

US District Court for the
Southern District of New York

1:02cv8965

White v. H&R Block, Inc, et al

Date Filed: 11/07/2002
Assigned To: Chief Judge Michael B Mukasey
Referred To:
Nature of suit: Stockholders' Suits (160)
Cause: Securities Exchange Act
Lead Docket: 1:02-cv-08965-MBM
Other Docket: None
Jurisdiction: Federal Question

Class Code: CLOSED, LEAD
Closed: Yes
Statute: 15:78m(a)
Jury Demand: Plaintiff
Demand Amount: \$0

Litigants

Attorneys

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PLAINTIFF

Robert T Ross Lead
PLAINTIFF

Paul White on Behalf of Himself and All Others
Similarly Situated
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v.

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Date	#	Proceeding Text
11/07/2002	1	COMPLAINT filed. Summons issued and Notice pursuant to 28 U.S.C. 636(c). FILING FEE \$ 150.00 RECEIPT # 456212. (dle) (Entered: 11/13/2002)
11/07/2002	--	Magistrate Judge Andrew J. Peck is so designated. (dle) (Entered: 11/13/2002)
12/02/2002	2	AFFIDAVIT OF SERVICE of the Notice of Conference purs. to Rule 16 to be served upon the persons/entities listed on the attached list via Federal Express overnight delivery or first class mail on 12/2/02. (ae) (Entered: 12/09/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to Frank J. Cotroneo by mail on 12/2/02. Answer due on 12/23/02 for Frank J. Cotroneo . (ae) (Entered: 12/13/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to Matthew A. Engel by mail on 12/2/02 . Answer due on 12/23/02 for Matthew A. Engel . (ae) (Entered: 12/13/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to Ozzie Wenich by mail on 12/2/02 . Answer due on 12/23/02 for Ozzie Wenich . (ae) (Entered: 12/13/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to Mark A. Ernst by mail on 12/2/02 . Answer due on 12/23/02 for Mark A. Ernst . (ae) (Entered: 12/13/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to Frank L. Salizzoni by mail on 12/2/02 . Answer due on 12/23/02 for Frank L. Salizzoni . (ae) (Entered: 12/13/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to Cheryl L. Givens by mail on 12/2/02 . Answer due on 12/23/02 for Cheryl L. Givens . (ae) (Entered: 12/13/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to Patrick D. Petrie by mail on 12/2/02 . Answer due on 12/23/02 for Patrick D. Petrie . (ae) (Entered: 12/13/2002)
12/10/2002	3	AFFIDAVIT OF SERVICE of S&C as to H&R Block, Inc. by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for H&R Block, Inc. . (ae) (Entered: 12/13/2002)

12/10/2002 3 AFFIDAVIT OF SERVICE of S&C as to Ozzie Wenich by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for Ozzie Wenich. (ae) (Entered: 12/13/2002)

12/10/2002 3 AFFIDAVIT OF SERVICE of S&C as to Frank J. Cotroneo by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for Frank J. Cotroneo . (ae) (Entered: 12/13/2002)

12/10/2002 3 AFFIDAVIT OF SERVICE of S&C as to Cheryl L. Givens by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for Cheryl L. Givens . (ae) (Entered: 12/13/2002)

12/10/2002 3 AFFIDAVIT OF SERVICE of S&C as to Frank L. Salizzoni by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for Frank L. Salizzoni . (ae) (Entered: 12/13/2002)

12/10/2002 3 AFFIDAVIT OF SERVICE of S&C as to Mark A. Ernst by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for Mark A. Ernst . (ae) (Entered: 12/13/2002)

12/10/2002 3 AFFIDAVIT OF SERVICE of S&C as to Matthew A. Engel by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for Matthew A. Engel . (ae) (Entered: 12/13/2002)

12/10/2002 3 AFFIDAVIT OF SERVICE of S&C as to Patrick D. Petrie by Brian Schmidt on 12/2/02 . Answer due on 12/23/02 for Patrick D. Petrie . (ae) (Entered: 12/13/2002)

01/02/2003 4 STIPULATION and ORDER; That the time for defendants to answer, move, or otherwise respond to the complaints 02cc8965, 02cv9661, 02cv9686, 02cv9830 be extended until after the Court appoints lead plaintiff(s) and lead counsel pursuant to a schedule agreed upon by the parties or otherwise by the Court ; It is further stipulated and agreed, that within 14 days after the Court has appointed lead plaintiff(s) and lead counsel, counsel for the defendants will confer with counsel for the lead plaintiff(s) regarding a schedule for the service of a consolidating amended complaint, if any, and defendants' responses thereto . (signed by Chief Judge Michael B. Mukasey) (jco) Modified on 01/07/2003 (Entered: 01/07/2003)

01/08/2003 7 NOTICE OF MOTION by John L. Ross and Robert T. Ross; for an order appointing the Ross Family as the Lead Plaintiffs in the consolidated action and any subsequently filed related cases ; approving their selection of Abbey Gardy, LLP and Farqui & Faruqui, LLP as Co-Lead counsel ; Return Date: not indicated (pl) Modified on 01/22/2003 (Entered: 01/22/2003)

01/08/2003 8 MEMORANDUM OF LAW of POINTS AND AUTHORITIES IN SUPPORT OF re: [7-1] motion for an order appointing the Ross Family as the Lead Plaintiffs in the consolidated action and any subsequently filed related cases; [7-2] motion approving their selection of Abbey Gardy, LLP and Farqui & Faruqui, LLP as Co-Lead counsel. (pl) (Entered: 01/22/2003)

01/08/2003 10 DECLARATION of Nancy Kaboolian by John L. Ross, Robert T. Ross in support Re: [7-1] motion for an order appointing the Ross Family as the Lead Plaintiffs in the consolidated action and any subsequently filed related cases, [7-2] motion approving their selection of Abbey Gardy, LLP and Farqui & Faruqui, LLP as Co-Lead counsel . (Filed in the night deposit on 2/8/03 at 5:24 p.m.) (ae) (Entered: 02/18/2003)

01/09/2003 5 ORDER; that on consent of the parties cases 02cv8965, 02cv9661, 02cv9682 and 02cv9830 are consolidated for pre-trial matter. Future orders issued in these related cases will be under the caption that is set forth in this Order ; a conference will be held in cases 02cv8965, 02cv9661, 02cv9683 and 02cv9830 on 1/13/03 at 9:15 a.m. in Room 21B, to scheduled further proceedings . (signed by Chief Judge Michael B. Mukasey); (pl) Modified on 02/18/2003 (Entered: 01/14/2003)

01/09/2003 -- Consolidated Lead Case. (pl) (Entered: 01/14/2003)

01/16/2003 6 ORDER, that Mark C. Gardy, of the firm of Abbey Gardy, 212 East 39th Street, new York, NY 10016, and Nadeem Faruqi and Shane T. Rowley, of the firm of Faruqi & Faruqi, 320 East 39th Street, New York, NY 10016, will be appointed lead counsel ; Plaintiffs' unopposed application to file a consolidated amended complaint is granted and plaintiffs will serve their amended complaint by 3/14/03 ; Defendants will serve a motion to dismiss the amended complaint or advise the Court, in writing, of their intention not to do so by 4/16/03. Answering papers are to be served by 5/16/03. A reply may be served by 6/6/03 . (signed by Chief Judge Michael B. Mukasey). (tp) (Entered: 01/17/2003)

01/21/2003 9 ORDER, appointing John L. Ross and Robert T. Ross to serve as lead plaintiff(s) and approving lead plntfs' selection of lead counsel (Abbey Gardy, LLP and Faruqi & Faruqi, LLP) (signed by Chief Judge Michael B. Mukasey); (cd) Modified on 01/23/2003 (Entered: 01/23/2003)

03/24/2003 11 AMENDED CLASS ACTION COMPLAINT by Paul White (Answer due 4/3/03 for Patrick D. Petrie, for Ozzie Wenich, for Cheryl L. Givens, for Matthew A. Engel, for Frank L. Salizzoni, for Frank J. Cotroneo, for Mark A. Ernst, for H&R Block, Inc.) amending [1-1] complaint; Summons issued. (jco) (Entered: 03/27/2003)

04/17/2003 12 STIPULATION, that the time for defendants H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, and Patrick Petrie to serve their motion to dismiss the Consolidated Class Action Complaint shall be extended from 4/16/03 to 4/23/03. It is further stipulated and agreed that plaintiffs shall serve answering papers by 5/23/03 and any reply papers may be served by 6/13/03 . (signed by Chief Judge Michael B. Mukasey) (tp) (Entered: 04/18/2003)

04/24/2003 13 RULE 7.1 CERTIFICATE filed by H&R Block, Inc. (jco) (Entered: 04/25/2003)

04/24/2003 14 NOTICE OF MOTION by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie; for an Order dismissing the Consolidated Class Action Complaint with prejudice for failure to plead fraud with particularity and failure to state a claim upon which relief may be granted . Return Date not indicated. (jco) (Entered: 04/25/2003)

04/24/2003 15 AFFIDAVIT of Thomas H. Golden by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, and Patrick D. Petrie in support of [14-1] motion for an Order dismissing the Consolidated Class Action Complaint with prejudice for failure to plead fraud with particularity and failure to state a claim upon which relief may be granted. (kw) (Entered: 04/25/2003)

04/24/2003 16 MEMORANDUM OF LAW by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie in support of [14-1] motion for an Order dismissing the Consolidated Class Action Complaint with prejudice for failure to plead fraud with particularity and failure to state a claim upon which relief may be granted. (kw) (Entered: 04/25/2003)

05/27/2003 17 MEMORANDUM OF LAW by Paul White in opposition to [14-1] motion for an Order dismissing the Consolidated Class Action Complaint with prejudice for failure to plead fraud with particularity and failure to state a claim upon which relief may be granted . (cd) (Entered: 06/03/2003)

06/17/2003 18 ORDER; plaintiffs will serve, but not file, their proposed amended consolidated complaint by June 18, 2003. Defendants will advise the Court, in writing, by June 25, 2003 as to whether they will oppose plaintiffs' application for leave to file an amended

consolidated complaint . (signed by Chief Judge Michael B. Mukasey); (jco)
(Entered: 06/18/2003)

- 08/11/2003 19 ORDER, On joint application by the parties on August 5, 2003 the schedule in the captioned case is modified as follows: Plaintiffs will serve their amended complaint by 08/11/03. Defendants will serve their motions to dismiss addressed to the amended complaint by 08/26/03. Answering papers will be served by 09/26/03. A reply may be served by (djc) (Entered: 08/12/2003)
- 08/11/2003 21 CONSOLIDATED AMENDED CLASS ACTION COMPLAINT by John L. Ross, Robert T. Ross (Answer due 8/21/03 for Patrick D. Petrie, for Ozzie Wenich, for Cheryl L. Givens, for Matthew A. Engel, for Frank L. Salizzoni, for Frank J. Cotroneo, for Mark A. Ernst, for H&R Block, Inc.) amending [1-1] complaint ; Summons issued. (dle) Modified on 08/20/2003 (Entered: 08/20/2003)
- 08/13/2003 20 AFFIDAVIT OF SERVICE of consolidated class action complaint as to Thomas H. Golden by Tamara Dieudonne on 8/12/03. Answer due on 9/1/03 for Thomas H. Golden. (jco) (Entered: 08/19/2003)
- 08/27/2003 22 NOTICE OF MOTION by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie; for an order purs. to 9(b) and 12(b)(6), dismissing the Consolidated Amended Class Action Complaint w/ prejudice for failure to plead fraud w/ particularity and failure to state a claim upon which relief may be granted . No Return Date. (ae) (Entered: 09/02/2003)
- 08/27/2003 23 AFFIDAVIT of Thomas H. Golden by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie in support of [22-1] motion for an order purs. to 9(b) and 12(b)(6), dismissing the Consolidated Amended Class Action Complaint w/ prejudice for failure to plead fraud w/ particularity and failure to state a claim upon which relief may be granted . (ae) (Entered: 09/02/2003)
- 08/27/2003 24 MEMORANDUM OF LAW by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie in support of [22-1] motion for an order purs. to 9(b) and 12(b)(6), dismissing the Consolidated Amended Class Action Complaint w/ prejudice for failure to plead fraud w/ particularity and failure to state a claim upon which relief may be granted; accompanied by Compendium of Unreported Decisions Cited in Defendants' Memorandum of Law. (ae) (Entered: 09/02/2003)
- 09/09/2003 25 NOTICE of Firm Registration as an LLP and Name Change by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie. (jco) (Entered: 09/15/2003)
- 10/03/2003 26 MEMORANDUM OF LAW by Paul White, John L. Ross, Robert T. Ross in opposition to [22-1] motion for an order purs. to 9(b) and 12(b)(6), dismissing the Consolidated Amended Class Action Complaint w/ prejudice for failure to plead fraud w/ particularity and failure to state a claim upon which relief may be granted . (dle) (Entered: 10/06/2003)
- 11/07/2003 27 REPLY MEMORANDUM by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie in support re: [22-1] motion for an order purs. to 9(b) and 12(b)(6), dismissing the Consolidated Amended Class Action Complaint w/ prejudice for failure to plead fraud w/ particularity and failure to state a claim upon which relief may be granted.

Received in the night deposit box on 11/7/03 at 7:12 P.M. (sac) (Entered: 11/13/2003)

11/07/2003 28 REPLY AFFIDAVIT of Thomas H. Golden by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie in support re: [22-1] motion for an order purs. to 9(b) and 12(b)(6), dismissing the Consolidated Amended Class Action Complaint w/ prejudice for failure to plead fraud w/ particularity and failure to state a claim upon which relief may be granted. Received in the night deposit box on 11/7/03 at 7:12 P.M. (sac) (Entered: 11/13/2003)

07/28/2004 29 MEMORANDUM AND OPINION # 90412 re: [22] Motion to Dismiss filed by H&R Block, Inc., Mark A. Ernst, Frank J. Cotroneo, Frank L. Salizzoni, Matthew A. Engel, Cheryl L. Givens, Ozzie Wenich, Patrick D. Petrie. granting defendants' motion to dismiss and dismissing the complaint. (Signed by Judge Michael B. Mukasey on 7/27/04) (ml,) (Entered: 07/29/2004)

07/30/2004 30 CLERK'S JUDGMENT, in favor of Defendants, H&R Block, Inc., et al., against Plaintiff's, Paul White, on behalf of himself and all others similarly situated. ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Opinion (90412) and Order dated July 27, 2004, defendant's motion to dismiss is granted and the complaint is dismissed. (Signed by J. Michael McMahon, Clerk, on 7/30/04) Filed In Associated Cases: 1:02-cv-08965-MBM,1:02-cv-09661-MBM,1:02-cv-09682-MBM,1:02-cv-09830-MBM(dt,) (Entered: 07/30/2004)

08/05/2004 -- Mailed notice of Right to Appeal to Attorney(s) of Record: Gustavo Fabian Bruckner, Nadeem Faruqi, Mark Casser Gardy, Thomas H Golden, Michelle Jamie Nadel, Richard L Posen. (snu,) (Entered: 08/10/2004)