

**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,	)	
	)	
Plaintiff,	)	
	)	No. 02 C 5893
v.	)	
	)	Judge Jorge L. Alonso
HOUSEHOLD INTERNATIONAL, INC.,	)	
et al.,	)	
	)	
Defendants.	)	

**ORDER**

In its Order of October 20, 2016, the Court entered and continued in part, for supplemental briefing, plaintiffs’ motion for an award of expenses as to lead counsel’s transportation, meal, and hotel expenses as well as the expenses of lead plaintiffs IUOE and PACE.

**Lead Counsel’s Transportation/Meal/Hotel Expenses**

Under Federal Rule of Civil Procedure 23(h), the court may award nontaxable costs in a certified class action that are “authorized by law or by the parties’ agreement.” The parties’ agreement provides that lead counsel may submit an application for expenses incurred in connection with prosecuting this litigation. (ECF No. 2213, Stipulation of Settlement ¶ 6.1.) Although there are no objections to lead counsel’s request for reimbursement of expenses, the Seventh Circuit has stated that district courts must exercise their discretion to “disallow particular expenses that are unreasonable whether because excessive in amount or because they should not have been incurred at all.” *Zabkowicz v. W. Bend Co., Div. of Dart Indus., Inc.*, 789

F.2d 540, 553 (7th Cir. 1986); *see also Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 600 (N.D. Ill. 2011).

In its oral ruling of October 20, 2016, the Court explained that, because plaintiffs had provided insufficient support, the Court was unable to assess the reasonableness of lead counsel's transportation, meal, and hotel expenses totaling \$1,194,944.35. The Court noted that counsel had not provided a description of the quality of counsel's accommodations, the class of travel, or typical meal costs. Lead counsel has now submitted the Second Supplemental Declaration of Michael J. Dowd as well as a "Detailed Travel Report," which is attached as Exhibit 1 to Mr. Dowd's Declaration.

The Court will address lodging first. Mr. Dowd's Second Supplemental Declaration provides details regarding the costs of short-term apartment rentals for counsel attending trial. The Court is satisfied that those apartment rates were reasonable, and it will award lead counsel's expenses for short-term apartment rentals. As to hotels, however, Mr. Dowd does not provide any information about which hotels or what class of accommodation counsel chose. Furthermore, the Detailed Travel Report is replete with instances of hotel stays in excess of \$300 per night, even for stays going back more than a decade.<sup>1</sup> Such rates are unreasonable, and lead counsel has not provided any information regarding what kinds of hotel expenses have been awarded in similar cases. In the absence of any supporting argument or documentation, the Court will not award any hotel expenses for nightly rates that exceed whatever the federal per diem lodging rate was at the time of the stay for that location (these rates are available at [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem)). If lead counsel wishes to recover its hotel stays at that rate, it will have

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<sup>1</sup>A fair number of the hotel stays are in the range of \$400-\$600 per night.

to make the appropriate calculations and resubmit its expenses request. Similarly, if lead counsel wishes to recover its expenses for short-term apartment rentals, it will have to break those expenses out separately so that the Court can determine what total amount is attributable solely to that sub-category of expenses.

As for transportation, Mr. Dowd explains that first-class airfares for case-related travel were reduced to the price of refundable coach tickets at the time the tickets were purchased. The Court finds that those reduced airfares would be properly awarded. But lead counsel has grouped airfare together with ground transportation into one category called “transportation.” And Mr. Dowd provides no information about the ground transportation or the car rentals that are included in the Detailed Travel Report (for instance, the type of ground transportation that was used or the class of car rental). Therefore, the Court will not allow any transportation expenses. If lead counsel wishes to recover transportation expenses, it will have to break down the transportation expenses into airfare and ground-transportation expenses and provide more detailed supporting information as to ground transportation.

Lead counsel has also failed to provide any support for its requested meal expenses, several of which are in excess of \$50, and many of which are in excess of \$40, per meal per person. The Detailed Travel Report largely breaks down the requested meal expenses by individual meals but does not indicate whether the meals were breakfasts, lunches, or dinners. In the absence of any argument in support of the requested amounts, the Court will not allow any more than \$17 per person per meal for breakfasts, \$18 per person per meal for lunches, and \$34 per person per meal for dinners (or \$74 per person per day for meals). These rates are the current federal per diem rates for meals in Chicago. Moreover, the “meals detail” column of the Detailed Travel Report contains a number of meal totals with the notation “trial team” or

“lunches and dinners for trial team,” where the cost per person cannot be ascertained. The Court will not allow those expenses. If lead counsel wishes to recover meal expenses, it will have to omit the “trial team” expenses and otherwise revise its request as limited by the federal per diem rates.

The Court is unable to ascertain from plaintiffs’ current presentation any discrete amount of expenses that would be appropriately awarded in conformity with the discussion above. Accordingly, the motion for an award of expenses is denied as to lead counsel’s requested transportation, meal, and hotel expenses. If lead counsel wishes to submit a revised motion, it should so notify the Court by November 3, 2016, and the revised motion should be submitted by November 10, 2016.

**Expenses of Lead Plaintiffs IUOE and PACE**

The Court noted in its oral ruling of October 20, 2016 that the submissions of lead plaintiffs IUOE and PACE in support of their requested expenses were insufficient. IUOE has now submitted the Declaration of Lawrence B. Lowry, who serves as fund counsel to IUOE. Mr. Lowry states that he has revised IUOE’s total amount of requested expenses downward (from \$13,197.24 to \$10,749.74) and attaches a detailed record of his own work on this matter, including a description of the tasks he performed and the corresponding number of hours, at the very reasonable hourly rate of \$150.00. The Court will award IUOE those expenses. The Court will also award the expenses IUOE incurred in relation to the work of Tommy Plymale, its late business manager. Mr. Lowry includes in his declaration a list of the tasks Mr. Plymale performed in relation to this case, at a reasonable hourly rate, which the Court finds were necessarily incurred. Therefore, the Court will grant plaintiff’s motion as to the expenses of IUOE, which total \$10,749.74.

PACE has submitted the Supplemental Declaration of Trevor England, its Chief Executive Officer. Mr. England states that he has revised PACE's total amount of requested expenses downward (from \$15,287.07 to \$14,008.62) to omit expenses related solely to the negotiation of attorneys' fees. Exhibit A to Mr. England's Supplemental Declaration divides PACE's requested expenses into those of its counsel and those of its employees. As for counsel, although their general tasks and the total amount of attorneys' fees attributable to each task are listed, there is no indication of which attorneys performed which tasks at what hourly rate. Because the Court is unable to meaningfully assess the reasonableness of these expenses, the Court denies PACE's requested award of \$8,788.00 in fund counsel's fees and expenses. As for the expenses related to the work of five PACE employees, PACE still fails to specify the job titles of three of the listed employees ("Ellis," "Haley," and "Ray") or why it is seeking a premium ("Benefit") on the value of its employees' labor. Plaintiffs' motion for an award of expenses is therefore granted in part and denied in part as to the expenses of lead plaintiff PACE. The Court will award PACE its expenses related to the work of Ms. Wieck and Mr. England only, which the Court finds were necessarily incurred and adequately supported, for a total expense award to PACE of \$3,243.83.

### CONCLUSION

Plaintiffs' motion for an award of lead plaintiff IUOE's expenses is granted, and IUOE is awarded its requested \$10,749.74 in expenses. Plaintiffs' motion for an award of lead plaintiff PACE's expenses is granted in part and denied in part, and PACE is awarded \$3,243.83 in expenses.

Plaintiffs' motion for an award of lead counsel's transportation, meal, and hotel expenses is denied. If lead counsel wishes to submit a revised motion, it should so notify the Courtroom

Deputy by November 3, 2016, and the revised motion should be submitted by November 10, 2016. The November 3, 2016 status hearing is stricken.

**SO ORDERED.**

**ENTERED: November 1, 2016**

A handwritten signature in black ink, consisting of a large, loopy initial 'J' followed by 'L. A.' and a period.

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**JORGE L. ALONSO**  
**United States District Judge**