

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF LOUISIANA

VICKI L. PINERO, individually and on behalf of all others similarly situated,	]	CIVIL ACTION 08-3535
	]	
VERSUS	]	SECTION R
	]	
JACKSON HEWITT TAX SERVICE INC.; JACKSON HEWITT INC.; and CRESCENT CITY TAX SERVICE, INC. D/B/A JACKSON HEWITT TAX SERVICE	] ] ] ] ] ] ] ] ] ] ] ]	JUDGE SARAH S. VANCE MAG. 3

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**MEMORANDUM IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

MAY IT PLEASE THE COURT:

Defendant, Crescent City Tax Service, Inc., d/b/a Jackson Hewitt Tax Service opposes plaintiffs' Motion for Class Certification.

First, the motion is premature. Discovery regarding the matter is in its infancy. There has been no discovery yet addressed to the single class representative designated, and at a minimum, her deposition is going to be necessary in order to explore whether or not she, as a single class representative, can appropriately represent the class.

Second, the documents in question have not been fully reviewed. In fact, they were not even available for preliminary inspection to defendant's counsel until last Wednesday, October 29, 2008, since the Jefferson Parish Sheriff's Office, who is in possession of the documents, required a Court order before they would comply with the subpoena that had been issued, and

that Court order was only issued by Magistrate Judge Knowles on October 28, 2008. (Record Doc. 31).

It is not at all clear that all of the plaintiffs in this matter have suffered any damages at all, much less similar damages. From the recent inspection, it appears that while some of the plaintiffs had their entire file, including W-2s and other tax information, discarded, a significant group of others only had names and addresses listed in the documents, and no other identifying information. While plaintiffs are claiming that there may be some persons whose identifying information was actually accessed by someone while the records were in the dumpster, in fact, it is not at all clear as to whether some of the records were not looked at by anyone at all, while others might have been.

Finally, plaintiffs also seem to be claiming that 100 percent of the records that were in the dumpster might not have been recovered. Therefore, they are proposing a class wherein the identity of all of the class members may not even be ascertainable.

Defendant further adopts the arguments made by its co-defendant, Jackson Hewitt Tax Service, Inc. and Jackson Hewitt, Inc., as its own in opposition to plaintiffs' motion to certify.

Respectfully submitted:

BLUE WILLIAMS, L.L.P.

/s/ THOMAS G. BUCK

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**CERTIFICATE OF SERVICE**

I do hereby certify that I have on November 4, 2008, electronically filed the foregoing with the Clerk of court by using the CM/ECF system which will send a notice of electronic filing to the following.

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I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM.ECF participants.

/s/ THOMAS G. BUCK

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