

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Adam Steele, Brittany Montrois, and Joseph  
Henchman, on behalf of themselves and all others  
similarly situated,

*Plaintiffs,*

v.

United States of America,

*Defendant.*

Case No. 14-cv-01523-RCL

**RESPONSE BY CLASS COUNSEL TO ATTORNEY ALLEN BUCKLEY'S  
UNAUTHORIZED MOTION FOR PLEMINARY [sic] INJUNCTION**

Five years ago, this Court appointed Motley Rice LLC “as Interim Class Counsel on any and all classes in the above-captioned actions.” ECF No. 38 at 2. It ordered that “Motley Rice LLC will be responsible for the overall conduct of the litigation”—including supervising the proceedings, signing all filings on behalf of the class, determining the class’s position in all case-related matters, delegating and organizing all tasks necessary to perform case-related work, and “any other such duties Interim Lead Class Counsel deems appropriate.” *Id.* at 2-3. The Court later certified a nationwide class of all people who have paid a fee for a Preparer Tax Identification Number (or PTIN), and ordered that “Motley Rice LLC is appointed as class counsel.” ECF No. 63 at 1.

Earlier this year, in response to a motion by attorney Allen Buckley, the Court reaffirmed that decision, finding that “the resources that Motley Rice brings to the case makes this decision in the best interests of the class.” ECF No. 126. In that order, the Court expressed its “desire that all counsel for plaintiffs’ class work cooperatively in the best interests of their clients.” *Id.* Class Counsel and Mr. Buckley—along with all other plaintiffs’ counsel—have done just that. Class

Counsel and Mr. Buckley communicate frequently on all material matters related to the litigation. Class Counsel has made available to Mr. Buckley the use of its internal document management system for this litigation. And where there have been differences of opinion about how best to proceed, Class Counsel has strived to find compromises that are in the best interests of the class. Class Counsel intends to continue on that path.

With respect to Mr. Buckley's Motion for Preliminary [sic] Injunction, Class Counsel does not believe that the motion is in the best interests of the class and requested that Mr. Buckley not file it. The motion and underlying issues encompassed by that motion were thoroughly discussed between Class Counsel and Mr. Buckley. Although Class Counsel agrees with Mr. Buckley that the recently reinitiated PTIN fee and registration process does not comport with *Loving v. I.R.S.*, 742 F.3d 1013, 1016, 1021-22 (D.C. Cir. 2014), and the remand in this case, Class Counsel believes there may be more appropriate ways to address these issues. For example, as Mr. Buckley knows, Class Counsel and attorneys for the Department of Justice are currently discussing whether issues related to the reinstated PTIN fee (for years 2020 and thereafter) can be addressed in the current proceedings as part of any final merits determination. Alternatively, Class Counsel informed Mr. Buckley that it would have no objection to him pursuing an injunction in a separate civil action on his own.

To be perfectly clear: Class Counsel did not authorize the filing of Mr. Buckley's motion, and hence that motion has not been properly made on behalf of the certified class in this case. Indeed, Class Counsel expressly requested that Mr. Buckley not file the motion. Reluctantly, Class Counsel must request that the Court not consider the motion.

Dated: September 23, 2020

Respectfully submitted,

/s/ William H. Narwold

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*Counsel for Plaintiffs Adam Steele, Brittany  
Montrois, Joseph Henchman, and the Class*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 23, 2020, I electronically filed Response by Class Counsel to Attorney Allen Buckley's Unauthorized Motion for Preliminary [sic] Injunction through this Court's CM/ECF system. I understand that notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

*/s/ William H. Narwold*

William H. Narwold