

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

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VICKI L. PINERO, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

JACKSON HEWITT TAX SERVICE INC.;
JACKSON HEWITT INC.; and, CRESCENT
CITY TAX SERVICE, INC. d/b/a JACKSON
HEWITT TAX SERVICE,

Defendants.

CASE NO.: 08-3535

SECTION R

JUDGE

SARAH VANCE

MAGISTRATE JUDGE

DANIEL E. KNOWLES

**JACKSON HEWITT TAX SERVICE INC.'S AND JACKSON HEWITT INC.'S
COMBINED RESPONSE TO PLAINTIFF VICKI L. PINERO'S
FIRST INTERROGATORY**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and the Local Rules for the United States District Court for the Eastern District of Louisiana, Defendants Jackson Hewitt Tax Service Inc. and Jackson Hewitt Inc. (collectively "Jackson Hewitt") hereby respond to Plaintiff Vicki L. Pinero's First Interrogatory (the "Request"), as set forth below.¹

INTRODUCTION AND OBJECTIONS

Jackson Hewitt's responses to any propounded discovery in this litigation may involve information of a confidential or proprietary nature, such that information must be produced pursuant to an appropriate stipulated confidentiality and protective order. The responses should be treated as confidential and not be shared with any third party or used in other litigation even prior to the entry of such an order. By responding to the Request, Jackson Hewitt reserves and

¹ As the First Interrogatory served upon Jackson Hewitt Tax Service Inc. and Jackson Hewitt Inc. appear to be identical, Jackson Hewitt is providing this combined response.

**Exhibit
F**

does not waive any objections to the admission of any documents at trial, or to the admission of the information contained therein, on grounds of privilege, relevance, hearsay, or other grounds of objection.

Jackson Hewitt objects to Plaintiff's "Instructions" and "Definitions" accompanying her Request, to the extent they require Jackson Hewitt to respond to the Request in a manner which deviates from the Federal Rules of Civil Procedure, and will only respond as those Rules require. Furthermore, those Instructions and Definitions do not appear to apply to this Request, as they define terms which are not used within the Request.

Jackson Hewitt further objects to Plaintiff's Request to the extent that:

1. The Request does not properly identify the information sought, but instead impermissibly seeks information that may support certain legal conclusions, and accordingly is premature, overbroad, unduly burdensome, and calls for legal conclusions, mental impressions of counsel, and other privileged attorney work product and attorney-client communications.
2. The Request seeks information and materials protected by the attorney work product doctrine and attorney-client privilege, as well as the joint defense and common interest doctrines.
3. The Request is overbroad and unduly burdensome, and seeks irrelevant information, including information that is beyond the temporal and geographic scope of this case, and therefore is not reasonably calculated to lead to admissible evidence.
4. The Request is overly vague, using undefined terms which are argumentative and require speculation.
5. The Request seeks information that is neither relevant to Plaintiff's claims nor reasonably calculated to lead to the discovery of admissible evidence.

6. The Request states allegations of facts and presumes conclusions of law that are in dispute in this Action. Jackson Hewitt further objects to this Request to the extent that it purports to define or characterize Jackson Hewitt's claims or defenses in this action, or the Federal Trade Commission's Safeguards Rule. Any response to the Request should not be construed as an admission or concession with respect to any such facts, conclusions, or characterizations.

7. The Request includes for information readily available in the public domain or public record (including but not limited to public filings, articles, or court decisions), within Plaintiff's own knowledge or control, or otherwise easily accessible to Plaintiff, and accordingly is not proper. Jackson Hewitt's provision of such information to Plaintiff would be unduly burdensome and would cause Jackson Hewitt to incur unnecessary expense.

8. The Request is compound in nature.

9. The Request is duplicative of other discovery requests in this action, and accordingly is improper for the reasons set forth in Jackson Hewitt's Memorandum in Opposition to the pending Motion to Compel.

10. The Request is not properly directed at issues of class discovery, and therefore contradicts the directive in District Judge Vance's order directing that class issues be resolved prior to merits issues.

However, subject to the above objections, Jackson Hewitt responds as follows:

INTERROGATORY NUMBER 1:

Please identify (as defined above) all documents that you believe evidence [Jackson Hewitt'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.

RESPONSE:

Jackson Hewitt objects to this Request for all of the reasons listed above. However, subject to the objections above, and the entry of an appropriate confidentiality and protective order, and reserving all rights to supplement its response as the case progresses, Jackson Hewitt responds that it is prepared to make available relevant, non-privileged documents, if any, in its possession, custody or control, sufficient to reflect the "policies, procedures, and protocols" relevant to Plaintiff's claim, in response to Plaintiff's Second Request for Production of Documents, and refers Plaintiff thereto.

Dated: August 12, 2009

Respectfully submitted,



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Certificate of Service


I do hereby certify that on August 12, 2009, I mailed the foregoing to all counsel at the following:

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