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KC SEP 20 2005  
SEP 20 2005  
9-20-2005  
MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

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

LAWRENCE E. JAFFE PENSION PLAN, ON  
BEHALF OF ITSELF AND ALL OTHERS SIMILARLY  
SITUATED,

Plaintiff,

- against -

HOUSEHOLD INTERNATIONAL, INC., ET. AL.,

Defendants.

Lead Case No. 02-C-5893  
(Consolidated)

CLASS ACTION

Judge Ronald A. Guzman  
Magistrate Judge Nan R. Nolan

**AFFIDAVIT OF JOSHUA M. NEWVILLE IN SUPPORT OF  
THE HOUSEHOLD DEFENDANTS' OPPOSITION TO LEAD  
PLAINTIFFS' MOTION TO COMPEL RESPONSES  
TO FIRST SET OF INTERROGATORIES FROM  
HOUSEHOLD DEFENDANTS**

STATE OF NEW YORK )  
: ss.:  
COUNTY OF NEW YORK )

JOSHUA M. NEWVILLE, being first duly sworn, deposes and says:

1. I am a member of the bar of the State of New York and associated with the firm Cahill Gordon & Reindel LLP, co-counsel for defendants Household International, Inc., Household Finance Corporation, William F. Aldinger, David A. Schoenholz, Gary Gilmer, and J.A. Vozar (the "Household Defendants") in this action. I submit this affidavit to place before the Court certain information and documents in support of the Household Defendants' Memorandum of Law in Opposition to Lead Plaintiffs' Motion to Compel Responses to First Set of Interrogatories from Household Defendants.

2. Attached hereto as Exhibit A is a true and correct copy of the September 9, 2005 Letter of Landis Best, Esq. to Monique Winkler, Esq.

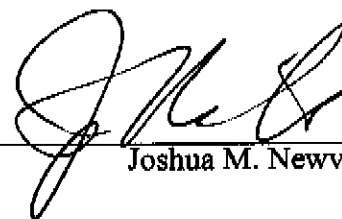
3. Attached hereto as Exhibit B is a true and correct copy of the September 1, 2005 Letter of Josh Greenblatt, Esq. to Azra Mehdi, Esq.

4. Attached hereto as Exhibit C is a true and correct copy of the September 1, 2005 Letter of Joshua Newville, Esq. to Luke O. Brooks, Esq.

5. Attached hereto as Exhibit D is a true and correct copy of the May 26, 2004 docket entry of the May 25, 2004 Minute Order of this Court.

6. Attached hereto as Exhibit E is a true and correct copy of a document entitled "Lead Plaintiffs' Status Report: September 21, 2005 Status Conference" served on the Household Defendants by counsel for Plaintiffs on September 16, 2005.

7. On information and belief, there have been three depositions taken by Plaintiffs to date in the above-captioned action. The first deposition was taken of Christine Cunningham, a 30(b)(6) witness, on November 11, 2004. The second deposition was taken of Steve Matasek, also a 30(b)(6) witness, on November 12, 2004. The third deposition was taken of Helen Elaine Markell on April 6, 2005.



Joshua M. Newville

Sworn to before me this  
19th day of September, 2005.

  
Notary Public

STESKA L. MAROTTA  
Notary Public, State of New York  
No. 01MA2544450  
Qualified in Kings County  
Commission Expires April 30, 2007

**Exhibit A**

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September 9, 2005

Re: Jaffe v. Household International, Inc., et al.  
(No. 02-CIV-5893) (N.D. Ill.)

Dear Monique:

I write to express the Household defendants' strong displeasure with the way in which Plaintiffs have gone about noticing the depositions of Messrs. Rybak and Cunningham. There was no professional courtesy of attempting to coordinate schedules. Instead, we received a subpoena and a notice for both gentlemen, noticing and requiring their attendance for depositions on specific days in October. We spent time coordinating schedules so that Messrs. Rybak and Cunningham could be available on the dates that Plaintiffs' set forth in the notices/subpoenas only to come to learn *today* that Plaintiffs are not even available to take Mr. Cunningham's deposition on October 4.

We are looking into Mr. Cunningham's availability on your proposed new date of October 7 and will let you know as soon as possible if that day is suitable. In the meantime, I trust you will withdraw the subpoena for his deposition on October 4th. As we have mentioned before, a notice of deposition is sufficient for Household employees like Mr. Cunningham, and we are agreeable to that process for former employees whom we represent such as Mr. Rybak. We are not sure why you have served both a subpoena and a notice for such depositions — other than to increase the paper in this case.

In any event, all of this could be avoided with a simple phone call informing the Household defendants of the people you intend to depose and a mutually convenient deposition schedule could be put in place.

Sincerely,



Landis C. Best

CAHILL GORDON & REINDEL LLP

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Monique C. Winkler, Esq.  
Lerach Coughlin Stoia Geller Rudman & Robbins LLP  
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cc: Adam Deutsch, Esq.  
Marvin Miller, Esq.

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JASON W. KAPLAN

September 1, 2005

Re: Lawrence E. Jaffe Pension Plan v. Household International, Inc., et al. (02-CV-5893) (N.D.Ill.)

Dear Azra:

We anticipate producing additional spreadsheets in native file format tomorrow by FedEx for Saturday delivery. As you know, we are in the process of reviewing electronic documents (other than emails) currently in our possession for production on a rolling basis. We have understood from prior communications that Plaintiffs are most interested in receiving native file format spreadsheets (as opposed to other electronic documents). Thus, we offer to prioritize the production of spreadsheets in native file format. Please advise if you would like us to do so.

Additionally, based upon Judge Nolan's comments at the August 24 status conference, we will shortly begin the collection process for emails in native file format based on our proposed custodian and search term protocol. In order to manage the discovery process and to aid in the preparation for any depositions that Plaintiffs may wish to take, we are willing to prioritize this production as well based on a list of names that Plaintiffs provide. Please let us know at your earliest convenience if you wish us to proceed in this fashion and, if so, please provide a list of "priority" names from our proposed custodian list.

We are willing to discuss the matters further with you at your convenience.

Sincerely,

  
Josh Greenblatt

**Exhibit C**



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September 1, 2005

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

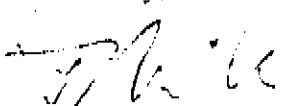
Dear Luke:

I write in response to your phone call yesterday regarding a briefing schedule for plaintiffs' threatened motion to compel interrogatory responses.

The Household defendants strongly urge plaintiffs to reconsider their decision to burden the Court with another motion to compel, especially considering that this particular issue is one that is better suited at the end of discovery. For the reasons stated in our previous letters, sets of contention interrogatories that merely track a party's pleadings are improper at this stage.

However, if plaintiffs in fact intend to file a motion to compel, the Household defendants will agree to the following schedule: Motion to compel filed Tuesday, September 6, the Household defendants' response in opposition due Tuesday, September 20; and plaintiffs' reply due Tuesday, September 27.

Sincerely,

  
Joshua M. Newville

Luke O. Brooks, Esq.  
Lerach Coughlin Stoia Geller  
Rudman & Robbins LLP  
100 Pine Street, 26th Floor  
San Francisco, CA 94111

CAHILL GORDON & REINDEL LLP

-2-

VIA FACSIMILE

cc: Adam Deutsch, Esq. (via facsimile)  
Marvin A. Miller, Esq. (via facsimile)  
Stanley Parzen, Esq. (via facsimile)  
Landis C. Best, Esq.

**Exhibit D**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

Michael W. Dobbins  
CLERK

Office of the Clerk

Nathan P. Eimer  
Eimer Stahl Klevorn & Solberg, LLP  
224 South Michigan Avenue  
Suite 1100  
Chicago, IL 60604

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Case Number: 1:02-cv-05893

Title: Jaffe v. Household Intl Inc

Assigned Judge: Honorable Ronald A. Guzman

MINUTE ORDER of 5/25/04 by Hon. Nan R. Nolan : Status hearing held and continued to 07/20/04 at 9:30a.m. Agreed discovery schedule is as follows: Defendants shall answer the complaint by 06/18/04; plaintiff's motion for class certification due 06/30/04; initial disclosures shall be exchanged by 06/25/04; fact discovery by 01/13/06; plaintiff's will designate expert witnesses by 03/03/06; defendants will designate any expert witnesses by 04/28/06; plaintiff's rebuttal by 06/02/06; and all expert discovery by 07/24/06. Mailed notice

This docket entry was made by the Clerk on May 26, 2004

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by ICMS, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at [www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov)

Check our web site for CourtWeb--a concise listing of rulings by judges. Check for rulings on noticed motions. Also, subscribe to CourtWatch--a free service--to receive e-mail notification of CourtWeb postings.

**Exhibit E**

**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. )	
	)

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**LEAD PLAINTIFFS' STATUS REPORT: SEPTEMBER 21, 2005 STATUS  
CONFERENCE**

A status hearing has been set for September 21, 2005. Lead plaintiffs hereby submit this Status Report to update the Court on the status of discovery matters. Plaintiffs presented a draft joint status report to defendants, but defendants declined to join in a submission.

**A. Summary of the Case**

Plaintiffs refer the Court to the Joint Status Report and [Proposed] Rule 26(f) Discovery Plan ("Rule 26(f) Plan") filed May 20, 2004 for a summary of the case. In addition, on December 3, 2004, the Court entered an order certifying a Class of all claims under §§10(b) and 20(a) of the Exchange Act of 1934 for the period October 23, 1997 to October 11, 2002. On August 22, 2005, the Court entered an order granting the Modification to Stipulation and Order Regarding Class Action Certification, which eliminated a contingency allowing defendants to move for decertification of the Class.

**B. Status of Motions Pending Before This Court**

**1. Motion to Compel Responses to First Set of Interrogatories**

Plaintiffs filed this motion on September 6, 2005. Pursuant to an agreed-upon briefing schedule, defendants' response is due September 20 and plaintiffs' reply is due September 27, 2005.

**2. Motion to Compel the Household Defendants to Produce Documents Improperly Withheld on the Basis of Privilege**

After plaintiffs filed this motion on June 6, 2005, defendants revised their privilege log *for a fourth time*, produced 21 documents entirely and 12 partially from those previously withheld as privileged. Briefing was completed July 21, 2005. Plaintiffs take issue with defendants' submission of select privileged documents, instead of producing all disputed documents *in camera*.

**3. Motion to Compel the Household Defendants to Produce Electronic Evidence in Native Electronic Format**

After plaintiffs' motion was filed on June 6, 2005, the parties resolved issues regarding production of spreadsheets and this part of the motion is withdrawn. The parties could not reach

agreement on custodians or search terms relating to emails. Briefing was completed July 21, 2005. At the August 24, 2005 hearing, defendants acknowledged that they had not yet begun searches even for the agreed-upon custodians and search terms. To date, no production has occurred.

**4. Motion to Compel the Household Defendants to Produce Source Logs for Documents Produced in This Litigation**

Plaintiffs filed this motion on June 6, 2005 seeking to compel source logs as well as verification that document production pursuant to individual requests was complete. Following plaintiffs' filing, defendants produced source logs. Plaintiffs withdrew that part of the motion. Briefing on the remainder of the motion was completed by July 21, 2005.

At the August 24, 2005 hearing, the Court ordered defendants to file by September 2, 2005 a supplemental response verifying completion of document production. Instead of filing a response, defendants sent a letter to the Court describing generally their efforts in gathering documents. Defendants, however, failed to verify the completion of any individual request. It is plaintiffs' position that this letter does not comply with the Court's August 24, 2005 order or respond to plaintiffs' motion.

**5. Household Defendants' Motion to Amend the Protective Order**

Briefing completed on March 11, 2005; ruling pending.

**C. Status of Discovery**

**1. Document Production**

Defendants have not completed document production and have failed to verify the completion of production with respect to any individual request. Plaintiffs anticipate propounding additional document requests.



**2. Additional Motions to Compel**

Plaintiffs anticipate having to file additional motions to compel defendants to produce documents responsive to plaintiffs' document requests shortly due to defendants' refusal to produce various documents.

**3. Depositions**

Plaintiffs have taken three depositions and are scheduled to take two additional depositions on October 6 and 7, 2005. As detailed in the Rule 26(f) Plan, plaintiffs intend to seek modification of the Fed. R. Civ. P. 30(a)(2)(a) limitation on depositions to permit 50 depositions. Plaintiffs believe they have strong support to make this request.

**4. Additional Interrogatories**

Due to the complex issues in this case, plaintiffs expect to seek leave to serve additional interrogatories beyond the limitation set by Fed. R. Civ. P. 33.

**5. Fact Discovery Cut-Off**

The fact discovery cut-off is currently scheduled for January 13, 2006. Due to the large amount of outstanding discovery and ongoing delay in the document production pending resolution of the discovery motions before this Court, as well as the resolution of motions to dismiss before Judge Guzman, plaintiffs believe that a short extension of the fact discovery cut-off will be necessary. Plaintiffs propose a four-month extension to May 12, 2006.

DATED: September 16, 2005

Respectfully submitted,

/ S /

---

AZRA Z. MEHDI

LERACH COUGHLIN STOIA GELLER  
RUDMAN & ROBBINS LLP

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Attorneys for Plaintiff

T:\CasesSF\Household Intl\SCS00024256.doc

DECLARATION OF SERVICE BY U.S. MAIL AND BY EMAIL

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 September 16, 2005, declarant served by U.S. Mail and by email the: **LEAD PLAINTIFFS' STATUS REPORT: SEPTEMBER 21, 2005 STATUS CONFERENCE** to the parties listed on the attached Service List. The parties' email addresses are as follows:

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lfanning@millerfaucher.com

I declare under penalty of perjury that the foregoing is true and correct. Executed this 16th day of September, 2005, at San Francisco, California.

/s/  
\_\_\_\_\_  
CAROLYN BURR

**HOUSEHOLD INTERNATIONAL (LEAD)**

Service List - 9/14/2005 (02-0377)

Page 1 of 2

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