

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

LAWRENCE E. JAFFE PENSION PLAN, On )	Lead Case No. 02-C-5893
Behalf of Itself and All Others Similarly )	(Consolidated)
Situated, )	
	) <u>CLASS ACTION</u>
Plaintiff, )	
	) Judge Ronald A. Guzman
vs. )	Magistrate Judge Nan R. Nolan
	)
HOUSEHOLD INTERNATIONAL, INC., et )	
al., )	
	)
Defendants. )	
_____ )	

**DECLARATION OF D. CAMERON BAKER IN SUPPORT OF LEAD PLAINTIFFS'  
MOTION TO STRIKE DEFENDANTS' MOTION FOR CONTEMPT FOR FAILURE  
TO COMPLY WITH LOCAL RULES 37.1 & 37.2, OR IN THE ALTERNATIVE, A  
REQUEST FOR AN EVIDENTIARY HEARING PURSUANT TO LOCAL RULE 37.1**

I, D. CAMERON BAKER, declare as follows:

I am an attorney duly licensed to practice before all of the courts of the State of California and am admitted to the General Bar of the United States District Court in the Northern District of Illinois. I am an attorney in the law firm of Coughlin Stoia Geller Rudman & Robbins LLP, lead counsel for plaintiffs and the Class in the above-entitled action. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

1. At the time of the February 22, 2008 meet and confer call with defendants, lead plaintiffs had not received Mr. Hall's letter of the prior night regarding document Bates No. HHS-E 0001208. The comments cited in the transcript reflect this. *See* attached Exhibit A at 25, 28-29. Subsequently, I had the opportunity to review Mr. Hall's letter, which differed from what I had expected based on defense counsel's description of that letter. I realized that plaintiffs would need to research the points made in that letter and respond substantively to that letter. I informed both Mr. Hall and Ms. Best of this via e-mail on February 22, 2008. *See* attached Exs. B and C.

2. I participated in a telephone conference call with defense counsel and Allison Engel, Law Clerk to the Honorable Judge Nan R. Nolan, on February 25, 2008. My recollection of that conversation is consistent with the description set forth in Ms. Fanning's declaration.

3. I subsequently sent a letter to Mr. Hall on February 28, 2008 as represented to Ms. Engel and defense counsel. *See* attached Ex. D. I do not believe that the parties had completed the meet and confer process on the 22nd of February and do not understand how defense counsel could believe this process was completed on that date given my e-mail to Mr. Hall and my February 28, 2008 letter.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 13th day of March, 2008, at New York, New York.

/s/ D. Cameron Baker  
D. CAMERON BAKER

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**Exhibit A**

night.

Man: Oh, we just told you we didn't get any letters from you last night.

Landis Best: Okay. Well, I sent a letter and Jason sent a letter.

Jason Hall: And the other letter, (Cam), relates to this Ernst & Young document that we've been discussing in correspondence.

(Cam): (Okay), look, I went through all my email this morning. I didn't get any letter from you.

Jason Hall: Okay. Well, do you want to talk about this now or do you want to talk about it some other time?

(Cam): I want to - well, I'd like to see your letter. I mean, I guess if your letter - what did your letter say? Tell me.

Jason Hall: Well, the letter I think essentially responds to your letter of the 20th and says in a nutshell the following -- you guys specifically raised this particular document in a brief that you submitted to Judge Nolan on February 22 of 2007.

Judge Nolan adjudicated the issue and found that this very document was privileged. And so I don't understand the basis for your claim that the document's not privileged.

(Cam): I'm asking you is there any language in there that says that we have to return the document.

Landis Best: Can...

Man: And - yeah...

Landis Best: ...just so you understand, when we bring this before Magistrate Judge Nolan, she's going to have a document that she's already ruled as privileged. She's going to have a protective order that she's already entered that governs what happens when there's a privileged document. There's a clear record of our asking for this document back. Are you sure you want us to go forward with this, (Cam)?

(Cam): Well, I haven't seen the letter, but basically I'm comfortable, yeah. Let me look and see...

Man: (Unintelligible).

(Cam): ...what Jason said in his letter, but they way you've described it now, yes, I'm comfortable.

Landis Best: Okay.

Man: Well, if you're comfortable, you might see a motion instead of a letter.

Thanks (Cam).

(Cam): Well, wait a sec. Before you do that, we - didn't I - if you want to do it, we're going to have a status conference. Why don't you just raise it and we can talk about a briefing then.

I assume there's going to be a briefing on these issues, right?

Man: We'll let you know about the status conference.

Landis Best: Yeah.

(Cam): Well, look...

Man: (Unintelligible)...

(Cam): ...you know what?

Man: ...sent a letter.

Man: (Unintelligible).

Landis Best: We sent a letter to you guys.

Man: (Unintelligible).

Man: If you don't have the letter, I don't know what to tell you. We'll check with our fax department.

Man: That's what (Cam) said he wants to see is the letter...

(Cam): I want to see...

Man: ... that you sent last night that we haven't seen yet.

(Cam): Yeah. I want to see that letter.

Exhibit B



**Pierre Tiffith**

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**From:** Azra Mehdi  
**Sent:** Wednesday, March 12, 2008 4:32 PM  
**To:** Pierre Tiffith  
**Subject:** FW: letter

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**From:** Cameron Baker  
**Sent:** Friday, February 22, 2008 2:47 PM  
**To:** 'JHall@Cahill.com'  
**Cc:** Azra Mehdi  
**Subject:** letter

We have located your letter and are reviewing it. We anticipate providing our response to your demand respecting HHS-E0001208 early next week.

Exhibit C

## Pierre Tiffith

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**From:** Luke Brooks  
**Sent:** Thursday, March 13, 2008 7:49 AM  
**To:** Azra Mehdi; Cameron Baker; Pierre Tiffith  
**Subject:** FW: Letters

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**From:** Cameron Baker  
**Sent:** Fri 2/22/2008 4:46 PM  
**To:** 'Best, Landis C.'  
**Cc:** Luke Brooks; Owen, David; Kesch, Craig; Hall, Jason M.; Deutsch, Adam; lfanning@millerlawllc.com  
**Subject:** RE: Letters

Landis, thank you for this information and the letters. Unfortunately, I will not be able to address Mr. Hall's letter in the time frame that you request. Mr. Hall makes a number of assertions that I must review and evaluate. As I indicated to Mr. Hall in my earlier email, I will try to get a response back to him and you early next week although it will be complicated due to my travel plans.

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**From:** Best, Landis C. [mailto:LBest@Cahill.com]  
**Sent:** Friday, February 22, 2008 4:26 PM  
**To:** Cameron Baker  
**Cc:** Luke Brooks; Owen, David; Kesch, Craig; Hall, Jason M.; Deutsch, Adam; lfanning@millerlawllc.com  
**Subject:** Letters

Cam,

Attached please find pdfs of the letters sent to you yesterday, along with the fax confirmation sheets. I believe you have indicated separately to Jason Hall that your firm indeed received the letters.

If you insist on calling Judge Nolan on Monday morning as you said today on the meet and confer, I am available for a call at 11:00 CST/12:00 noon EST. I have spoken with Adam and he is also available at that time. We request Plaintiffs response to Jason Hall's letter of 2/21/08 regarding the return of privileged document number HHS-E 001208 prior to the call to the Court so that we may take appropriate steps.

<<Scan001.PDF>>  
Sincerely,

Landis C. Best  
Cahill Gordon & Reindel LLP  
80 Pine St.  
New York, NY 10005  
phone: (212) 701-3694  
fax: (212) 269-5420  
email: lbest@cahill.com

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3/13/2008

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Exhibit D



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LOS ANGELES • PHILADELPHIA

D. Cameron Baker  
CBaker@csgrr.com

February 28, 2008

VIA FACSIMILE

Jason Hall, Esq.  
CAHILL GORDON & REINDEL LLP  
80 Pine Street  
New York, NY 10005-1702

Re: *Lawrence E. Jaffe Pension Plan v. Household International, Inc., et al.*  
Case No. 02-CIV-5893 (N.D. Ill.)

Dear Jason:

I write in response to your February 21, 2008 letter. Before doing so, let me inform you that we have recalled from our experts the initial version of the Joint Report of Carl LaSusa and John Bley, i.e. the one containing the unauthorized language from the OCC report of examination.

With respect to HHS-E 001208, your letter represents some progress on this issue as for the first time you respond to the inquiries made in my prior letters on whether defendants contend that the Court issued an order recalling this document. However, I note that you do not respond to my second query, namely whether defendants ever sought such an Order. I take it then that we are agreed that defendants did not in fact ever seek such an Order from the Court.

Your letter suggests that the Court did direct a return of this document in the February 27, 2007 Order, which was issued in response to plaintiffs' February 22, 2007 motion to compel. I have reviewed the relevant filings and the Order and conclude that you are mischaracterizing that Order.

As you know, there is considerable history regarding the E&Y documents, a number of which, including HHS-E 001208, were produced by defendants in response to the plaintiffs' document requests. After plaintiffs subpoena'd E&Y, defendants asserted that these previously produced documents were privileged and had been inadvertently produced. There was prolonged correspondence between the parties regarding these documents. Despite this correspondence, defendants did not bring this issue to the Court's attention.

To the contrary, plaintiffs were the initiators and moved to compel the production of the remaining documents relating to the E&Y compliance engagement. Plaintiffs used HHS-E001208 as an exhibit to support their arguments in that motion. On December 6, 2006, the Court granted plaintiffs' motion and directed defendants to produce additional E&Y documents. Following the Court's order, plaintiffs used HHS-E 001208 at Mr. Robin's deposition on December 7, 2006.

Subsequently, a dispute arose between the parties as to whether the December 6 Order required defendants to produce E&Y documents dated after the Class Period. Plaintiffs filed



Jason Hall, Esq.  
February 28, 2008  
Page 2

their February 22, 2007 motion as part of that dispute. That motion identified HHS-E 001208 as one of 187 documents that had not been produced. As we both know, that is incorrect – HHS-E 001208 had been previously produced and indeed, had been previously used in a deposition. Inclusion of this document as one of the 187 unproduced documents was an inadvertent error. Given this context, the language of the Court's February 27, 2007 Order, which you cite, provides merely that defendants were not required to produce additional post-Class Period E&Y documents. That Order did not direct the return of previously produced E&Y documents, even if dated post-Class Period.

Plaintiffs, thus, were under no obligation to return the document as a result of the February 27, 2007 Order. Both parties understood this. Significantly, defendants did not request the return of this document after that ruling, a clear indication that they did not view the Order as requiring return of the document. Further, plaintiffs used this document on March 8, 2007 at Robin Allcock's deposition without objection. See Exhibit 141 to that deposition and Allcock Deposition at 399-402.

Given the foregoing, I do not see how defendants can continue to press their contention that this document should have been returned previously, much less threaten plaintiffs with sanctions for its use. If I have missed something in the foregoing recitation, please bring it to my attention as soon as possible.

With respect to the documents bearing numbers with the H prefix, we have reviewed our records and have been unable to confirm your assertion that they were produced on the date you reference. Can you provide me with a copy letter referencing this production. Alternatively, can you please identify for me the bates ranges of the documents produced from the Drury case? In the meantime, I will continue my efforts here.

Finally, we appreciate your provision of the testimony list for Mr. Litan. However, to avoid further last minute lists, can you please provide for Mssrs. LaSusa and Bley a list of litigation in the last four years in which each has either testified or submitted a report?

Sincerely,  
  
D. Cameron Baker

DCB:jpc

cc: Landis Best, Esq.  
Lori Fanning, Esq.  
Adam Deutsch, Esq.

DECLARATION OF SERVICE BY E-MAIL AND BY U.S. MAIL

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and employed in the City and County of San Francisco, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 100 Pine Street, Suite 2600, San Francisco, California 94111.

2. That on March 13, 2008, declarant served by electronic mail and by U.S. Mail to the parties: **DECLARATION OF D. CAMERON BAKER IN SUPPORT OF LEAD PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' MOTION FOR CONTEMPT FOR FAILURE TO COMPLY WITH LOCAL RULES 37.1 & 37.2, OR IN THE ALTERNATIVE A REQUEST FOR A EVIDENTIARY HEARING PURSUANT TO LOCAL RULE 37.1.** The parties' email addresses are as follows:

<a href="mailto:TKavaler@cahill.com">TKavaler@cahill.com</a> <a href="mailto:PSloane@cahill.com">PSloane@cahill.com</a> <a href="mailto:PFarren@cahill.com">PFarren@cahill.com</a> <a href="mailto:LBest@cahill.com">LBest@cahill.com</a> <a href="mailto:DOwen@cahill.com">DOwen@cahill.com</a>	<a href="mailto:NEimer@EimerStahl.com">NEimer@EimerStahl.com</a> <a href="mailto:ADeutsch@EimerStahl.com">ADeutsch@EimerStahl.com</a> <a href="mailto:MMiller@MillerLawLLC.com">MMiller@MillerLawLLC.com</a> <a href="mailto:LFanning@MillerLawLLC.com">LFanning@MillerLawLLC.com</a>
--	--

and by U.S. Mail to:

Lawrence G. Soicher, Esq.  
Law Offices of Lawrence G. Soicher  
110 East 59th Street, 25th Floor  
New York, NY 10022

David R. Scott, Esq.  
Scott & Scott LLC  
108 Norwich Avenue  
Colchester, CT 06415

I declare under penalty of perjury that the foregoing is true and correct. Executed this 13th day of March, 2008, at San Francisco, California.

/s/ Marcy Medeiros  
\_\_\_\_\_  
MARCY MEDEIROS