



3. Attached hereto as Exhibit B is a true and correct copy of Lead Plaintiffs' Notice Concerning Expert Testimony Pursuant to the Court's February 26, 2008 Order, dated February 27, 2008.

4. Attached hereto as Exhibit C is a true and correct copy of a letter from D. Cameron Baker to Landis Best, dated February 29, 2008.

5. Attached hereto as Exhibit D is a true and correct copy of a transcript of a meet-and-confer held on March 3, 2008.

6. Attached hereto as Exhibit E is a true and correct copy of an email from Susan Buckley to Luke Brooks and Cameron Baker, dated March 4, 2008.

7. Attached hereto as Exhibit F is a true and correct copy of Lead Plaintiffs' Amended Notice Concerning Expert Testimony Pursuant to the Court's February 26, 2008 Order, dated March 10, 2008.

8. Attached hereto as Exhibit G is a true and correct copy of the Declaration of James C. Bernstein, dated March 2, 2005, and Exhibit 1 thereto.

9. Attached hereto as Exhibit H is a true and correct copy of Plaintiffs' Statement of Qualifications of Expert Witnesses to be Read to the Jury, dated October 31, 2008.

10. Attached hereto as Exhibit I is a true and correct copy of a letter from Ira Dembrow to Luke Brooks, dated November 21, 2008, in which Defendants requested that Plaintiffs delete Mr. Bernstein from their witness list.

11. Attached hereto as Exhibit J is a true and correct copy of a letter from Luke Brooks to Ira Dembrow, dated November 24, 2008.

12. On November 25, 2008, I, along with my colleagues Joshua Newville, Jason Hall and Lauren Perlgut, held a telephonic meet-and-confer with Plaintiffs' counsel, including Luke O. Brooks, D. Cameron Baker, Spence Burkholz and Azra Mehdi, concerning the testimony of James Bernstein and other topics. During the meet-and-confer, counsel for Plaintiffs contended that Mr.

Bernstein would be offered as a “percipient witness,” in contrast to Mr. Cross who may offer opinion testimony. Plaintiffs stated that they removed Mr. Bernstein from their *Sunstar* list (*See Sunstar, Inc. v. Alberto-Culver Co.*, Nos. 01 C 736, 01 C 5825, 2006 U.S. Dist. Lexis 85678 (N.D.Ill. Nov. 16, 2006) (Guzman, J.) because they do not believe that *Sunstar* applies to Mr. Bernstein’s testimony.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct. Executed this 30th day of January 2009, in New York, New York.

/s/ Landis C. Best

Landis C. Best

# Exhibit A

**United States District Court, Northern District of Illinois**

Name of Assigned Judge or Magistrate Judge	Ronald A. Guzman	Sitting Judge if Other than Assigned Judge	Nan R. Nolan
<b>CASE NUMBER</b>	02 C 5893	<b>DATE</b>	2/26/2008
<b>CASE TITLE</b>	Lawrence E Jaffe vs. Household International Inc, et al		

**DOCKET ENTRY TEXT**

For the reasons set forth below, Plaintiffs' Motion to Enforce the January 31, 2008 Order and to Compel Production of Documents by Defendants' Experts Pursuant to Plaintiffs' Subpoenas [Doc. 1184] is denied in part and entered and continued in part.

■ [ For further details see text below.]

Notices mailed by Judicial staff.

**STATEMENT**

The first part of this motion relates to Defendants' December 10, 2007 Notice Concerning Expert Testimony that identified 23 witnesses who may give testimony "as to matters as to which they have specialized knowledge and whose testimony may, at least in part, fall within the purview of the Court's ruling in *Sunstar, Inc. v. Alberto-Culver Co.*, No. 01 C 736, 2006 U.S. Dist. LEXIS 85678 (N.D. Ill. Nov. 16, 2006)." On January 31, 2008, the court questioned whether the 23 witnesses actually qualify as non-retained "experts" under *Sunstar*. The court explained that (1) unlike the third-party employee involved in *Sunstar*, "the 23 witnesses at issue in this case are all current and former Household employees – some are named Defendants – with extensive personal knowledge of Household's policies and practices"; and (2) "Defendants represent that they have no intention of eliciting any expert opinions or testimony from these individuals." (Minute Order of 1/31/08, Doc. 1172.)

In light of these differences, the court instructed Defendants to (1) submit a revised expert disclosure notice identifying only individuals who may provide expert testimony at trial; and (2) provide a detailed statement of the specific opinions any non-retained experts may offer at trial, and the bases for those opinions. (*Id.*) Defendants again objected, and at a status hearing on February 7, 2008, the parties agreed to prepare a stipulation regarding the 23 witnesses as stated in open court. (Minute Order of 2/7/08, Doc. 1176.) This effort has failed, apparently due to a misunderstanding of the court's instructions at the February 7 hearing.

Defendants proposed a stipulation that addressed the 23 witnesses on their December 10, 2007 Notice, providing that "to the extent any of the 23 individuals . . . is called to give testimony at trial or otherwise as to what they did in real time, why and how they did it, and why they believe it was right, even if based on specialized knowledge, the parties will not object on the ground that it is improper expert testimony by a lay witness or on the ground that the other party failed to disclose the identity of the witness as required by Rule 26(a)(2)(A)." (Ex. A to Letter dated 2/25/08.) Plaintiffs now seek to expand the stipulation to include other

**STATEMENT**

unidentified witnesses who may testify at trial as to what they did in real time, even if based on specialized knowledge. Plaintiffs, however, have not submitted a notice indicating that any of their witnesses may be considered non-retained experts under *Sunstar*. In the absence of such a notice, Plaintiffs' proposed expansion of the stipulation is inconsistent with this court's February 7, 2008 ruling.

Plaintiffs may submit an appropriate notice identifying the specific witnesses they believe may fall within the purview of *Sunstar* by February 27, 2008. The parties may then submit a stipulation covering all named witnesses consistent with this opinion by February 29, 2008. In the event Plaintiffs choose not to submit a notice, the parties should file the stipulation as drafted by Defendants. In the alternative, to the extent this entire matter may be moot depending on Judge Guzman's understanding of *Sunstar*, the parties remain free to appeal this ruling to the district court. The court hereby confirms that any such appeal is not time-barred.

As for Plaintiffs' motion to compel production of documents from Defendants' experts, Defendants will respond by February 28, 2008; Plaintiffs will reply by March 3, 2008. The motion hearing set for February 29, 2008 is stricken.

# Exhibit B





Pursuant to the Court's February 26, 2008 Order, lead plaintiffs provide the following list of witnesses whose testimony as to opinions developed before or during the Class Period lead plaintiffs may introduce at trial or otherwise. Consistent with defendants' "hedging" approach, lead plaintiffs provide this list without conceding that any opinion testimony from these witnesses constitutes expert testimony or falls within the scope of this Court's *Sunstar, Inc. v. Alberto-Culver Co.*, No. 01 C 736, 2006 U.S. Dist. LEXIS 85678 (N.D. Ill. Nov. 16, 2006) opinion. Lead plaintiffs reserve the right to introduce opinion testimony from the 23 individuals identified in defendants' earlier Notice Concerning Expert Testimony which list is hereby incorporated by reference.

- Robin Allcock
- James Bernstein
- William Burgess
- Paul Creatura
- Charles Cross
- Christine Cunningham
- Kathleen Curtin
- Per Ekholdt
- Gregory Fasana
- Douglas Flint
- Douglas Friedrich
- Ned Hennigan
- Stephen Hicks
- Dennis Hueman
- David Huey
- David Little
- Paul Makowski
- Helen Markell
- Todd May
- Steven McDonald

- Kay Nelson
- Robert O'Han
- Richard Peters Jr.
- Kenneth Posner
- Jonathan Pruzan
- Kenneth Robin
- Carin Rodemoyer
- William Ryan
- Thomas Schneider
- Margaret Sprude
- Kenneth Walker
- Christine Worwa

DATED: February 27, 2008

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Attorneys for Plaintiff

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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 February 27, 2008, 2008 declarant served by electronic mail and by U.S. Mail to the parties: **LEAD PLAINTIFFS' NOTICE CONCERNING EXPERT TESTIMONY PURSUANT TO THE COURT'S FEBRUARY 26, 2008 ORDER**. The parties' email addresses are as follows:

[TKavaler@cahill.com](mailto:TKavaler@cahill.com)  
[PSloane@cahill.com](mailto:PSloane@cahill.com)  
[PFarren@cahill.com](mailto:PFarren@cahill.com)  
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and by U.S. Mail to:

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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 27th day of February, 2008, at San Francisco, California.

/s/ Monina O. Gamboa  
\_\_\_\_\_  
MONINA O. GAMBOA

# Exhibit C



SAN DIEGO • SAN FRANCISCO  
NEW YORK • BOCA RATON  
WASHINGTON, DC • HOUSTON  
LOS ANGELES • PHILADELPHIA

D. Cameron Baker  
CBaker@csgr.com

February 29, 2008

VIA FACSIMILE

Landis Best, 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 Landis:

Your letter of today is full of unnecessary rhetoric and hyperbole. As you are aware, in response to Magistrate Judge Nolan's directions, plaintiffs provided on February 27 a list of potential witnesses who may or may not fall within the scope of the Sunstar case. As has been made clear in the filings before the Court, the parties have differing opinions as to the meaning of that case, including but limited to what constitutes specialized knowledge. We remind you that the current situation arose in the context of defendants' inadequate December 10 "Notice," the Court's subsequent January 31, 2008 Order, and defendants' refusal to comply with that Order. During the February 22 conference call, it became obvious that notwithstanding this context, defendants intended to use this issue to attack plaintiffs' witnesses. In order to resolve these issues, in response to the February 26 Order, plaintiffs identified all individuals who might fall within defendants' expressed interpretation of Sunstar. As plaintiffs' approach is consistent with defendants' own hedging approach and was intended to prevent further conflict between the parties on this issue, we do not understand defendants' reaction to plaintiffs' list.

As to your demand that we accept your stipulation minus the four identified individuals, we decline. First, your stipulation is drafted inappropriately. For example, the phrase "why they believe it was right" is improper and unnecessarily limiting. As you know or should know, some of the witnesses plaintiffs identified would testify as to why they thought it was wrong. We cannot agree to a one-sided stipulation. The stipulation we sent you last night addresses this and other issues. Please indicate why that stipulation is unacceptable.

Second, as to the four individuals, we respectfully disagree with your assertions. None of these are experts retained by plaintiffs for the purpose of providing opinions and all would testify as to opinions they developed in real time. With respect to any specialized knowledge, they are just like other witnesses identified on plaintiffs' and defendants' lists. See, e.g., William Long, Christopher Bianucci, James Kauffman and Brian Stephens. Moreover, despite your complaints, defendants have been aware of these potential witnesses for a long time.



Landis Best, Esq.  
February 29, 2008  
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Your letter omits that both parties subpoena'd Mr. Ryan during fact discovery, that defendants deposed Mr. Cross in the Luna case, and that plaintiffs provided defendants with a copy of Mr. Bernstein's Declaration on August 15, 2007.

Notwithstanding your letter's baseless accusations, we are available to meet and confer on this issue if you feel it would be useful.

Finally, with respect to writing Magistrate Judge Nolan another of your letters "requesting guidance," as you are aware, any request for Court action is a motion and should be filed with the Court. Your firm has repeatedly violated this provision. We request that you cease this inappropriate conduct immediately and will raise the issue with the Court if you continue to do so. We note that your firm has already been reprimanded for this conduct by Judge Guzman.

Sincerely,

D. Cameron Baker

DCB:jpc

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

# Exhibit D



*Household - Jaffe case  
(2/12/08)*



SAN DIEGO • SAN FRANCISCO  
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WASHINGTON, DC • HOUSTON  
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Luke O. Brooks  
[LukeB@csgr.com](mailto:LukeB@csgr.com)

March 17, 2008

VIA OVERNIGHT MAIL

Landis Best, 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 Landis:

*sent to Craig Koch 3/18/08*

Attached is a copy of the CD from the Meet and Confer session on March 3, 2008 and a copy of the transcript.

Very truly yours,

LUKE O. BROOKS

LOB:mm  
Enclosure

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Moderator: Luke Brooks  
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**HOUSEHOLD 020377-00001**

**Moderator: Luke Brooks  
March 3, 2008  
2:00 pm CT**

Man: How are you all?

Man: Excellent. How are you?

Man: Very good.

Man: Good.

Man: I'm sitting in for (Lanice) who has the great honor and duty to be at jury duty.

Man: Oh, well lucky her.

Man: It's a necessary step for every lawyer in the city of New York that we go down there every two years and they don't like us, and send us home.

Man: Well hopefully she'll be luckier than a friend of mine here who actually did get picked on a landlord/tenant eviction case - sat on the jury for a few days.

Man: I'd really like to, I digress. Go ahead gentlemen.

Man: Well - so we're talking about the stipulation here.

Man: Right.

Man: And we're not sure exactly what you guys want other than for us to strike four of the witnesses.

Man: Well I guess the first question is whether - if we take those four aside for a minute and maybe you'll tell me we can't do that. And I guess the first question is whether we can reach a stipulation with everybody except the four.

Man: Well are you talking - do you want to discuss the language of the stipulation? Is that what you're talking about?

(Susan): How do you discuss the language if it's going to go anywhere? But I have the sense from your letter, (Cam) - I don't know who's talking but if that is (Cam), I have the sense from your letter that a stipulation is about the 61 as opposed to the 54 - is not something you were interested in.

Man: No.

(Susan): Okay.

Man: No, you're right about that. Let's...

(Susan): Okay. Shoot - talk to me. You're prepared to come up with some language to put the 51?

- Man: No. He said - I think he said you're right about your interpretation of his letter.
- (Susan): Oh, okay. I heard quite the opposite, I thought. All right. So that clarifies things a lot better if - and let me say it back to you that unless all 32 on your list are included, then the stip is not satisfactory to you.
- Man: I don't think we would say that. But let's - I guess maybe I do have a starting point.
- (Susan): Okay.
- Man: Do we agree that the language that we proposed in our stipulation -- specifically the final therefore language -- is the language that we'll use for - on this purpose?
- Man: I guess I want to take some baby steps before we get to the bigger steps.
- (Susan): And I guess my question is if we're not going to have a stip, why waste time on the language?
- Man: Because I think we might be able to reach an agreement on the stipulation but we can't do it if we can't even agree onto the basis language.
- Man: Well first let's start with the language. Can we agree that our language is the right language to use?
- (Susan): Well let's find the language. This is because of your difference between what they believe was right and what they believe was wrong?

HOUSEHOLD 020377-00001

Moderator: Luke Brooks

3-03-08/2:00 pm CT

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Man: It's more than that. But yes, that's essentially it.

(Susan): I apologize. We don't have your language in front of us, but (Craig) has run to get it and he is back.

Man: He's fast.

(Susan): He is fast. Okay. Now let's make sure we're on the same page. I have a draft of yours dated 2/25. Does that make sense?

Man: No.

(Susan): Okay.

Man: I don't think so. I sent it, I want to say 2/28. I sent (Craig) a new version that - because of the fact that we had submitted a list - it probably has very similar language. I can't tell you. I think I gave him a redline too because he wanted a redline.

(Susan): Okay. We've got a big file here. We've got the 2/25.

Man: I have the (Cam) (unintelligible)...

(Susan): We got it.

Man: Again, it would have come to you on 2/28.

(Susan): I think I have it - 2/28 from you at 6:20?

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Moderator: Luke Brooks  
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Man: Okay, that's - the date's right. I don't know about the time, but yeah that's probably it.

(Susan): Let me read it (Cam), and make sure we're on the same one. Now therefore it is hereby stipulated and agreed by and among the undersigned counsel of the parties (unintelligible) action that to the extent any party (takes) to introduce testimony at trial or otherwise as to what individuals identified on the respective list provided by plaintiffs and defendants did, in real time, before or during the class period why and how they did it and the opinions they developed at the time, even if based on specialized knowledge - that's the sentence but I'll keep going.

The parties will not object to such testimony on the ground it is improper expert testimony by a lay witness or on the ground that the other party failed to disclose the identity whether to the (unintelligible) 26 A2A. Is that the language?

Man: That's it.

(Susan): Wow, we're on the same page. And the only thing you've corrected as far as I can tell -- correct me if I'm wrong -- is and why they believe it was right to something else.

Man: I think it changes to and the opinions they developed (in time). And also we added before the class period.

(Susan): Oh.

Man: Just because some of the stuff has to do with - and I think actually this is beneficial to you because you want people to testify as to decisions made with

respect to the GM, I want to say and the other credit card accounting that occurred before the class period.

Man: (Alan)?

(Susan): Seems okay to me.

Man: Okay.

(Susan): Okay.

Man: Let's mark our calendars on this one.

Man: Yeah.

Man: Like I said, work from the baby steps. All right. So the next thing as I see it, and this is going off your letter to Judge (Nolan), you guys don't like the fact that we have these four names and we could spend time arguing about it.

But you want to say what's - you asked him about the - sort of the remedy or how to deal with their untimely disclosures. So what are the options or plans that you're thinking about?

(Susan): I guess we should go back. We just - we're just looking at this paragraph and are we going to do anything with this or do we think we can come up with a stipulation that covers everyone other than the four?

Man: Well here's where we're at. You say take out the four. We say no.

(Susan): Okay.

Man: I want to know if there's any compromised resolution between the all or nothing from your perspective and the all or nothing from our perspective.

(Susan): I'm happy to hear whatever you have to say.

Man: I think that I suggested or intimated enough is that we, you know, we're willing to reconsider any proposals or alternatives that you have. And we - I mean, frankly we want to resolve this and move on.

So, you know, we're willing to cut a deal if there's a deal to be made.

(Susan): Well what you're asking if we have come up with any great ideas - the answer is no, (Cam).

Man: Well so what do you guys intend to do if we can't reach an agreement on this stipulation?

(Susan): Well if - I don't know what that means. If...

Man: Well for example in (Lanice)'s letter, it says you guys might want to take these people's depositions. I don't know if you're backing away from that. I just don't know - we don't quite understand what your plan is.

For example, when someone doesn't produce discovery you say well let's reach a deal or we're going to file a motion to compel. Right?

(Susan): Right.

Man: So what are we talking about here?



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(Susan): Well I take it you've decided not to take these four people off your list as we suggested?

Man: Well we're...

Man: We're - put it this way - we're willing to consider that if there's a good reason for us to do so. Just because you say we don't like you including the list, that doesn't give us reason.

The fact that you say that these people untimely disclosed, well we don't think that's true. We think that we can point the evidence on the record that you guys knew about these people all along and they're no different from any of the other people.

I mean, for instance, (Bill Ryan) - both parties listed him as - well put it this way, both parties subpoenaed the guy. To somehow say oh, we didn't know his testimony was, you know, important in this case, we just don't think that makes sense.

So anyway, we want to put aside - there's other issues that we could talk about that are, you know, put it this way - if you want to try and persuade us the reason why we should take some guys off the list, persuade us.

We're - we really are open to hearing what you have to say. And I say that in all candor.

(Susan): Our position is pretty simple and that is that we really think these four are just like the (Sun Star) people. A matter of fact, we think actually that the (Sun

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Star) witness who is precluded by Judge (Bizman) had already been deposed in that case.

But even if she hadn't, then I think we'd be in the same position. But I think we're in a stronger position than even the party was in (Sun Star) - timing aside for the moment.

Man: Well okay.

(Susan): Okay?

Man: But so if we don't enter into a stipulation, does that mean that you're going to come back and comply with the order that the Judge entered on January 31?

(Susan): Which has now been undone?

Man: Well you have a (unintelligible)...

Man: She stayed it with the expectation that we would enter into a stipulation. And, you know, the way that this all has started - I mean, it's mangled but our position really is that these people - and the type of testimony that you've described, and the testimony that they're going to give - you know, that they're - that it's not expert testimony, which is why we did not disclose them at the deadline.

Now you have come back and said this is expert testimony or you think it might be, and you seem to be shifting toward affirmatively saying that it is - but while saying that, you're still refusing to comply with the Judge's prior order which was based on your assurances that it really wasn't expert testimony.

So I just - I mean, we're at the stage of a stipulation but we're here for a reason. And for example, I don't know how you can say that (Nichols) is not, you know, there's no reason that you have to disclose his opinions and the basis for his opinions because he's just going to give ordinary testimony, and then turn around and say that someone like (Bill Ryan) or, you know, (Bernstein) -- or any of the other four guys -- are somehow different.

So I mean, if we talk this through and figure it out, maybe we can come to some sort of resolution which is what we tried to do at the hearing and which is why I said that we would be willing to enter into a stipulation that this type of testimony is not expert testimony for purposes of this case.

So that's sort of where we are. And I guess my question to you is whether - if we don't enter into a stipulation, you intend to provide the information required by the court's order?

(Susan): Well are you (thinking) the same?

Man: Yes we - I guess we'd have to. I mean, but in some respects you already have some of the information.

(Susan): So do you.

Man: Well I mean...

((Crosstalk))

Man: We don't know - we're not the ones who are saying that this falls under (Sun Star). I mean, that's what we're saying.

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Man: Put it this way - yeah. Put it this way, (Susan), we're willing to stipulate on the - our list and your list. So we're okay with that. And so I guess we're trying to figure out why, in what sense it makes any - be getting any benefit from dropping people off our list.

(Susan): I don't - you have a list that has 28 people, which we think are kind of like the people on our list...

Man: Right.

(Susan): And four people which we don't think are. We think they're really stealth experts in the sense that (Sun Star) was talking about. That's our problem.

Man: But they're no different. I mean, the people that we listed are no different from (William Long) and (Brian Stevens).

(Susan): Yeah. But you took their depositions and we heard about that...

Man: Well but (Susan), obviously you have - well I don't want to say obviously but I'm just saying that you - the (Sun Star) case is all about they took the deposition.

Man: The deposition of the (Sun Star) witness was taken. I mean, it arises in that context. So in some respects, whether or not a deposition was taken is kind of irrelevant for (Sun Star) purposes.

(Susan): I don't think I agree. But that's okay. All I'm saying is the witness was deposed in (Sun Star) and then (Sun Star) was precluded from testifying because they hadn't been identified as an expert.

Man: Right. And all they were going to use - by the way, all they were going to use, (Susan), was the deposition testimony. They weren't going to have that witness show up and testify.

(Susan): You know, I think one of the problems here - and - is that there's another elephant in the room. There's you, there's us and there's a (Sun Star) opinion. And while we all may have - and actually, Judge (Nolan), I think has a different view perhaps based on things that she says.

But we're just - we're lawyers, you and I or all of you and all of us - trying to figure out what Judge (Guzman) means. That's why we made the disclosure that we did on December 10 because we're being prudent lawyers, reading an opinion that is kind of news to us, who grew up before the 2000 amendments. They're the rules. So we did what we did.

And now you've done what you do. And now we have to deal with that. I mean, now that we have these lists and what are we going to do? Well it seems to us that if we explain to you all that the reason we put them on is because we read Judge (Guzman), and we have to read him as best we can.

These people had to be disclosed and you have now submitted a list with your people on it. And as for 28 of them, we think they're kind of in the same kind of categories as ours and four we think are kind of special. So there we are.

So unless - I mean, you have every right to leave anyone you want on your list and so there it is. But it's our intention to go ahead and depose these people - those four people so that we know what their opinions are or what they believed at the time.

That's where we are. If we can't - I don't know where else - what else we can say.

Man: Okay. Well...

(Susan): I mean, that's just (unintelligible) and I think what a prudent lawyer would do.

Man: No listen I - you know, we understand that. So now I think we're starting to get somewhere.

(Susan): Okay.

Man: So - because we want to say so what are the consequences of our leaving these people on the list and you're saying in construct is now we would want to depose them.

(Susan): I think that's fair, (Luke) or (Cam). Sorry.

Man: (Cam).

(Susan): (Cam), I think that's fair.

Man: (Unintelligible) right. All right, so now here's where we come up. If we took some of the people off the list, would you be amenable to not deposing any of them?

(Susan): I'll have to revert to the all inclusive (Jackie Team) as to which I am just a tiny little cog standing in for somebody on jury duty - but I'm happy to hear it.

Man: Right.

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Man: Well I think - we want to - we don't want to throw out an offer without having a discussion at the same time. Really that's our concept.

(Susan): Okay.

Man: Why don't you take it back to your - to the reverter...

Man: Will you hold on for a second?

(Susan): Sure.

Man: Sorry. We're back.

(Susan): Excellent.

Man: Sorry. So I guess we've thrown out the concept of doing this. So why don't you talk it amongst yourselves and we can plan another conference call at some other point in time. If that concept isn't - you're amenable to it, we can talk the details.

(Susan): Okay.

Man: Why don't...

(Susan): Could you just - so I can write it down, just say very clearly, (Cam), what the concept is?

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(Cam): We would be willing to consider taking individuals off the list, these four -- we're talking about these four people -- from these four off the list if you would agree not to depose the other ones.

(Susan): Oh, you know, I hadn't - I...

Man: (Unintelligible).

(Susan): I'm really glad I asked you to say it again, because that's not what I understood. I'll say it back to you. You are prepared to take some people off the list...

(Cam): These four - just so we know, the four that we're talking about - these four that you want to depose.

(Susan): Right. You are prepared to take all four off the list?

(Cam): No.

(Susan): Okay, so I didn't think you meant - you are prepared to take some of the four off the list if we agree not to depose the ones you take off the list?

(Cam): Well you don't get to depose those guys period if you don't depose the other guys.

(Susan): What about the ones left on the list?

Man: So our proposal would be if you're amenable to talking about it...

(Susan): Uh-huh.



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Man: ...taking some of the witnesses of the four that you're sort of complaining about here off - if you would agree that you don't need depositions of the others that remain.

(Susan): I understand.

Man: Okay. And just so you have some context...

(Susan): Yeah.

Man: And I think (Craig) knows this - (Chuck Cross) was deposed in the (Looney) case.

(Susan): What's the (Looney) case? I apologize for my stupidity.

Man: That's okay - (Craig) knows what the (Looney) case is.

(Susan): All right, (Craig) - okay, you will enlighten me.

Man: I'm not assuming (Craig)'s stupidity.

Man: So we don't think you need to depose him in any event. And he was deposed by you guys in that case.

(Susan): I will become informed, I promise.

Man: Well that would be one of the ones that we would - I think we haven't come to complete assurance but that would be one of the guys that we would want to keep on the list and we would want you not to depose.

(Susan): Okay. Anything else you want to say?

(Cam): I think that's as far as we're prepared to talk about today. I mean, we could talk later on today if you guys have your internal pow-wow and you think this makes sense.

(Susan): And is this - is it limited to this particular man who was deposed?

Man: The remaining witness?

(Susan): Yeah.

Man: We're not sure. I mean, we - this is something that if you guys want to talk about it we can sort of get into the specifics. But (Cross) would be one of the people that we would want to keep on, and think it's reasonable considering he's been deposed by Household, albeit in a different case.

(Susan): Okay. All right. So the concept I'm bringing back to the (Jackie Team) is whether we would be amenable to your taking some people off the list -- although we don't precisely who -- some of the four...

Man: You're down to three, so...

(Susan): Okay. You want to leave (Cross) on the list and you don't want him to be deposed. You want to know if you can take other people off the list, the price of which is we don't depose who is left on -- one of whom would be (Cross).

How's that for articulating it?

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Man: That sounds good. You're going to go far in this world.

(Susan): Yeah. Thanks. Okay, I understand.

Man: Okay.

Man: Hang on for one more sec, guys?

Man: Sure.

END

# Exhibit E

**Buckley, Susan**

---

**From:** Buckley, Susan  
**Sent:** Tuesday, March 04, 2008 1:19 PM  
**To:** 'Luke Brooks'; Cameron Baker  
**Cc:** Best, Landis C.; Dembrow, Ira J.; Kesch, Craig  
**Subject:** Jaffe v. Household

Cam and Luke:

I write to follow up on our meet and confer of yesterday afternoon, specifically in response to your suggestion that Plaintiffs might be inclined to remove one or more of Messrs. Bernstein, Cross, Huey and Ryan from their February 26, 2008 List in exchange for Defendants' agreement not to depose any of those four that should remain on your List. We are unable to accept that proposal and intend to depose any of those four individuals who remain on Plaintiffs' List. Please let us know how you intend to proceed. Best.

Susan

*Susan Buckley  
Cahill Gordon & Reindel LLP  
80 Pine Street  
New York, New York 10005  
Phone: (212) 701-3862  
Facsimile: (212) 269-5420*

# Exhibit F

**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. )	
	)
_____ )	

**LEAD PLAINTIFFS' AMENDED NOTICE CONCERNING EXPERT TESTIMONY  
PURSUANT TO THE COURT'S FEBRUARY 26, 2008 ORDER**

Pursuant to the Court's February 26, 2008 Order, lead plaintiffs provide the following list of witnesses whose testimony as to opinions developed before or during the Class Period lead plaintiffs may introduce at trial or otherwise. Consistent with defendants' "hedging" approach, lead plaintiffs provide this list without conceding that any opinion testimony from these witnesses constitutes expert testimony or falls within the scope of this Court's *Sunstar, Inc. v. Alberto-Culver Co.*, No. 01 C 736, 2006 U.S. Dist. LEXIS 85678 (N.D. Ill. Nov. 16, 2006) opinion. Lead plaintiffs reserve the right to introduce opinion testimony from the 23 individuals identified in defendants' earlier Notice Concerning Expert Testimony which list is hereby incorporated by reference.

- Robin Allcock
- William Burgess
- Paul Creatura
- Charles Cross
- Christine Cunningham
- Kathleen Curtin
- Per Ekholdt
- Gregory Fasana
- Douglas Flint
- Douglas Friedrich
- Ned Hennigan
- Stephen Hicks
- Dennis Hueman
- David Little
- Paul Makowski
- Helen Markell
- Todd May
- Steven McDonald
- Kay Nelson
- Robert O'Han



- Richard Peters Jr.
- Kenneth Posner
- Jonathan Pruzan
- Kenneth Robin
- Carin Rodemoyer
- Thomas Schneider
- Margaret Sprude
- Kenneth Walker
- Christine Worwa

DATED: March 10, 2008

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Attorneys for Plaintiff

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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 10, 2008, declarant served by electronic mail and by U.S. Mail to the parties: **LEAD PLAINTIFFS' AMENDED NOTICE CONCERNING EXPERT TESTIMONY PURSUANT TO THE COURT'S FEBRUARY 26, 2008 ORDER.** The parties' email addresses are as follows:

<u>TKavaler@cahill.com</u> <u>PSloane@cahill.com</u> <u>PFarren@cahill.com</u> <u>LBest@cahill.com</u> <u>DOWen@cahill.com</u>	<u>NEimer@EimerStahl.com</u> <u>ADeutsch@EimerStahl.com</u> <u>MMiller@MillerLawLLC.com</u> <u>LFanning@MillerLawLLC.com</u>
--	---

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 10th day of March, 2008, at San Francisco, California.

/s/ Marcy Medeiros  
MARCY MEDEIROS

# Exhibit G

**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 JAMES C. BERNSTEIN, FORMER COMMERCE  
COMMISSIONER OF THE STATE OF MINNESOTA**

I, James C. Bernstein, make this declaration upon personal knowledge of the facts asserted herein. I hereby declare:

1. I was the Commissioner of Commerce for the State of Minnesota from July 2000 until January 6, 2003. Between February 2000 until July 2000, I was the Acting Commerce Commissioner. Prior to February 2000, I was the Deputy Commissioner of the Department of Commerce ("Department"). Between March 1999 and August 1999, I served as the Deputy Commissioner of the Department of Public Service. The Department of Public Service was merged into the Department of Commerce in August 1999 by then Governor Jesse Ventura. Attached hereto as Exhibit 1 is a current copy of my curriculum vitae.

2. As Commissioner, I was responsible for developing policies and legislative initiatives, planning, working with the Financial Examinations and Enforcement Divisions of the Department, providing oversight and direction, reviewing investigations, evaluating and making determinations as to penalties to be levied against individuals or firms that were in violation of Minnesota statutes.

**The Department's Investigation Into Predatory Lending Allegations  
Against Household International, Inc.**

3. I first became aware of allegations of predatory lending practices against the Household Finance and Beneficial Corporation subsidiaries of Household International, Inc. ("Household" or the "Company") in late fall 1999 at a meeting I attended in my capacity as Deputy Commerce Commissioner with various representatives of ACORN, including Becky Gomer, a housing advocate, and Jordan Ash, director of housing information/advocacy. ACORN stands for Association of Community Organizations for Reform Now, and is the nation's largest community organization of low and moderate-income families.

4. In subsequent meetings with ACORN representatives, I reviewed the investigative materials gathered by ACORN documenting a number of abusive lending practices by Household,

including among others, prepayment penalties, sale of credit insurance, misrepresentation of the terms of the loans. I personally reviewed various documents, including copies of different loan transactions given to ACORN by victimized borrowers.

5. In the summer of 2000, I attended several meetings with consumers to discuss specific instances of abusive lending practices experienced by them. To my chagrin, I discovered that the majority of the consumers in attendance who complained of abusive lending practices were borrowers who had obtained financing from Household. A typical complaint was that prepayment penalties were not disclosed to borrowers by Household sales personnel during the loan application process. Borrowers only discovered that there were prepayment penalties to their Household-financed loans when they tried to refinance or pay off their loans. Where borrowers questioned the existence of a prepayment penalty during loan solicitation, they were told there was not a penalty or that it would be waived as a special favor to them – but it was not. Borrowers were also incorrectly told that if they closed the loan within a certain time period, the prepayment penalty could be waived.

6. Another typical complaint was the misrepresentation of the terms of the loans. Household frequently gave borrowers a range for the interest rate rather than disclosing the actual interest rate that they would be charged. Household sales personnel sometimes convinced the borrower that they could only lock in the loan at the lower range, if the borrower closed the loan by a certain date. Additionally, Household frequently failed to fill in the interest rate at loan closing, leaving it blank.

7. During these meetings, I also met borrowers who had signed up for the Household EZ Pay Plan and were running into trouble making the extra payments through the plan. The EZ Pay Plan required borrowers to make biweekly payments, thus increasing to 13 the total number of payments made annually. It was apparent that Household signed up consumers for the EZ Pay Plan

without regard to whether or not the borrower could make the additional payments. Borrowers told me that they did not understand and were never told what EZ Pay was and how the interest rate was calculated. They believed, because they were told, that they were getting a lower interest rate and more favorable terms than they actually received.

8. In further discussions with consumers, I learned that, instead of using the common term for interest rate, *i.e.*, Annual Percentage Rate or APR, Household had been using different terms for interest rate, such as effective rate, equivalent rate, biweekly rate, comparative rate, or payback rate, thus confusing and misleading borrowers as to the specific rate they would be paying and, making it nearly impossible to compare rates with competitors. Many of the borrowers I talked to were clearly confused by the rates and the terms. Some borrowers told me that they would have never signed the loan agreements if they had known the true interest rate.

9. I discovered that the use of predatory lending practices was so egregious and widespread within Household that by summer/fall of 2000, I directed the Department to launch a full-scale investigation into Household's lending and business practices. I put Scott Borchert, the Director of Enforcement, a division within the Minnesota Commerce Department, in charge of the investigation. Although Mr. Borchert and Gary Levasseur, Deputy Commissioner of the Enforcement Division, were responsible for the day-to-day details of the investigation, I was briefed by them regularly on the progress of the investigation. The fact of the Department's investigation into Household's predatory lending and improper sales tactics was not made public.

10. The Department's investigation specifically evaluated marketing and training materials as well as materials used in the solicitation of new customers and in loan closings. The Department looked at every aspect of the loan transaction and the process by which the transaction was generated and closed, including materials that were used, written and oral disclosures or



representations made to borrowers at closing (or the lack thereof), documents that were generated at closing, and the terms contained in those documents.

11. Additionally, Mr. Borchert and I had discussions with borrowers or their advocates who believed they had been misled by Household. We also talked to several former Household sales personnel. I personally called one Household branch in the St. Paul area and one in the Minneapolis area upon receiving a solicitation from Household. The predatory lending issues were such a crucial issue to my constituents because they involved financial security and keeping a roof over their heads, that I wanted to have first-hand knowledge of what people were dealing with.

12. I made the calls in November or December 2001 and had lengthy conversations with two different loan officers without disclosing my position as Commissioner. I asked pointed questions about credit insurance and prepayment penalties. With respect to the purchase of credit insurance, I was told that a lot of borrowers get credit insurance because it is like life insurance - if the borrower cannot pay back the loan, the credit insurance covers it. Additionally, the Household salespersons told me that it was very cheap and would only cost me "pennies a month." When I informed the Household salespersons that I did not want the credit insurance, they responded by hemming and hawing and saying how it was going to be difficult, and that they would have to make significant changes causing lengthy delays in my obtaining the loan. The bottom line was that they made it clear that although they could give me a loan without the credit insurance, it would be much harder to do so.

13. When I inquired about prepayment penalties, both Household salespersons told me that the prepayment "charge" was a standard requirement but suggested that it could easily be waived under "certain circumstances." When I inquired about the applicable interest rate, both Household salespersons told me they had very competitive rates that were comparable to what I

could get at a bank but might be better depending on the amount and terms of the loan. Both Household salespersons declined to specify an interest rate.

14. Because of the similarity in the manner in which the Household salespersons responded to and dealt with my questions, consistent with the detailed accounts of Household borrowers regarding their loan experiences, as well as the other materials that the Department had reviewed, both Mr. Borchert and I concluded that Household was training its employees to provide scripted responses to consumer queries.

15. The Department's investigation demonstrated that Household would emotionally trap the borrower by cultivating a trust relationship based on empathy with the borrower's situation. Many of Household's customers were subprime borrowers or people with lower credit scores who could not get financing through banks or credit unions. Household trained its sales personnel to emotionally put their arms around the person to win over their trust. Household's sales technique emphasized the "I'm working on it to get you the best terms" approach and then blind-siding the borrower with fees and improper add-ons without the borrower's knowledge.

16. The Department's investigation lasted more than a year, until late 2001, when a preliminary Consent Order was sent to Household disclosing results of the investigation and proposed penalties. The investigation revealed that Household engaged in a systematic pattern and practice of predatory lending. It was not a case where a solitary loan officer in one location was engaging in abusive sales techniques. Victims of predatory loans resided across the Twin Cities and were not confined to just one or two Household offices. This led the Department to conclude that Household employees were trained in these sales techniques by corporate headquarters and that these practices were part of Household's corporate culture.

17. Concerns about the impact of Household's predatory lending practices convinced the Ventura Administration to propose legislation aimed at curbing these abuses in the 2002 legislative session.

**The Minnesota Commerce Department's Parallel Investigation Into  
Sales of Credit Insurance**

18. Even before the Department launched an investigation into Household's lending practices, I had directed the Department to investigate sales practices of companies relating to their sales of credit insurance within the State of Minnesota.

19. This parallel investigation confirmed Household's fraudulent sales practices relating to credit insurance. Although a number of other companies were involved in the sale of credit insurance (especially American Bankers), Household was a significant player. Household Bank (a subsidiary of Household) underwrote a significant portion of the credit insurance in Minnesota through retail companies like Zales, Best Buy and Circuit City. One way in which credit insurance was sold at the retail level was by automatically including it in the sales transaction without disclosing it to the buyer or by misrepresenting coverage at the point of sale. An additional violation was the sale of an insurance product by a person not licensed by the State to make such sales.

20. During the Department's ongoing investigation, we discovered that Household's sales of credit insurance in the mortgage business were considerably larger and far more profitable to Household than similar sales at the retail level. Because the loss ratio on credit insurance is so low, most of the amount paid by the borrower effectively constituted profits for Household.

21. Because the Department determined that the retail and mortgage sales of credit insurance was plagued with unfair, deceptive and sometimes fraudulent practices, I recommended establishing new statutory standards for credit insurance in Minnesota. Household was unwilling to agree to any of the Department's proposals. Household sent me a letter claiming that "because we are in the business of lending money to consumers, your credit insurance proposals will have a

profound impact on the way our company does business in Minnesota.” Attached hereto as Exhibit 2 is a letter of February 13, 2001, from Household Regional Director of Government Relations, Michael Dameron, to my attention.

**Household’s Resistance to Cooperating With the Department’s Predatory Lending Investigation Led to a Preliminary Consent Order**

22. In late summer/early fall of 2001, a group of Household senior executives came to Minneapolis to discuss the Department’s ongoing investigation into Household’s lending practices. By the summer of 2001, the Department had accumulated significant evidence of massive fraud and misrepresentation, encouraged and tolerated by a complicit and an out-of-control corporate culture.

23. During the Department’s investigation of Household, the Company’s lack of cooperation was symptomatic of the abusive selling techniques. For instance, among other things, Household frequently presented false and misleading information to the Department; omitted material information when responding to the Department’s inquiries regarding purported loan savings; and misrepresented the nature, content and results of communications between the Company and the borrowers regarding the borrowers’ concerns.

24. Further, Household’s position was that any unauthorized forms or sales practices used by Household sales personnel were isolated acts of rogue agents, rather than an endorsement by the Company of such acts. However, at no point during my discussions with Household did they communicate to me that any measures were undertaken to put a stop to the unauthorized sales practices.

25. During a break in the meeting, one of the Household executives with knowledge of my background in advertising attempted to make light of the Department’s investigation. He told me that “in advertising sometimes we say things to people that may not be literally true. If people believe all those things, and don’t ask the right questions, don’t you think they deserve what they

get? Have you heard the term *Caveat Emptor*?" I responded that it meant "buyer beware." I asked him if he had heard of "seller, tell the truth."

26. Shortly after this meeting, Michael T. Dameron, Household's Regional Director of Government Relations, wrote to me claiming that Household "abides by Minnesota law," and is "one of the most respected lenders in the State." Mr. Dameron's letter further stated that Household had been proactive in redefining its business practices and either had already implemented or was in the process of implementing various corrective measures to address the Department's concerns. Such measures included discontinuing the sale of a single premium credit insurance, reducing the prepayment penalty fee duration from five years to three years on real estate loans, and tailoring solutions for victims of predatory lending. Attached hereto as Exhibit 3 is a copy of Mr. Dameron's August 15, 2001 letter to me.

27. The Department was dissatisfied with Household's response because, although it purported to address future violations, our concern was that it failed to address and correct past violations. Due to the inadequacy of Household's after-the-fact measures, I made the decision to send Household a preliminary Consent Order that included the Department's conclusions and findings regarding Household's operations in Minnesota concerning Minnesota borrowers victimized by Household's predatory lending practices.

28. On November 30, 2001, I sent the preliminary Consent Order to Eldon J. Spencer, Jr., Household's local counsel. A copy of that letter and draft Consent Order is attached hereto as Exhibit 4. My letter informed Household that "the Department's Enforcement and Financial Examinations Divisions have already identified numerous violations of Minnesota law" and that "the objectionable practices uncovered by the investigation are widespread." I also stated that "the problems disclosed are of a magnitude which requires formal enforcement action." Finally, I

emphasized that the Department was “greatly concerned by what appears to be a pattern of predatory lending practices engaged in by [Household].”

29. Among the charges levied against Household in the preliminary Consent Order were that Household:

- made, directly or indirectly, false, deceptive, or misleading statements or representations in connection with residential loan transactions in violation of Minnesota statutes;
- made misleading or factually incorrect statements to borrowers regarding prepayment penalties, misrepresented interest rates on mortgages, misrepresented credit insurance benefits and terms, included credit insurance on residential mortgages without the knowledge of the borrowers, and charged exorbitantly more in points and fees on residential mortgages than was disclosed on Good Faith Estimates (“GFE”);
- charged higher interest rates on residential mortgages than the borrowers qualified for under Household’s own lending criteria;
- engaged in a corporately directed scheme to secure first lien positions on borrower homes by entrapping borrowers in loan positions where the borrowers owed more on their mortgages held by Household than the properties securing repayment were worth, resulting in crippling limitations on the borrowers’ financial capabilities;
- charged borrowers more for the title insurance than the amount charged by the insurer;
- failed to provide a GFE disclosure within either 72 hours or three business days of accepting an application for a residential mortgage in violation of Minnesota statutes; and
- did not provide the required GFE disclosure until the date of closing, by which time more than 72 hours or three business days had elapsed from the date Household accepted borrowers’ loan applications.

#### **The Multi-State Attorneys General Settlement**

30. Around this time and towards the beginning of 2002, Minnesota Attorney General, Mike Hatch, informed me that he had been in discussions with attorneys general of several other states that were investigating Household’s predatory lending practices. There were about a dozen states he had been talking to, including, among others, Washington, Iowa, Illinois, New York, and

that they would like to proceed jointly. Based on the in-depth investigation done by Minnesota, our state took a central negotiating role in what eventually became a multi-state settlement with attorneys general of various states.

31. Over the next several months, Scott Borchert was the primary negotiator on behalf of the Department and Prentiss Cox was the lead negotiator for the Minnesota Office of the Attorney General. I was briefed regularly on the progress of these negotiations.

32. In the summer of 2002, at a meeting of the Association of Residential Mortgage Regulators in San Antonio, in the opening-day Roundtable, I asked the assemblage (which included most states' commissioners or senior staff regulating mortgages) how many other states were having trouble with Household. Virtually every hand went into the air. Someone quipped that it looked like we are all dealing with "the same gang of thieves" or "the same gang of bandits."

33. Towards the end of spring, early summer 2002, the multi-state settlement began to take shape. Although Mr. Borchert and Mr. Cox dealt with the other representatives of the state attorneys general as well as Household, I was directly involved in shaping the framework of the settlement. For instance, I wanted to ensure that there would be substantial changes in Household's business practices, restitution to customers, and public disclosure of the settlement and the business practices that led to it. During settlement talks I was told that Household wanted to "control" the settlement procedures. I informed Scott Borchert that such an inclusion would be a "deal breaker" for Minnesota. Other states objected as well.

34. Because of Minnesota's extensive inquiry, the Department was pushing for a much larger settlement – in the ballpark of \$2-3 billion. However, Household was adamant in its insistence that the penalties and restitutions remain closer to the half billion mark. The attorneys general eventually settled for \$484 million. In my opinion, the state attorneys general settlement was relatively modest as compared to the magnitude of Household's wrongdoing. I recognize that many

of the states viewed this as an acceptable compromise because they did not have the same investigative history concerning Household's misconduct that Minnesota did.

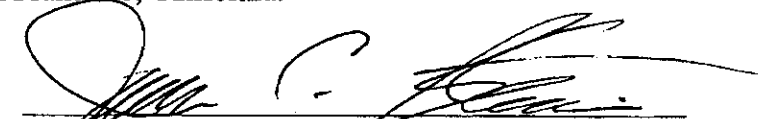
35. In the end, recognizing that Minnesota's failure to join the multi-state settlement would result in Minnesota moving forward alone with the investigation on its own against Household, I along with Mike Hatch agreed to the settlement on behalf of the State of Minnesota. In my opinion, it was the best deal we could get at the time. Attached hereto as Exhibit 5 is a copy of the Stipulation and Consent Judgment entered into by Household with the State of Minnesota.

36. Other states had essentially identical consent agreements with Household. Attached hereto as Exhibit 6 is the Consent Decree entered into by Household with the State of New York Banking Department. The similarities in the agreements entered into by the various states with Household further demonstrates the uniform manner of Household's predatory lending tactics concerning (1) improper imposition of prepayment penalties, (2) excessive loan fees, (3) non-disclosure of rates and points, (4) failure to deliver GFE within 72 hours, (5) misrepresentation regarding interest rates and loan terms, including use of terms "effective interest rate" or "blended rate" or other interest rate comparisons, misrepresentations relating to interest savings available under a biweekly payment plan, (6) making of unsecured side loans or contemporaneous secured



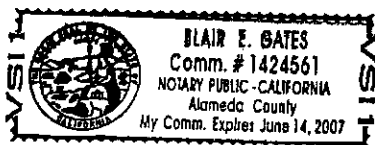
second loans, (7) failure to provide net tangible benefits to the borrower, (8) charging loan discount points or origination fees on repeat financing, and (9) credit insurance sales.

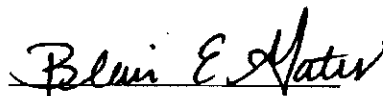
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. If called as a witness, I could and would competently testify thereto. Executed this 2nd day of March, 2005, at San Francisco, California.

  
\_\_\_\_\_  
JAMES C. BERNSTEIN

State of California            )  
  ) ss:  
County of San Francisco    )

Subscribed and sworn to before me, a notary public, on this 2nd day of March, 2005.





T:\casesSF\household Int\DEC00018704\_Bernstein.doc

# Exhibit 1

---

**James C. Bernstein**  
**5216 Ewing Ave. So.**  
**Minneapolis, MN 55410**  
**Home 612-922-6354**  
**bernie@mm.com**

*April, 2003 – Present*  
**James C. Bernstein Professional Services**  
**5216 Ewing Ave. So.**  
**Minneapolis, MN 55410**

Consultant to market research and advertising agencies conducting qualitative market research. Consultant to advocacy groups seeking regulatory and legislative reform at city, county, or state level. Consultant to law firms pursuing class action or individual claims on behalf of insurance policyholders and mortgage fraud. Consultant to Minnesota Public Radio on Main Street public affairs programming in greater Minnesota.

Past Positions
----------------

*February 2000-January, 2003*  
**Commissioner**  
**Minnesota Department of Commerce**  
**72 East 7<sup>th</sup> Street Place**  
**St. Paul, MN 55501**

Named Acting Commissioner in February, 2000 and appointed Commissioner in July, 2000 by Gov. Jesse Ventura. Department Of Commerce is principal business regulatory agency in Minnesota with oversight of financial services, energy, telecommunications, and licensing of various professions. Responsible for management of all departmental activities including policy development, legislative initiatives, communications with public and media, constituent services, appointments to various boards, budgeting, investigative proceeding and judicial hearings. Spearheaded regulatory actions against Qwest, American Bankers Insurance Group, Household International, State Farm Insurance Co., Xcel Energy.

*March, 1999 – February 2000*

*Deputy Commissioner*

*Minnesota Department of Public Service/Commerce*

*121 East 7<sup>th</sup> Street Place*

*St. Paul, MN 55501*

Responsible for assignments as directed by the Commissioner. Specific areas of responsibility were departmental planning, policy review, media relations, liaison with various constituent groups. In August of 1999, Gov. Ventura merged the Department of Public Service into the Department of Commerce. New responsibilities included creating the merger plan, building relationships with legislature, policy development in several areas, including energy and insurance regulation.

*September, 1987 – March, 1999*

*Vice President, Research Director*

*Colle & McVoy Inc.*

*8500 Normandale Lakes Blvd*

*Bloomington, MN 55435*

Primary clients included Minnesota Department of Transportation, Pfizer Animal Health, 3M Health Care, Cliffs Notes. Created and expanded national networks of professional advisory panels for targeted audiences including veterinarians, surgeons, anesthesiologists, radiologists, diabetes educators, nurses, high school teachers, pet owners, small business owners, and health care administrators. Conducted regular industry audits working with experts in various industries to assess trends and changing dynamics within a given industry.

*September, 1983 – August, 1987*

*Vice President, Director Of Research and Planning*

*Peterson Morris & MacLachlan*

*Minneapolis, MN*

Clients in broadcasting, health care, agriculture, waste disposal, food retailing, banking, and security devices. Responsibilities included developing public relations strategies for clients, advising clients on regulatory issues, and media strategies.

*September, 1979 – September, 1983*

**Senior Project Director – Research Group**

**Miller Publishing Division of American Broadcasting Corp.**

**Minneapolis, MN**

Directed quantitative and qualitative research studies for clients. Also established and directed omnibus research studies for agribusiness clients of Miller Publishing. Managed regional field polling studies for ABC News. Directed staff of 12 project directors

*October, 1974 – September, 1979*

**Project Director**

**Winona Research**

**Bloomington, MN**

Served as project director for quantitative research studies for clients including Miller Brewing, Coca Cola, Monsanto, Sperry New Holland and Pillsbury. Worked both part-time and full-time while completing college degree at Augsburg College. Accepted full-time position upon graduation in 1978.

*November, 1969 – November, 1973*

**Sergeant, U.S. Air Force. Active duty.**

Education
-----------

**B.A. , Cum Laude; 1978; Political Science; Augsburg College**

Editor, Augsburg ECHO. Member Judicial Board, Educational Policies Board

Graduate work, University of Minnesota

Faculty Associate, (1991-1992)

Lincoln Institute of Land Use Planning, Cambridge, Mass

Frequent guest speaker and panelist at campuses and professional associations on various public affairs issues, management processes, and creating and implementing communication strategies for organizations and identifying issues and perceptions affecting performance and other employee/employer relationships.

Public Service
----------------

Commissioner, Minneapolis Charter Commission 1999-Present (Chair)  
Board Member, Minnesotans for an Energy Efficient Economy, 2003-Present  
Board Member, Healthier Minnesota Community Clinic Foundation 2003-Present  
Policy Advisor, Growth & Justice 2004-Present

Member, State Environmental Quality Board (2000-2003)  
Member, MnSCU Board Candidate Advisory Council (1999-2003)  
Member, State Board Of Technical Colleges (1992-1995)  
President, State Board of Technical Colleges (1993)  
Program Advisor, St. Cloud Technical College (1988 – 2001)  
Member, Augsburg College Alumni Board (1994 – 2002)  
Chair, Augsburg College Student Affairs Committee (1995-1998)  
Member, Western Hennepin County Historical Society Board (1978-1985)  
Guest Lecturer: University Of Minnesota, St. Cloud Technical College, Concordia (St. Paul),  
Augsburg College  
Consultant, Travel Behavior Inventory (1990-1991)  
(Joint Project on behalf of Metropolitan Council and MN/DOT)

# Exhibit H



**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. )	
_____ )	

**PLAINTIFFS' STATEMENT OF QUALIFICATIONS OF EXPERT WITNESSES**  
**TO BE READ TO THE JURY**

Plaintiffs submit below the summaries of qualifications of their experts to be read to the jury. The subject matter of their expert testimony is contained in their respective reports and depositions.

**Daniel R. Fischel:**

1. Daniel R. Fischel is the Chairman and President of Compass Lexecon, a consulting firm specializing in the application of economics to a variety of legal and regulatory issues. Professor Fischel is also Professor of Law and Business at Northwestern University School of Law and Kellogg School of Management and the Lee and Brena Freeman Professor of Law and Business Emeritus at The University of Chicago Law School. He served as the Dean of the University of Chicago Law School from 1999 to 2001, as the Director of that law school's Law and Economics Program from 1984 to 1991, and as Professor of Law and Business at The University of Chicago Graduate School of Business from 1987 to 1990. Earlier in his career, Professor Fischel served as a Law Clerk for United States Supreme Court Justice Potter Stewart.

2. Professor Fischel has published approximately fifty articles in leading legal and economics journals and coauthored the book *The Economic Structure of Corporate Law* with Judge Frank Easterbrook of the United States Court of Appeals for the Seventh Circuit in Chicago. Courts at all levels, including the United States Supreme Court, have cited Mr. Fischel's work.

3. Professor Fischel has served as a consultant or advisor on economic issues to many organizations and government agencies, including the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the Chicago Board of Trade, the United States Department of Labor, the United States Department of Justice, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the Federal Trade Commission.

4. Professor Fischel has been asked to testify as an expert witness on economic issues, including damages in securities litigation, more than 100 times in federal and state court proceedings throughout the country.

5. Professor Fischel is a member of the American Economic Association and the American Finance Association. He is a former member of the Board of Directors of the Center for the Study of the Economy and the State at The University of Chicago. He is the former Chairman of the American Association of Law School's Section on Law and Economics.

6. Professor Fischel received his Bachelors Degree from Cornell University with a major in American History and a minor in Economics, and he received a Masters Degree in American History from Brown University. He graduated *cum laude* from The University of Chicago Law School.

**Catherine A. Ghiglieri**

1. Catherine A. Ghiglieri is the President of Ghiglieri & Company, a company that provides consulting services on a wide range of issues, including risk assessment, operational deficiencies, and regulatory enforcement actions. Ms. Ghiglieri also provides nationwide expert witness services in the financial services arena. From June 1992 through June 1999, Ms. Ghiglieri served as the Texas Banking Commissioner and as the Executive Director for the Texas Finance Commission. Prior to that, Ms. Ghiglieri spent 18 years with the Office of the Comptroller of the Currency, where she examined banks for loan quality issues as well as compliance with federal laws and regulations, such as Regulation Z, RESPA and the Truth in Lending Act (TILA). Ms. Ghiglieri has also taught classes on how to examine financial institutions for compliance issues and loan quality issues.

2. Ms. Ghiglieri has authored numerous articles relating to the financial industry, including articles respecting litigation risks faced by banks.

3. Ms. Ghiglieri has been asked to testify as an expert witness with respect to compliance issues and loan quality issues in both federal and state courts throughout the country.

4. Ms. Ghiglieri received a Bachelors Degree in Business Administration in Finance at the University of Notre Dame in 1974 and received a Juris Doctor from Georgia State University in 1991.

**Harris L. Devor**

1. Harris L. Devor has been a Certified Public Accountant for more than 35 years and is a shareholder of the accounting firm of Sheckman Marks Devor PC (SMD). SMD provides a wide range of accounting services, including financial accounting, auditing, forensic accounting and litigation services.

2. Mr. Devor has more than 35 years of experience planning, administering and supervising all phases of audits for large and small corporations, including extensive involvement with publicly-held corporations. Prior to joining Sheckman Marks Devor PC in 1990, Mr. Devor was an audit partner at the accounting firm of Laventhol & Horvath for nine years and an Audit Manager at Price Waterhouse for eight years.

3. In addition to his extensive practical accounting and auditing experience, Mr. Devor has served as a consultant in litigation related matters on accounting issues to numerous organizations and government agencies, including the United States Department of Justice, the United States Securities and Exchange Commission and several state attorneys general. Mr. Devor has been asked to testify as an expert on accounting and SEC disclosure issues numerous times in federal and state court proceedings throughout the country.

4. Mr. Devor is a member of the American Institute of Certified Public Accountants and the Pennsylvania Institute of Certified Public Accountants, where he served on several committees

including the ethics committee. Mr. Devor graduated from Temple University in 1973 with a Bachelors Degree in Business Administration.

**Charles Cross**

1. Charles ("Chuck") Cross served in the Division of Consumer Services for Washington State Department of Financial Institutions (DFI) for over ten years. The Consumer Services Division's responsibilities include oversight of financial institutions, Household Finance Corporation and Beneficial Finance Corporation, for compliance with state and federal consumer protection laws. In 1996, Mr. Cross became the Supervisor of Investigation/Enforcement in the Consumer Services Division and was promoted to the Enforcement Chief in May of 2002. In the course of his work at the DFI, Mr. Cross has investigated and assisted in the prosecution of several financial institutions accused of engaging in predatory lending, including First Alliance Mortgage Company (FAMCO) and Ameriquest.

2. Prior to working at the DFI, Mr. Cross was a federal bank examiner for the Federal Deposit Insurance Corporation (the FDIC) for 3 years.

3. On April 27, 2000, Mr. Cross prepared a memorandum for the Director of DFI regarding predatory lending and DFI's approach to regulating predatory lending. This memo was submitted by DFI as part of the DFI's official testimony to the Federal Reserve Board at a hearing held on September 7, 2000 in San Francisco, California.

4. Mr. Cross received a Bachelor's Degree in Accounting and Economics from Western Washington University.

# Exhibit I

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JAY GEIGER  
SAMUEL LICHTMAN  
RAND McQUINN\*\*

\*ADMITTED IN  
DC ONLY

\*\*ADMITTED IN  
DC, TX, VA ONLY

November 21, 2008

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 November 10, 2008 letter concerning the nine witnesses, listed in my November 7 letter, whose names Plaintiffs disclosed for the first time in this action on their October 31, 2008 Witness List.

You argue that Defendants should have been aware of the nine individuals at issue because their names appear “in documents produced in response to Plaintiffs’ . . . document requests.” This makes no sense. The fact that the names of the nine individuals appear on a few of the five million pages of documents Defendants produced would not have disclosed to Defendants that Plaintiffs, presumably after speaking to each of the individuals, came to the conclusion that each, in the words of your May 31, 2006 letter, is “likely to have discoverable information that [Plaintiffs] may use to [support] the Class’ claims and/or [rebut Defendants’] defenses.” As soon as Plaintiffs had this information as to each proposed witness, they were required by the Federal Rules to supplement their initial disclosures and/or their response to Defendants’ Interrogatory No. 46 under pain of preclusion. Plaintiffs did neither, but waited to identify the nine individuals at issue until they submitted their October 31, 2008 Witness List. Besides being a classic example of attempted trial by ambush, this violates the applicable Federal Rules and is unduly prejudicial to Defendants.

Your further argument that Interrogatory No. 46 is not applicable is based on a strained, illogical construction of the language of that inquiry. Defendants asked for identification of any individuals “not affiliated” with Household whose testimony Plaintiffs intended to rely upon. All of the nine individuals at issue, whom you say you first contacted “after fact discovery closed,” are former Household employees, *i.e.*, individuals “not affiliated” with Household. Plaintiffs’ defensive effort to re-interpret the language of Interrogatory No. 46 strongly suggests that Plaintiffs had knowledge of but deliberately delayed contacting these individuals until after the close of fact dis-

CAHILL GORDON & REINDEL LLP

-2-

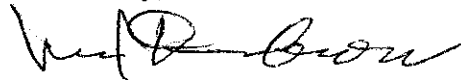
covery, and in any event does not excuse Plaintiffs' failure to update their initial disclosures under Rule 26(e).

As a result of Plaintiffs' failure to properly and timely disclose the names of these nine witnesses, Plaintiffs are precluded from introducing testimony from any of them at trial and their names should therefore be removed from Plaintiffs' Revised Witness List. Please provide us with a further revised Witness List deleting the names of these nine individuals. We also request that you amend your Revised Witness List to delete James Bernstein. You did not timely disclose Mr. Bernstein as someone with "specialized knowledge" pursuant to *Sunstar*. To the contrary, you affirmatively withdrew him from your belated *Sunstar* list and in reliance on that withdrawal Defendants did not take his deposition.

Finally, we have not received any response to date to my request in the same November 7 letter that Plaintiffs identify the documents pertaining to each of nine identified witnesses that Plaintiffs say they intend to call "only if defendants object to admission of documents on Plaintiffs' exhibit list that were produced from the witness' files [of the nine individuals] used during their deposition or that were authored or received by the witness." As I said in my November 7 letter, if Plaintiffs will identify the documents they contemplate using pertaining to the nine witnesses, Defendants "will be able to specifically focus on these documents and perhaps obviate the need for some or all of this group of witnesses." Please let me know when we can expect to receive such identification. If you decline to cooperate, please explain why.

Please let me have your response to these matters as soon as possible.

Sincerely,



Ira J. Dembrow

Luke O. Brooks, Esq.  
Coughlin Stoia Geller  
Rudman & Robbins LLP  
100 Pine Street, Suite 2600  
San Francisco, CA 94111

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

cc: D. Cameron Baker, Esq. (via electronic mail)  
Azra Z. Mehdi, Esq. (via electronic mail)  
Spencer A. Burkholz, Esq. (via electronic mail)  
Lori Fanning, Esq. (via electronic mail)  
Adam Deutsch, Esq. (via electronic mail)  
Landis C. Best, Esq.



# Exhibit J



SAN DIEGO • SAN FRANCISCO  
NEW YORK • BOCA RATON  
WASHINGTON, DC • HOUSTON  
LOS ANGELES • PHILADELPHIA

Luke O. Brooks  
LukeB@csgrr.com

November 24, 2008

VIA FACSIMILE

Ira J. Dembrow  
CAHILL GORDON & REINDEL LLP  
Eighty 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 Ira:

I write in response to your November 21, 2008 letter regarding the nine former Household branch sales employees on plaintiffs' witness list.

Two weeks ago I invited you to meet and confer to discuss defendants' concerns with respect to these witnesses and any "appropriate action" you intend to take. You ignored the offer, waited until Friday and then wrote a factually inaccurate and unproductive letter wherein you assert without basis and contrary to defendants' prior position that plaintiffs failed to comply with their discovery obligations resulting in prejudice to defendants. As I wrote on November 10, plaintiffs' 2004 initial disclosures clearly identified former Household branch sales employees as having knowledge relating to the allegations in plaintiffs' Complaint. We reiterate that plaintiffs did not discover these particular former employees had pertinent knowledge until after the close of fact discovery. Your accusation that plaintiffs deliberately delayed contacting them until after the close of fact discovery is completely without basis. We discovered these witnesses as part of our continuing factual investigation and timely disclosed them on our trial witness list a full five months before the trial is scheduled to begin. Given these facts, your assertions of prejudice and "trial by ambush" are wholly without merit and we decline to remove these witnesses from our trial witness list. That said, we are available to meet and confer Monday and Tuesday of this week to discuss this issue, including how exactly defendants believe they have been prejudiced and whether the parties can agree on any steps to mitigate this perceived prejudice. Please let us know if either of these dates work for defendants.

As to James Bernstein, he will be offered as a percipient witness and not an expert. Accordingly, it is irrelevant whether he appears on Plaintiffs "Sunstar" disclosure and we decline to remove him from our witness list.



Ira J. Dembrow  
November 24, 2008  
Page 2

As to your last question, plaintiffs identified on their witness list the documents on which we seek agreement – those “that were produced from the witness’ files, used during their depositions or that were authored or received by the witness.” This information is on plaintiffs’ proposed exhibit list, which is fully searchable, has fields containing the author and recipient(s) of each proposed exhibit and identifies the deposition in which each document was used.

Very truly yours,



Luke O. Brooks

LOB:mm

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