

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

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

Plaintiffs,

v.

HOUSEHOLD INTERNATIONAL, INC., ET
AL.,

Defendants.

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

CLASS ACTION

Judge Ronald A. Guzman

**DEFENDANTS' SUPPLEMENTAL SUBMISSION IN FURTHER SUPPORT OF
THEIR OBJECTIONS TO PLAINTIFFS' MOTION FOR ENTRY OF BILL OF
COSTS**

Defendants Household International, Inc., William F. Aldinger, David A. Schoenholz and Gary Gilmer (“Defendants”) submit the following supplemental submission in support of their Objections to Plaintiffs’ Motion for Entry of Bill of Costs.

On December 16, 2013, Plaintiffs moved this Court for entry of their Bill of Costs. Plaintiffs’ Bill of Costs, as amended, seeks to recover costs in the amount of \$617,028.78, including the following: (1) fees for service of summonses and subpoenas, in the amount of \$1,320.00; (2) fees for printed and electronically recorded transcripts, in the amount of \$182,024.27; (3) fees for deposition and trial witnesses, in the amount of \$10,996.13 (reflecting a reduction in the amount of witnesses fees for Elaine Markell from over \$13,000 to \$7,000); (4) fees for exemplification and the cost of making copies, in the amount of \$184,235.82; (5) compensation of the court-appointed Special Master, in the amount of \$22,922.35; and (6) legal research costs, in the amount of \$215,530.21. (*See* Dkt. Nos. 1913, 1954, 1974.)

Defendants filed their Objections to Plaintiffs’ motion on January 7, 2014. (Dkt. 1973.) On February 12, 2014, the Court ordered that Defendants “supplement their response with any objections to specific entries” contained in Plaintiffs’ Bill of Costs. (Dkt. 1979.)

As to the specific requested costs set forth above, Defendants make the following further responses and objections:

- (1) Fees for service of summonses and subpoenas: Defendants do not object to the amount of this request (\$1,320.00) or to the supporting documentation Plaintiffs have provided. (*See* Cook Decl. Ex. A.)
- (2) Fees for printed and electronically recorded transcripts: Although Plaintiffs’ request includes rates for expedited transcripts (which constituted a convenience to Plaintiffs’

counsel rather than a necessary expense) for several deposition transcripts (Cook Decl. Ex. A at 2-8, Column 6), and for trial transcripts (*id.* at 7), Defendants do not object to the amount of this request (\$182,024.27) or to the supporting documentation Plaintiffs have provided.

- (3) Fees for deposition and trial witnesses: After Defendants objected to the lack of documentation for the travel expenses of trial witness Elaine Markell, Plaintiffs provided documentation showing that these expenses included, for example, more than \$4,700 for a stay at the Four Seasons Hotel (a five-star hotel rated among the best in Chicago) and more than \$350 for a meal at Morton's Steakhouse (which included a gratuity of over 25%). (Dkt. 1974-1 at 2, 5, 6.) Plaintiffs provided no documentation other than an expense invoice to support an airfare charge that exceeded \$6,900 (*id.* at 2), leaving Defendants no way to assess whether Ms. Markell obtained "the most economical rate reasonably available" (*see Telular Corp. v. Mentor Graphics Corp.*, No. 01 C 431, 2006 WL 1722375, at *7 (N.D. Ill. June 16, 2006)), although it seems unlikely at that price. Nevertheless, Plaintiffs assert that "Ms. Markell's travel expenses were both reasonable and necessary." (Dkt. 1974 at 2.) Although the lack of documentation for the claimed airfare is inappropriate, Plaintiffs have now unilaterally reduced the amount of their claim for these travel expenses. *Id.* Defendants do not object to the amount of this request, as amended by Plaintiffs (\$10,996.13).
- (4) Fees for exemplification and the cost of making copies: Plaintiffs seek to recover copying charges for 310,671 pages of pleadings, discovery documents, exhibits, and demonstratives at a rate of \$0.25 per page. (Cook Decl. at ¶¶ 3-6.) Despite Defendants' objections to the lack of support for their Bill of Costs, Plaintiffs still have provided no

support for the proposition that the \$0.25 per-page rate they seek is reasonable or appropriate. (See Cook Decl. ¶¶ 3-6, Ex. B.) Plaintiffs state only that the \$0.25 per-page rate is their “customary copy rate.” (Cook Decl. ¶¶ 3-6.) Defendants are aware of no court in this district that has approved a \$0.25 per-page rate for copies as a recoverable cost. In the absence of any documentation to establish that the \$0.25 per-page rate reflects actual, reasonable costs incurred, Defendants object to copies being charged at that rate. Defendants respectfully submit that the per-page rate should be reduced to an amount not in excess of \$0.20 per page. See *Hernandez–Martinez v. Chipotle Mexican Grill, Inc.*, No. 11 C 4990, 2013 WL 2384251, *4 (N.D. Ill. May 30, 2013) (“Courts in this district have generally held that 10 to 20 cents per page is a reasonable cost for black and white copies.”). Therefore, Defendants object to the amount of this request (\$184,235.82) and submit that the amount should be reduced by at least \$15,533.55 (*i.e.*, 310,671 copies x \$0.05 per page).

- (5) Compensation of the court-appointed Special Master: Proceedings before the Special Master are ongoing. Plaintiffs have, thus far, “prevailed” for purposes of recovering costs under §1920(6) and Local Rule 54.1(d) with respect to some, but by no means all, of the matters the Special Master has been asked to address. Nevertheless, Plaintiffs seek to recover as costs the entire amount they paid to the Special Master. (Cook Decl. Ex. C.) Absent some effort to distinguish the amounts associated with matters as to which Plaintiffs actually prevailed from amounts associated with matters as to which Plaintiffs did not prevail in proceedings before the Special Master, Defendants object to Plaintiffs’ request to recover these costs (\$22,922.35) as improper.

- (6) Legal research costs: For the reasons stated in the January 7 submission (Dkt. 1973), Defendants object to Plaintiffs' attempt to recover computerized legal research expenses as taxable costs. (*See* Cook Decl. Ex. D.) None of those expenses (\$215,530.21) are recoverable as costs, so the request for legal research expenses should be denied in its entirety.

Respectfully submitted,

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/s/ Jason M. Hall
Thomas J. Kavalier
Patricia Farren
Jason M. Hall
CAHILL GORDON & REINDEL LLP
80 Pine Street
New York, NY 10005
(212) 701-3000

Paul D. Clement
BANCROFT PLLC
1919 M Street, NW
Washington, DC 20036
(202) 234-0090

R. Ryan Stoll
Mark E. Rakoczy
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM
155 North Wacker Drive
Chicago, IL 60606
(312) 407-0700

*Attorneys for Defendants-Appellants
Household International, Inc., William F.
Aldinger, David A. Schoenholz, and Gary
Gilmer*