

**United States District Court, Northern District of Illinois**

<b>Name of Assigned Judge or Magistrate Judge</b>	Ronald A. Guzman	<b>Sitting Judge if Other than Assigned Judge</b>	Nan R. Nolan
<b>CASE NUMBER</b>	02 C 5893	<b>DATE</b>	03/09/07
<b>CASE TITLE</b>	Jaffe vs. Household International		

**DOCKET ENTRY TEXT**

For the reasons stated below, Plaintiffs’ Motion for a Protective Order Quashing Defendants’ Interrogatories Served on the Last Day of the Close of Fact Discovery [Doc. 955] is granted in part and denied in part.

■ [ For further details see text below.]

Notices mailed by Judicial staff.

**STATEMENT**

On August 10, 2006, the court held that Plaintiffs would not be required to answer any contention interrogatories until December 1, 2006, two months before the end of fact discovery. The court explained that “[b]y that time, Plaintiffs’ theories should be well-developed and Plaintiffs should be able to articulate their positions in this case.” (Order of 8/10/06, Doc. 631, at 15-16.) Prior to the December 1, 2006 deadline, Plaintiffs filed objections to this court’s September 19, 2006 Order regarding the proper method of counting Defendants’ interrogatories. (See Order of 9/19/06, Doc. 677; Class’ Objections to September 20, 2006 Order, Doc. 700.) Specifically, Plaintiffs disagreed with the court’s conclusion that Defendants had not exceeded their interrogatory limit.

Based on that objection, the court agreed that Plaintiffs would not have to answer Defendants’ contention interrogatories until the district court decided the counting issue. The court made clear, however, that Defendants would not be penalized by the appeal, and that Plaintiffs would be required to respond to all contention interrogatories in the event Judge Guzman affirmed this court’s ruling.

Judge Guzman did affirm this court’s Order on January 19, 2007 (Minute Order of 1/19/07, Doc. 924), and Plaintiffs finally responded to Defendants’ contention interrogatories on January 30, 2007. The next day, on January 31, 2007, Defendants submitted supplemental contention interrogatories seeking to follow-up on answers received in response to previous interrogatories. Plaintiffs object, arguing that the requests are untimely.

“District courts enjoy extremely broad discretion in controlling discovery.” *Weeks v. Samsung Heavy Indus. Co., Ltd.*, 126 F.3d 926, 943 (7th Cir. 1997). This includes any decision to extend discovery. *Chapman v. Charles Schwab & Co.*, No. 02 C 291, 2002 WL 2012476, at \*3 (N.D. Ill. Sept. 3, 2002) (citing *Cleveland v. Porca Co.*, 38 F.3d 289, 298 (7th Cir. 1994)). This court has repeatedly assured both parties that they would be allowed to complete discovery that had been delayed due to objections pending before the district court.

## STATEMENT

Plaintiffs have undoubtedly benefitted from the court's generosity in this regard. Nevertheless, Plaintiffs now seek to use the January 31, 2007 fact discovery cut-off date as a means of depriving Defendants of their primary source of discovery in this case – answers to contention interrogatories. The court finds Plaintiffs' position unfair and unfounded.

As noted, by filing their counting objection, Plaintiffs avoided answering any contention interrogatories at all until well after the December 1, 2006 deadline. Indeed, given the number of objections pending before the district court, Judge Guzman was unable to address the issue until nearly two months later on January 19, 2007. Within one day of receiving Plaintiffs' responses, Defendants submitted follow-up interrogatories.

Plaintiffs argue that all of the new questions could have been posed long ago based on the allegations in the complaint alone. The court has reviewed the interrogatories and is satisfied that Nos. 63, 64, 74, 75, and 76 are proper follow-up questions to the January 30, 2007 response.

Defendants admit that Interrogatory Nos. 65-73 relate to responses they received on December 2, 2006. (Def. Resp., at 3 n.3.) Defendants argue, however, that they "had to sift through tens of thousands of documents cited by Plaintiffs in response to these interrogatories before determining that only a small percentage were responsive and none of the documents concerned Plaintiffs' allegations that senior management instructed and trained employees to violate the law." (*Id.*) Plaintiffs respond that Defendants should have requested an extension of time for filing the additional interrogatories. (Pl. Reply, at 3.)

To the extent contention interrogatories constitute Defendants' primary source of discovery in this case, the court will exercise its discretion and allow Nos. 65-73 to stand. *See Westefer v. Snyder*, \_\_ F. Supp. 2d \_\_, 2006 WL 4018576, at \*3 (S.D. Ill. Dec. 20, 2006) ("Naturally, in ruling on discovery matters Magistrate Judge Wilkerson is operating in a zone of very broad discretion.") The court will not permit any additional "follow-up" questions, with the expectation that Plaintiffs will answer the interrogatories in full.

As for Interrogatory Nos. 77, 78, and 79, they appear to relate solely to allegations set forth in the complaint, and Defendants do not assert otherwise. The same is true of Interrogatory No. 80. These interrogatories are untimely and need not be answered. *See, e.g., Coram Health Care Corp. v. MCI Worldcom Communications, Inc.*, No. 01 C 1096, 2001 WL 1467681, at \*3 (N.D. Ill. Nov. 15, 2001) (requests to admit filed on the last day of fact discovery were untimely).

Plaintiffs must answer Defendants' January 31, 2007 contention interrogatories, excluding Nos. 77, 78, 79, and 80, within 7 days of receiving this Order. The request for a protective order quashing the interrogatories is granted in part and denied in part.