining the confidentiality of JH Customer Information and Customer Documents.

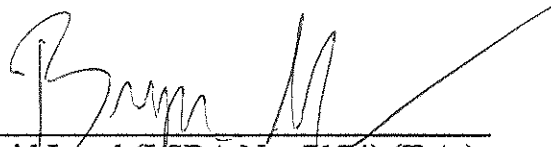
(O) "JH Tax Returns" shall mean the tax returns prepared by you for JH Customers.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NUMBER 1:

Produce all documents that you believe evidence JHTSI's attempt(s) to comply with the Federal Trade Commission's Safeguards Rule, 16 C.F.R. §§ 314.3-314.4, from January 1, 2005 until June 8, 2009. Include in your response all written policies and procedures designed to (1) insure the security and confidentiality of customer information; (2) protect against any anticipated threats or hazards to the security or integrity of such information; and (3) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer.

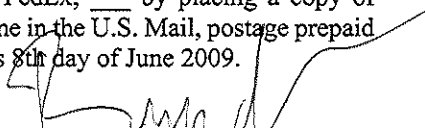
Respectfully Submitted,



David Israel (LSBA No. 7174) (T.A.)
Bryan C. Shartle (LSBA No. 27640)
Justin H. Homes (LSBA No. 24460)
SESSIONS, FISHMAN, NATHAN & ISRAEL, L.L.P.
3850 N. Causeway Blvd.
Lakeway II, Suite 200
Metairie, Louisiana 70002
Telephone: (504) 828-3700
Facsimile: (504) 828-3737

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been forwarded to all counsel of record by email; by hand; by fax; by FedEx; by placing a copy of same in the U.S. Mail, postage prepaid this 8th day of June 2009.


Bryan C. Shartle

Attorneys for Plaintiff,
Vicki L. Pinero