

**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' STATEMENT FOR JUNE 29, 2007 STATUS CONFERENCE

I. EXPERT DISCOVERY SCHEDULE

The principal issue before the Court for the June 29, 2007 status conference is the re-adoption of an expert discovery schedule. On March 12, 2007, the Court adopted the following expert discovery schedule:

1. The Class' Initial Expert Reports May 15, 2007
2. Defendants' Expert Reports July 16, 2007
3. The Class' Rebuttal Expert Reports August 16, 2007
4. Expert Deposition Cut-off September 28, 2007

This expert schedule tracked the parties' prior submissions in terms of sequencing and in terms of the single, month-long deposition period at the end of the process. *See, e.g.*, Joint Status Report and [Proposed] Rule 26(f) Discovery Plan at 5-6 [Docket No. 148] (setting forth joint proposal for expert discovery); The Class' Status Report to Magistrate Judge Nan R. Nolan in Advance of the March 12, 2007 Status Conference [Docket No. 1012] at 2.

During the last status conference, the Class proposed a revised schedule that tracked the prior schedule and slightly reduced the time periods for some stages to address the parties' greater knowledge of the case as well as the fact that they have had additional time to prepare for expert discovery. Following the status conference, the Class requested that defendants meet and confer to determine if a compromise could be reached on this issue. Defendants responded by proposing a radically different schedule that includes three separate month-long deposition phases. Defendants' proposal also included a provision by which each party would need to supplement its interrogatory responses where the response included a reference to expert testimony. On June 25, the parties met and conferred via telephone, but were unable to agree to a proposed schedule.

The Court should retain the sequenced expert schedule adopted on March 12. The parties do not need multiple deposition sessions, which would particularly disadvantage the Class should it

utilize the same experts for both its initial reports and its rebuttal reports. Further, this unorthodox feature adds two months to the schedule. This delay comes on top of other delays and is unfair to the Class members, who have already waited for more than four years for resolution of this case. Thus, while defendants desire to avoid the day of reckoning by slowing down the process, the Class wishes to proceed as expeditiously as possible. As to further interrogatory practice, this novel feature, which is without precedent, would only lead to further motion practice before this Court without any attendant benefit.

As to scheduling, defendants now should need less time. Defendants (like the Class) have used the E&Y delay to prepare their expert reports. Defendants have not only started their expert reports, but now have advance knowledge of two Class experts (and can guess the identity of the Class' accounting expert). At the last hearing in May, the Class informed the Court that defendants had contacted and sought to retain the Class' damages expert. Since then, defendants have contacted and sought to retain the Class' industry expert. Given the extensive discovery in this case, defendants know also the likely substance of the Class' expert reports. Defendants do not need two months (and certainly not three months and a deposition) to prepare their expert reports to support their case in chief and to address the Class' expert reports, but can do so within a month. The Class likewise will accept a month to prepare rebuttal reports.

The Class, therefore, urges the Court to adopt the following expert discovery schedule:

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|----|------------------------------------|--------------------|
| 1. | The Class' Initial Expert Reports | August 15, 2007 |
| 2. | Defendants' Expert Reports | September 19, 2007 |
| 3. | The Class' Rebuttal Expert Reports | October 17, 2007 |
| 4. | Expert Deposition Cut-Off | November 16, 2007 |

This schedule assumes that defendants have completed the production of E&Y related documents ordered by this Court and that the depositions of Msrs. Bianucci and Keller are completed by August 3, both of which should be feasible.

II. E&Y WORK PAPERS

By Order dated June 14, the Court resolved the remaining E&Y issues, granting the Class' motion in part and denying it in part. In the Order, the Court directed defendants to produce documents from nine core individuals' files by June 22 and to prepare a privilege log by that date as well. The Court's Order did not identify the nine individuals and so, by e-mail of June 14, the Class requested a meet and confer as to the nine core individuals. The Class proposed some possible choices while requesting defendants to identify who they regarded as core individuals and who they intended to search. Defendants would not identify any individuals within either category, asserting the Class could either select individuals based on its limited knowledge or accept defendants' unidentified alternatives. Faced with this choice and defendants' refusal to provide any further information, the Class identified nine individuals whom it believed to have core involvement.

On June 22, defendants submitted their updated privilege log on the E&Y issues, including a 171-page supplement to the prior log and a 270-page new log. However, defendants did not produce any documents on that date. Instead, defendants made documents available for inspection and copying in Chicago on Monday, June 25. As a result of defendants' untimely production, the Class has had time only for a limited review of these documents to determine compliance with the Court's directive. The Class has noted that defendants produced 150 pages from only five of the nine individuals identified by the Class and none from the other four, including Mr. Robin. The Class has requested an explanation from defendants and will seek to resolve with defendants any issues related to this production.

Additionally, the deposition dates for Mssrs. Bianucci and Keller remain unresolved. The Class wrote Ms. Nale, counsel for the witnesses, on June 19 requesting available dates during the last two weeks of July. Defense counsel were cc'd on this letter. To date, neither Ms. Nale nor defense counsel have provided any response as to the witnesses' availability or that of defense counsel's during this time period.

III. INTERROGATORY RESPONSES

This Court directed the supplementation of lead plaintiffs' responses to Interrogatory Nos. 56 and 64. Lead plaintiffs have requested and obtained a short extension of the time to respond and will submit amended responses to defendants on June 26. This completes the interrogatory discovery and the Class respectfully requests that the Court preclude any further motion practice by defendants as to these responses or any other responses previously submitted by lead plaintiffs. As noted in the prior status conference statement, defendants have not raised any issues with respect to any other interrogatory responses and thus, should not object to this preclusion.

DATED: June 26, 2007

Respectfully submitted,

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DECLARATION OF SERVICE BY E-MAIL 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 June 26, 2007 declarant served by electronic mail and by U.S. Mail to the parties: **THE CLASS' STATEMENT FOR JUNE 29, 2007 STATUS CONFERENCE**. The parties' email addresses are as follows:

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and by U.S. Mail to:

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I declare under penalty of perjury that the foregoing is true and correct. Executed this 26th day of June, 2007, at San Francisco, California.

s/ Juvily P. Catig

JUVILY P. CATIG