

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA**

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**

**LOCAL RULE P. 37.1 CERTIFICATE**

Pursuant to Local Rule 37.1, I, ANDREW S. WEIN declare as follows:

I am an attorney at law licensed to practice in the courts of the State of New York and the District of Columbia, and am admitted *pro hac vice* to represent Defendants Jackson Hewitt Tax Service Inc. and Jackson Hewitt Inc. (collectively "Jackson Hewitt") in this matter before the United States District Court for the Eastern District of Louisiana. If called as a witness, I could and would competently testify to the following based on my own true, personal knowledge:

1. I have, in good faith, conferred with counsel for Plaintiff in an effort to resolve the discovery dispute without court involvement.

2. On August 20, 2009, my office served a notice of deposition on Plaintiff, designating September 9, 2009, as the date on which her deposition would take place. *See* Deposition Notice, Exhibit A. I wrote to Bryan C. Shartle, counsel for Plaintiff, on September 2, 2009, to confirm the deposition. *See* email correspondence, Exhibit B (attachment omitted).

3. Mr. Shartle responded via email that (a) he had scheduling concerns with September 9, and (b) he thought the deposition should probably not go forward until after the pending Rule 15(a) Motion was resolved. *See* email correspondence, Exhibit C.

4. I responded by offering to accommodate his scheduling concerns by moving the deposition to September 10, 2009, but clearly rejecting the suggestion that Plaintiff's deposition be stayed pending resolution of the Rule 15(a) Motion. *See* email correspondence, Exhibit D.

5. Mr. Shartle rejected September 10, 2009, and "suggest[ed] that [Jackson Hewitt] wait until after the hearing on September 9 to discuss these issues." *See* email correspondence, Exhibit E.

6. I suggested multiple other dates to Mr. Shartle in an effort to accommodate any supposed scheduling concerns, but he has failed to confirm any of those suggested dates.

7. Mr. Shartle informed me today that he had not spoken with his client but did not intend to make her available for her deposition prior to getting written discovery from Jackson Hewitt.

8. Since it is clear that Plaintiff's position is that the deposition be stayed pending resolution of the Rule 15(a) Motion, I have concluded that it is not possible to reach an amicable result with Plaintiff regarding this discovery dispute, thus necessitating the filing of the present motion.

Date: September 9, 2009

By Attorneys:

/s/Andrew S. Wein

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