

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Ronald A. Guzman	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	02 C 5893	DATE	4/29/2009
CASE TITLE	Lawrence E. Jaffe Pension Plan, et al. vs. Household International Inc., et al.		

DOCKET ENTRY TEXT

For the reasons set forth in this Order, plaintiffs' motion to strike references to Arthur Andersen from the verdict form [doc. no. 1589] is granted.

Docketing to mail notices.

Courtroom Deputy Initials:	LC/LM
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Plaintiffs ask the Court to strike any reference to Arthur Andersen from the verdict form because the record does not contain evidence to support allocating liability to Andersen. Defendants say the evidence is in the form of judicial admissions plaintiffs made about Andersen in their amended complaint. Judicial admissions are “formal concessions in [a] pleading[] . . . that are binding upon the party making them.” *Keller v. United States*, 58 F.3d 1194, 1199 n.8 (7th Cir. 1995). The admission plaintiffs allegedly made is that Andersen knowingly violated Section 10b and Rule 10b-5. (*See* Defs.’ Mem. Law Opp’n Pls.’ Mot. Strike References Arthur Andersen Verdict Form at 3-4 (asserting as admissions plaintiffs’ allegations that Andersen “had direct knowledge” of Household’s improper accounting practices, “knew Household’s disclosures were false,” and “deliberately ignored information” that showed Household’s financial statements were misleading (internal quotations omitted)).) The Court is not convinced that plaintiffs can make judicial admissions about Andersen’s state of mind. But, even if plaintiffs can and did admit that Andersen knowingly violated Section 10b and Rule 10b-5, that admission would not defeat their motion to strike. On the contrary, it would clinch the motion because the PSLRA does not permit the liability to be allocated among knowing violators of the securities laws. *See* 15 U.S.C. § 78u-4(f)(2).

Defendants fare no better if the record is viewed without the purported admission. Though there was some testimony about the work Andersen did for Household, neither that testimony nor any other evidence introduced by either party, could reasonably support the conclusion that Andersen recklessly violated the securities laws. Because defendants have not proven, by any method, that Andersen is among the parties to whom liability can be allocated, the Court grants plaintiffs’ motion to strike.