

**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.)	
_____)	

**THE CLASS' MOTION TO UNSEAL REPLY IN SUPPORT OF THE CLASS' CROSS-
MOTION TO COMPEL PRODUCTION**

REDACTED VERSION

1. The Household Defendants have asked the Class to withdraw the Reply in Support of the Class' Cross-Motion to Compel Production of Certain Documents Provided to Outside Auditors by Household Defendants ("Reply") at Dkt. No. 537, and file a redacted version and the complete version under seal. *See* Exhibits A-D.¹ The Class has agreed to do so, and is filing the redacted version and the version under seal concurrently with this Motion to Lift the Seal on the Reply.² *See* Exs. D-E.

2. Defendants object that the Reply contains confidential information. The information about which defendants express concern is not properly considered confidential and should not be protected from public scrutiny.

3. The portions defendants have asked the Class to redact are, in total:

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REDACTED

REDACTED

¹ All exhibits are attached hereto unless otherwise noted.

² The newly filed versions also include a Table of Contents and a Table of Authorities, inadvertently left out of the originally filed Reply.

REDACTED

REDACTED

REDACTED

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REDACTED

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See Ex. C.

4. The Protective Order in this case provides that only certain categories of information may be designated as confidential, and places the burden of persuasion on the party designating information as confidential. *See Ex. F (Protective Order), ¶¶3, 20.* Only information that “compromises personal privacy interests or contains commercially sensitive business information the

disclosure of which would cause the party or person competitive harm, impair the commercial value of the information or otherwise be commercially injurious” is properly deemed confidential. *Id.* None of the information above can be characterized as confidential under the terms of the Protective Order. Defendants have not even attempted to explain how disclosure of any of this information fits within the definition of confidential information.

5. Moreover, even in the Household Defendants’ Sur-Reply to Plaintiffs’ Cross-Motion to Compel Production of Certain Documents (“Sur-Reply”), which was not filed under seal, defendants summarize some of the very language and arguments they seek to have redacted. *Compare* Sur-Reply at 2 (describing the Class’ argument that the database was a “tool”) *with* Reply at 5 (describing database as a ~~REDACTED~~); *compare also* Sur-Reply at 3 (describing the Class’ argument that Arthur Andersen’s litigation review suggests Household shared the database with Andersen) *with* Reply at 5-6 (stating that ~~REDACTED~~ ~~REDACTED~~). Defendants’ willingness to disclose this information at the same time they seek to have it redacted from the Class’ filing shows that there is no reason to protect it from disclosure.

6. The Class respectfully requests that the Reply brief (Dkt. No. 537) be conditionally withdrawn from the public record. For the reasons set forth above, the Class requests that the Court review the information the Household Defendants have asked to protect from disclosure and

determine whether this information is, in fact, confidential under the terms of the Protective Order. If the Court determines that it is not, the Class asks the Court to order that the Reply be publicly filed without redactions.

DATED: July 6, 2006

Respectfully submitted,

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
PATRICK J. COUGHLIN (90785466)
AZRA Z. MEHDI (90785467)
D. CAMERON BAKER (154452)
MONIQUE C. WINKLER (90786006)
LUKE O. BROOKS (90785469)
MARIA V. MORRIS (223903)
BING Z. RYAN (228641)

s/ Maria V. Morris

MARIA V. MORRIS

100 Pine Street, Suite 2600
San Francisco, CA 94111
Telephone: 415/288-4545
415/288-4534 (fax)

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS LLP
WILLIAM S. LERACH
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

Lead Counsel for Plaintiffs

MILLER FAUCHER AND CAFFERTY LLP
MARVIN A. MILLER
30 North LaSalle Street, Suite 3200
Chicago, IL 60602
Telephone: 312/782-4880
312/782-4485 (fax)

Liaison Counsel

LAW OFFICES OF LAWRENCE G.
SOICHER
LAWRENCE G. SOICHER
110 East 59th Street, 25th Floor
New York, NY 10022
Telephone: 212/883-8000
212/355-6900 (fax)

Attorneys for Plaintiff

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DECLARATION OF SERVICE BY EMAIL AND BY U.S. MAIL

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 Francisco, over the age of 18 years, and not a party to or interested party in the within action; that declarant's business address is 100 Pine Street, Suite 2600, San Francisco, California 94111.

2. That on July 6, 2006, declarant served by electronic mail and by U.S. Mail the **THE CLASS' MOTION TO UNSEAL REPLY IN SUPPORT OF THE CLASS' CROSS-MOTION TO COMPEL PRODUCTION (REDACTED VERSION)** to the parties listed on the attached Service List. The parties' email addresses are as follows:

TKavaler@cahill.com
PSloane@cahill.com
PFarren@cahill.com
DOwen@cahill.com
NEimer@EimerStahl.com
ADeutsch@EimerStahl.com
mmiller@millerfaucher.com
lfanning@millerfaucher.com

and by U.S. Mail to:

Lawrence G. Soicher, Esq.
Law Offices of Lawrence G. Soicher
110 East 59th Street, 25th Floor
New York, NY 10022

David R. Scott, Esq.
Scott & Scott LLC
108 Norwich Avenue
Colchester, CT 06415

I declare under penalty of perjury that the foregoing is true and correct. Executed this 6th day of July, 2006, at San Francisco, California.

s/ Monina O. Gamboa

MONINA O. GAMBOA

HOUSEHOLD INTERNATIONAL (LEAD)

Service List - 7/6/2006 (02-0377)

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Counsel for Defendant(s)

Thomas J. Kavaler
Peter Sloane
Patricia Farren
Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005-1702
212/701-3000
212/269-5420(Fax)

Nathan P. Eimer
Adam B. Deutsch
Eimer Stahl Klevorn & Solberg LLP
224 South Michigan Avenue, Suite 1100
Chicago, IL 60604
312/660-7600
312/692-1718(Fax)

Counsel for Plaintiff(s)

Lawrence G. Soicher
Law Offices of Lawrence G. Soicher
110 East 59th Street, 25th Floor
New York, NY 10022
212/883-8000
212/355-6900(Fax)

William S. Lerach
Lerach Coughlin Stoia Geller Rudman &
Robbins LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
619/231-1058
619/231-7423(Fax)

Patrick J. Coughlin
Azra Z. Mehdi
Monique C. Winkler
Lerach Coughlin Stoia Geller Rudman &
Robbins LLP
100 Pine Street, Suite 2600
San Francisco, CA 94111-5238
415/288-4545
415/288-4534(Fax)

Marvin A. Miller
Jennifer Winter Sprengel
Lori A. Fanning
Miller Faucher and Cafferty LLP
30 N. LaSalle Street, Suite 3200
Chicago, IL 60602
312/782-4880
312/782-4485(Fax)

David R. Scott
Scott + Scott, LLC
108 Norwich Avenue
Colchester, CT 06415
860/537-5537
860/537-4432(Fax)