

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

LAWRENCE E. JAFFE PENSION)	
PLAN, on behalf of itself and all others)	
similarly situated,)	
)	No. 02 C 5893
Plaintiffs,)	
v.)	Judge Ronald A. Guzmán
)	
HOUSEHOLD INTERNATIONAL)	
INC., et al.,)	
Defendants.		

ORDER

Phase two discovery having been concluded, the Court must now determine the next step in this class-action lawsuit. Two tasks remain: the final adjudication of the claims for redress filed by victims of the defendants' fraud; and a final determination on the factual question of the rebuttable presumption of reliance. The former is largely, though not necessarily entirely, a mechanical administrative process. Establishing when a purchase or sale took place, who made the purchase/sale and the purchase/sale price for the Household stock can, in most circumstances, be determined by a review of undisputed documents. For some claims a more adjudicative process may required. These determinations have been referred to the Magistrate Judge. The Court now addresses the procedure for resolving the second of the remaining issues, *i.e.*, the rebuttal of the presumption of reliance.

Plaintiffs contend defendants have failed to uncover any evidence which would lead to the conclusion that the presumption of reliance has been rebutted as to any

qualifying claimants. Defendants contend that there are factual issues regarding individual claims that can only be resolved by a trial on the merits. The usual method of resolving these contradictory contentions at the close of discovery is by the filing of a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. Such a motion requires the party seeking a summary judgment to identify each claim or defense on which summary judgment is sought, the facts which support judgment on each such claim or defense in its favor, and citations to the record which establish that every such fact is undisputed. The responding party would then be required to respond by citing to particular portions of the record which establish that a dispute does exist as to some material fact.

The case at bar is somewhat unusual in that the only "claim or defense" to be determined is whether defendant can rebut the presumption of reliance established by the jury's verdict as to any one or more of the qualified claims for damages. Furthermore, plaintiffs can satisfy their burden as Rule 56 movants simply by referencing the presumption of reliance which exists as a result of the jury's verdict. This is all plaintiffs must show in order to succeed unless there is evidence in the record to rebut the presumption. It would then be incumbent upon the defense to dispute the asserted fact of reliance by providing citations to the record which establish that the presumption does not apply as to any given claim. In view of the unusual posture of this case, the most reasonable and efficient approach to a summary judgment determination is for the defendants to compile a list of the claims as to which they assert the record supports a rebuttal of the presumed fact of reliance along with citations to the record which they

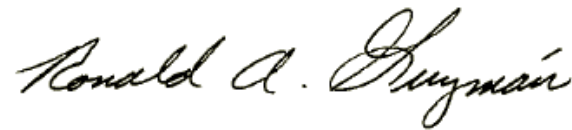
believe support their contention. This procedure, by requiring defendants to list the claimants as to which they have found evidence which rebuts the presumption of reliance, limits the burden on all parties as well as the Court. Plaintiffs may then, if they can do so in good faith, file a response supported by citations to the record to which defendants may reply.

Therefore, defendants are ordered to file and serve on plaintiffs a list of claims as to which they contend the evidence in the record rebuts the presumption of reliance along with a citation to those portions of the record which support their contention on or before October 14, 2011. Plaintiffs are to file a response on or before November 28, 2011. Defendants shall reply on or before December 19, 2011. The Court will rule by mail, unless it specifically notifies the parties that it will require oral argument.

Dated: August 24, 2011

SO ORDERED

ENTER:



RONALD A. GUZMAN
District Judge