

**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' MOTION AND MEMORANDUM TO FILE CERTAIN EXHIBITS
AND EXCERPTS OF THEIR MEMORANDUM OF LAW IN SUPPORT OF MOTION
TO PERMIT UNRESTRICTED USE OF NON-PARTY WELLS FARGO DISCOVERY
AT TRIAL UNDER SEAL PURSUANT TO LOCAL RULE 26.2**

Plaintiffs respectfully move this Court pursuant to Local Rule 26.2 for leave to file their Motion to Permit Unrestricted Use of Non-Party Wells Fargo Discovery at Trial (the “Motion”) as a restricted document pursuant to Local Rule 26.2. In compliance with Local Rule 26.2, plaintiffs have filed portions of their Motion in redacted form and the supporting exhibits under seal. Nothing in the Motion contains information worthy of protection under either the Protective Order in this case or the applicable law and policies governing confidentiality. For the reasons articulated below, the memorandum and all exhibits should be filed publicly.

I. LEGAL STANDARD

Local Rule 26.2 prohibits parties from unilaterally restricting access to publicly filed documents. Plaintiffs believe they must file an unrestricted version of their Motion in compliance with this Rule and its policy objectives. Despite the fact that nothing in the Motion filed concurrently herewith infringes on any genuine privacy or competitive interest, because defendants have designated nearly every document produced in this case as “confidential,” plaintiffs are forced to file this motion pursuant to Local Rule 26.2.

Pursuant to Local Rule 26.2, as amended on April 20, 2006, only the Court may determine that a particular document or exhibit merits restricted status before any party may file such materials under seal. *See* LR 26.2 (as amended April 20, 2006); *see also* LR 26.2 Committee Comments (“only the particular document that has been previously determined by the court to be deserving of protection may be filed under seal”). The Court restricts access to a document only for “good cause shown.” *See* LR 26(b). To determine whether good cause exists, “a district court must balance the harm to the party seeking the protective order against the importance of disclosure to [the] public.” *McGee v. City of Chicago*, No. 04 C 6352, 2005 U.S. Dist. LEXIS 30925, at *4 (N.D. Ill. June 23, 2005) (alteration in original). As discussed below, good cause does not exist to restrict from public access plaintiffs’ Motion.

II. ARGUMENT

Plaintiffs believe no good cause exists to restrict public access to plaintiffs' Motion for the reasons set forth in plaintiffs' Motion. Plaintiffs therefore believe they should be permitted to file all documents associated with the Motion publicly.

III. CONCLUSION

No valid cause exists in this case to warrant an exception to the broadly accepted principle followed by the Seventh Circuit, and reflected in Local Rule 26.2 discouraging "parties from being overly-generous in designated documents to be filed under seal." *See* LR 26.2 Committee Comments. Accordingly, plaintiffs have filed their Motion in compliance with LR 26.2, requesting that plaintiffs' Motion be unrestricted.

DATED: March 18, 2009

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DECLARATION OF SERVICE BY ELECTRONIC MAIL,
U.S. MAIL AND HAND DELIVERY

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 Diego, State of California, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 655 West Broadway Suite 1900, San Diego, California 92101.

2. That on March 18, 2009, declarant served by electronic mail and by U.S. Mail to the parties the LEAD PLAINTIFFS' MOTION AND MEMORANDUM TO FILE CERTAIN EXHIBITS AND EXCERPTS OF THEIR MEMORANDUM OF LAW IN SUPPORT OF MOTION TO PERMIT UNRESTRICTED USE OF NON-PARTY WELLS FARGO DISCOVERY AT TRIAL UNDER SEAL PURSUANT TO LOCAL RULE 26.2.

The parties' email addresses are as follows:

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I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of March, 2009, at Chicago, Illinois.

/s/ Teresa Holindrake

TERESA HOLINDRAKE