

United States District Court, Northern District of Illinois

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| Name of Assigned Judge or Magistrate Judge | Ronald A. Guzman | Sitting Judge if Other than Assigned Judge | Nan R. Nolan |
| CASE NUMBER | 02 C 5893 | DATE | 6/22/2004 |
| CASE TITLE | Lawrence E. Jaffe Pension Plan vs. Household InterNatl, Inc., et al | | |

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) Filed motion of [use listing in "Motion" box above.]
- (2) Brief in support of motion due _____.
- (3) Answer brief to motion due _____ . Reply to answer brief due _____.
- (4) Ruling/hearing on _____ set for _____ at _____.
- (5) Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) Trial[set for/re-set for] on _____ at _____.
- (8) [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
 - FRCP4(m) Local Rule 41.1 FRCP41(a)(1) FRCP41(a)(2).
- (10) [Other docket entry] Defendants' Motion for Extension of Time to File their Answers to the Corrected Amended Consolidated Class Action Complaint is granted. Defendants to file Answers to the Amended Complaint by July 2, 2004. Enter Interim Stipulation and Order Governing the Confidential Treatment of Discovery Material. For further detail see reverse of minute order.
- (11) [For further detail see order attached to the original minute order.]

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| <input type="checkbox"/> | No notices required, advised in open court. | 18000 1011510 U.S. CLERK DISTRICT COURT 2004 JUN 24 AM 8:03 FILED 01 | number of notices | Document Number 152 |
| <input type="checkbox"/> | No notices required. | | JUN 24 2004 date docketed | |
| <input checked="" type="checkbox"/> | Notices mailed by judge's staff. | | <i>[Signature]</i> docketing deputy initials | |
| <input type="checkbox"/> | Notified counsel by telephone. | | 6/23/2004 date mailed notice | |
| <input type="checkbox"/> | Docketing to mail notices. | | SB7 | |
| <input type="checkbox"/> | Mail AO 450 form. | | mailing deputy initials | |
| <input type="checkbox"/> | Copy to judge/magistrate judge. | | | |
| SRB | courtroom deputy's initials | | | |

The Court enters the parties' Interim Stipulation and Order Governing the Confidential Treatment of Discovery Material ("Interim Stipulation") with the following understanding. The Court wants to make clear that the Interim Stipulation only governs the confidential treatment of discovery among the parties. For the reasons stated below, the Court expresses no opinion regarding whether any of the discovery exchanged amongst the parties will be entitled to confidential treatment when the material enters the public record.

The parties are free to agree to keep discovery exchanged amongst themselves confidential before the material enters the judicial record. See Baxter Int'l Incorp. v. Abbott Labs., 297 F.3d 544, 545 (7th Cir. 2002) (stating "[s]ecrecy is fine at the discovery stage, before the material enters the judicial record"). However, the parties must demonstrate good cause for the confidential treatment of material prior to it entering the public record. The Seventh Circuit has repeatedly admonished that although pretrial discovery is usually conducted in private, "the public at large pays for the courts and therefore has an interest in what goes on at all stages of a judicial proceeding." Citizens First Nat'l Bank of Princeton v. Cincinnati Ins. Co., 178 F.3d 943, 944-45 (7th Cir. 1999).

In order to protect the legitimate privacy interests of litigants, Federal Rule of Civil Procedure 26(c) allows a court to enter a protective order for good cause shown. The Seventh Circuit has made clear that a trial judge must make an independent determination of good cause prior to issuing a protective order, even if the parties submit an agreed protective order. "The judge is the primary representative of the public interest in the judicial process" and has an independent duty to balance the public's interest against the "property and privacy interests of the litigants." Id. at 945. A court need not determine good cause on a document-by-document basis. Id. at 946. Rather, a court may authorize the parties to restrict public access to properly demarcated categories of legitimately confidential information if the judge (1) satisfies herself that the parties know what the legitimate categories of protectable information are and are acting in good faith in deciding which parts of the record qualify for protection and (2) makes explicit that either party and any interested member of the public can challenge the designation of particular documents. Id.

With respect to preparation of the proposed Confidentiality Order, the Court directs the parties to Pepsico, Inc. v. Redmond, 46 F.3d 29 (7th Cir. 1995) and In the Matter of Grand Jury, 983 F.2d 74 (7th Cir. 1992), which discuss the impropriety of filing entire pleadings or briefs under seal. The proposed Confidentiality Order shall indicate that the parties must file public pleadings and briefs but may file sealed supplements if necessary to discuss in detail materials subject to the protective order. Documents which contain both protectable and non-protectable information need only have the protectable portions of the documents redacted in order to maintain secrecy. Citizens, 178 F.3d at 945. Finally, the proposed Confidentiality Order should indicate that either party or an interested member of the public can challenge the secreting of particular documents pursuant to the protective order. Citizens, 178 F.3d at 946.

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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

**INTERIM STIPULATION AND ORDER GOVERNING THE CONFIDENTIAL
TREATMENT OF DISCOVERY MATERIAL**

WHEREAS, the parties hereto are negotiating the terms of a proposed order governing the confidential treatment of certain material exchanged by the parties during discovery (the "Confidentiality Order"); and

WHEREAS, pending the entry of the Confidentiality Order by the Court, the parties wish to begin exchanging documents and other materials (the "Discovery Material") in connection with the discovery process;

NOW, THEREFORE, UPON THE CONSENT OF THE PARTIES, IT IS HEREBY ORDERED THAT the following principles and procedures shall govern discovery among the parties pending the Court's entry of the Confidentiality Order:

1. All Discovery Material will be deemed confidential and may be disclosed

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only to counsel to the parties in the litigation, including in-house counsel, and to their employees and contractors (including contract lawyers and litigation support firms) retained by counsel to the parties, who are involved with the preparation for and proceedings concerning, this action or any appeal herein. Any such employee or contractor to whom Discovery Material is made available shall be advised of, and become subject to, the provisions of this Interim Order.

2. Discovery Material may be used for purposes of this action only.

3. To the extent a party producing Discovery Material may be subject to the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801, *et seq.*, or the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.*, (e.g., financial and personal information of Household customers), or any applicable state privacy provisions, such Discovery Material shall be deemed confidential and subject to the protections of this Order. Production of such Discovery Material in this litigation shall not be deemed to be a violation of either the Gramm-Leach-Bliley Act or the Fair Credit Reporting Act or any applicable state privacy provisions.

4. This Interim Order shall remain in effect until the Court enters the Confidentiality Order, which latter order shall control Discovery Material produced in this litigation, including that Discovery Material produced pursuant to the Interim Order. The parties agree to attempt to submit a joint proposed Confidentiality Order promptly.

APPROVED AND HEREBY ORDERED THIS 22 day of June 2004.



Honorable Nan R. Nolan, U.S.M.J.

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