

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

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

Plaintiff,)

- against -)

HOUSEHOLD INTERNATIONAL, INC., ET AL.,)

Defendants.)

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

CLASS ACTION

Judge Ronald A. Guzman
Magistrate Judge Nan R. Nolan

**ADDENDUM TO DEFENDANTS' STATUS REPORT FOR
OCTOBER 4, 2006 WORKING STATUS CONFERENCE**

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On Friday, September 29, 2006, both Defendants and Plaintiffs filed Status Reports with this Court in advance of the working status conference to be held Wednesday, October 4, 2006. The Household Defendants respectfully submit this Addendum to their Status Report to respond to the unfair and misleading discussion of the circumstances surrounding the attempts to schedule the deposition of John Nichols contained in Plaintiffs' Status Report. Defendants regret having to file this Addendum, but feel compelled do so in order to correct the gross distortion of the record presented in Plaintiffs' Status Report. Defendants would like to discuss this issue at the working status conference as part of a much larger and more troubling theme: Plaintiffs' efforts to obstruct and delay discovery and sabotage the January 31, 2007 discovery deadline while attempting to shift the blame.

Plaintiffs' Pattern of Delay Will Jeopardize the January 31, 2007 Discovery Deadline

Plaintiffs complain (incorrectly) that Household has threatened to withdraw witnesses from availability if the Class does not promptly accept dates preferred by Defendants. (Pls' Status Report at 2) Plaintiffs cite as their sole example the deposition of John Nichols, a former outside director of Household, and attach as Exhibit A *only part* of the lengthy correspondence relating to Household's long standing efforts to schedule Mr. Nichols' deposition. Plaintiffs failed to include the whole chronology of the Nichols deposition saga because it reveals Plaintiffs' understandable and increasingly evident resistance to tackle the merits of their claims. Household has repeatedly and consistently offered dates for Mr. Nichols' deposition for *close to a year*. However, each time this former outside director of Household adjusted his enormously busy schedule as CEO of a major company to accommodate Plaintiffs' changes of heart, Plaintiffs have come up with one excuse after another not to go forward. Their latest, however, wins the prize for its utter arrogance, indifference to the rights of the witness, and open disdain for Defendants' efforts to cooperate and the Court's efforts to move the discovery phase of this case to a much-needed conclusion. According to Mr. Cameron Baker, Mr. Nichols will not be

deposed on the date he is available (one of several Plaintiffs' passed by), but only when Mr. Baker himself is good and ready.

The full chronology of our efforts to schedule Mr. Nichols' deposition and Plaintiffs' repeated rejection of proffered dates is set forth in the letter attached as Exhibit A (10/2/06 cor- resp. from Thomas J. Kavalier, Esq. to D. Cameron Baker, Esq.). Suffice it to say, if this were an isolated example of Plaintiffs' resistance to move forward, or if Plaintiffs' Status Report had not so blatantly mischaracterized the status, we would not have burdened the Court with additional material to read. For the Court's convenience, a summary of the Nichols saga appears below.

Mr. Nichols deposition was initially scheduled on February 15, 2006. However, Plaintiffs decided against proceeding on the ground that issues raised by their subpoena to the Federal bank regulators (and related issues arising from our subsequent recall of inadvertently produced federal documents) needed to be resolved before they could proceed. Although the federal agency issues were resolved in May, Plaintiffs continued to stall throughout the summer by rejecting or ignoring every date we offered for Mr. Nichols — including dates in ranges Plaintiffs themselves had suggested. When their rejection of our offer of August 16 elicited a strong warning that we cannot keep going back to the well with this busy executive (he is the CEO of The Marmon Group, a privately held multi-billion dollar business), Mr. Baker wrote that in view of Mr. Nichols' tight schedule, Plaintiffs would put Mr. Nichols on the top of their list for any day he could appear. After consulting Mr. Nichols yet again, we then offered him on October 27 — *only to be told "no" by Plaintiffs again*. Now, despite earlier statements that they were ready to proceed with Mr. Nichols, and despite our proffering multiple dates in the past, Plaintiffs for some reason do not want to depose him until the week right before Christmas — on December 20, 2006. For Plaintiffs to show the Court only the email expressing our frustration at this further unwarranted delay without even hinting at the long history leading up to it is disingenuous at best.

We believe that there is only one conclusion to draw from Plaintiffs' foot dragging with this witness, namely, that Plaintiffs are scrambling to find excuses to avoid the January 31, 2007 fact discovery cutoff while trying to blame Defendants for any delay. Defendants respectfully request that, in keeping with Mr. Baker's promise to prioritize Mr. Nichols' deposition on a date convenient to the witness, the Court order that the deposition go forward on October 27, 2006, or not at all.

Dated: October 2, 2006
Chicago, Illinois

Respectfully submitted,

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CERTIFICATE OF SERVICE

Adam B. Deutsch, an attorney, certifies that on October 2, 2006, he caused to be served a copy of the ADDENDUM TO DEFENDANTS' STATUS REPORT FOR OCTOBER 4, 2006 WORKING STATUS CONFERENCE, to the parties listed below via the manner stated.

/s/ Adam B. Deutsch

Adam B. Deutsch

Via E-mail and Fed-Ex

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