

such order changes and substitutions to a minimum. Upon receiving Plaintiffs' witness list, Defendants' deposition coordinator shall begin working with Plaintiffs' deposition coordinator to arrange the requested depositions. Defendants' deposition coordinator is asked to voluntarily make a reasonable inquiry of each witness regarding the existence of any additional documents, and to produce such documents to Plaintiffs in a timely manner. In the event the parties are unable to agree on a reasonable deposition schedule, the court may be forced to impose a schedule that will not take into account witness and/or attorney availability.

Defendants may proceed with depositions of analysts at this time. As for depositions of the three named Plaintiffs and their financial advisers, the parties should be prepared to discuss this matter in greater detail at the 10/19/06 status. The parties may not, however, file any additional briefs at this time.

Each side will bear its own costs for depositions, including any that may be cancelled or rescheduled. This will not constitute a waiver of either party's right to submit to the court, after all fact depositions have been completed, a motion seeking reimbursement for any additional expenses wrongfully incurred in connection with these depositions due to the misconduct of the other party.

B. State Agency Documents

With respect to the Class' motion regarding state agency documents [Docs. 632 and 636], the court understands that Defendants have produced documents from the 13 to 15 states that did not object to such production, leaving 12 to 14 states that do object. In response to the court's invitation, three states (North Carolina, Vermont,¹ and Wisconsin) submitted briefs supporting non-disclosure of their documents, and two states (Arizona and Minnesota) expressly declined to submit any additional briefs. Defendants insist, however, that at least 10 states have instructed Household

¹ The Vermont memorandum was filed on October 3, 2006, but neither the parties nor the court received a copy of it until after the October 4, 2006 working conference.

not to produce their agency documents, and that several have raised the possibility of sanctions or other penalties.

Defendants are ordered to contact the remaining states and advise the court by 10/16/06 as to each state's final position regarding disclosure. In the meantime, the motion regarding state agency documents is entered and continued.

C. Confidentiality

The parties continue to struggle with the proper procedure for filing confidential documents under seal, and for requesting that certain documents designated as confidential be de-designated. Complicating the matter is new Local Rule 26.2, which states that "[n]o attorney or party may file a restricted document without prior order of court specifying the particular document or portion of a document that may be filed as restricted." (LR 26.2(b) (April 20, 2006.)) In that regard, Plaintiffs filed a motion pursuant to LR 26.2 for leave to file an appendix of exhibits under seal, but actually requested in the motion that the documents not be deemed confidential. At the October 4, 2006 working conference, Plaintiffs advised the court that the clerk's office will not accept any filings under seal absent a specific court order.

In recognition of the fact that the parties in this case have been operating under a Protective Order entered on November 5, 2004, nearly a year and a half before the April 20, 2006 amendment to the Local Rules, the court has entered a standing order for the clerk's office [Doc. 704] allowing the parties to continue filing under seal documents designated as confidential under the Protective Order. The parties should file any such restricted documents in a manilla envelope stating the nature of the contents, and attaching a copy of the Protective Order and the standing order. The parties will be expected to work together and with the court, pursuant to the terms of the Protective Order, to secure any de-designations. Plaintiffs' motion for leave [Doc. 673] is granted to the extent it requests that the referenced documents designated as confidential be filed under seal, but

is otherwise denied. To the extent Plaintiffs seek to have any such confidential documents de-designated, they are to work with Defendants' counsel and, if necessary, bring any remaining disputes to this court.

D. Motion to Compel Discovery and Issuance of Letters of Request

Plaintiffs have filed a motion seeking to compel production of documents held by Morgan Stanley & Co. International Limited, also known as Morgan Stanley & Co. Limited (collectively, "Morgan Stanley International"), a London company that serves as financial advisor to Household's parent corporation, HSBC Holdings plc, a limited liability company incorporated in England and Wales that acquired Household on March 28, 2003. Plaintiffs have also issued subpoenas to Morgan Stanley International and HSBC seeking the documents in question. Morgan Stanley International has told Plaintiffs that it will voluntarily produce the requested documents if HSBC consents. Plaintiffs seek a finding that Household has control over HSBC such that it can order HSBC to consent to the Morgan Stanley International production. Plaintiffs also ask the court to issue Letters of Request under the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, date of signing, March 18, 1970, date in force, October 7, 1972, 23 U.S.T. 2555, T.I.A.S. No. 7444 (the "Hague Convention"), compelling Morgan Stanley International and HSBC to produce the requested documents.

At the October 4, 2006 working conference, Defendants informed the court that they do not object to the issuance of the Letters of Request. That portion of Plaintiffs' motion [Doc. 678] is therefore granted. As to the matter of voluntary production, the court understands that HSBC will submit a formal response to Plaintiffs' subpoena by 10/20/06, and will begin a rolling production of documents located in the United States on 10/27/06. In the meantime, Plaintiffs have been in contact with HSBC's counsel to determine whether HSBC will consent to the production of documents by Morgan Stanley International. The court hopes that the parties will be able to

resolve this matter on their own. If they cannot, the current briefing schedule on the issue of Household's "control" over HSBC documents is modified as follows: response due 10/16/06; reply due 10/23/06.

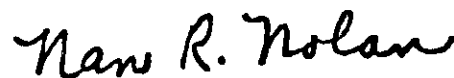
E. Universal Motion Schedule

Plaintiffs' request for a universal motion briefing schedule is denied.

F. Status

The status set for 10/19/06 at 10:00 a.m. CDT will stand.

ENTER:



Dated: October 4, 2006

NAN R. NOLAN
United States Magistrate Judge