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, vs. HOUSEHOLD INTERNATIONAL, INC., et al., Defendants.	Lead Case No. 02-C-5893 (Consolidated) CLASS ACTION Honorable Jorge L. Alonso

PLAINTIFFS' MOTION *IN LIMINE* TO BAR (1) TESTIMONY OR EVIDENCE CONCERNING ALLEGEDLY COMPANY-SPECIFIC NON-FRAUD INFORMATION THAT PURPORTEDLY DISTORTED PROFESSOR FISCHEL'S LEAKAGE AND SPECIFIC DISCLOSURES MODELS; (2) TESTIMONY OR ARGUMENT THAT FISCHEL'S LEAKAGE MODEL IS NOT A VALID METHOD FOR QUANTIFYING ARTIFICIAL INFLATION; (3) USE OF MATERIALS BY DEFENDANTS' EXPERTS THAT ARE NOT CITED IN THE EXPERTS' REPORTS, AND (4) CUMULATIVE TESTIMONY

PLAINTIFFS' MOTION *IN LIMINE* NO. 4

I. INTRODUCTION

Plaintiffs respectfully submit this motion *in limine* to bar (1) testimony or evidence concerning allegedly company-specific non-fraud information that purportedly distorted Professor Daniel Fischel's leakage and/or specific disclosures models; (2) testimony or argument that Fischel's leakage model is not a valid method for quantifying artificial inflation; (3) use of *Institutional Investor* magazine and other reliance materials not cited in defendants' experts' reports; and (4) cumulative testimony.

In its February 1, 2016 Order ("2/1/16 Order") (Dkt. No. 2102), this Court found that "the categories of disclosures that defendants characterize as firm-specific and unrelated to the fraud are neither." 2/1/16 Order at 6-7. *See also id.* at 22 (holding that "defendants have not identified 'significant, firm-specific, nonfraud related information that could have affected [Household's] stock price'"). Notwithstanding the Court's ruling, defendants included on their exhibit list dozens of exhibits reflecting market and industry factors, fraud-related information and stale information presumably to argue that these disclosures distorted Fischel's models. In light of the Court's ruling, these exhibits are irrelevant and would serve only to confuse the jury and prejudice plaintiffs.[1] They are therefore inadmissible under Federal Rules of Evidence 401, 402 and 403. Testimony and argument concerning the content of the Disclosure Exhibits or their supposed impact on Household's stock price and Fischel's models should be excluded for the same reason.

Likewise, testimony and argument that Fischel's leakage model cannot be used to measure inflation should be precluded because these attacks already were rejected in the district court and the Seventh Circuit, and under the law of the case doctrine cannot be revisited in the retrial.

[1] The specific exhibits plaintiffs seek to exclude on these grounds are Defendants' Exs. 1.A.1-4, 1.B.1-14, 1.C.1-25, D.1-16, 1.E.1-40, 1.E.42, 1.F.1-14, 2-10, 12-15, 17-38, 40-50, 52-75, 77, 91, 93-103, 114,130-31, 149-150, 179-180, 185, and 187 on defendants' exhibit list ("Disclosure Exhibits"). Many of the Disclosure Exhibits were expressly addressed in the Court's 2/1/16 Order. *See* Exhibits 1.A.3; 1.B.5; 1.C.2-3, 5, 7, 8, 13, 15, 17-18, 20, 25; 1.D.3-4, 6, 10-15; E.2, 5-6, 11, 14-16, 20, 22-23, 25-28, 31, 38, 42; 1.F.1, 5, 8-10; 18; 32; 44, 49, 57, 70, 75, 97, and 99. Although the remaining Disclosure Exhibits were not expressly addressed by the Court's Order, they are offered for the same improper purpose. *See* Exhibits 1.A.1-2, 4; 1.B.1-4, 6-14; 1.C.1, 4, 6, 9-12, 14, 16, 19, 21-24; 1.D.1-2, 5, 7-9, 16; 1.E.1, 3-4, 7-10, 12-13, 17-19, 21, 24, 29-30, 32-37, 39-40; 1.F.2-4, 6-7, 11-14; 2-10; 12-15; 17; 19-31; 33-38; 40-43; 45-48; 50; 52-56; 58-69; 71-74; 91; 93-96; 98; 100-103; 114; 130-131; 149-150; 179-180; 185; 187.

Defendants also should be barred from using with their experts or otherwise introducing *Institutional Investor* magazine (Defendants' Exs. 2, 77) and any other exhibits that were not cited in the experts' reliance materials under Federal Rule of Civil Procedure 37(c) ("Rule 37(c)"). Ferrell utterly failed to disclose in his reports his reliance on *Institutional Investor* magazine in selecting the companies for his peer index – an integral part of his expert opinions. None of defendants' experts disclosed reliance on Exs. 1-A.4, 1-B.3-4, 1-B.6, 1-B.14, 1-C.1, 1-C.12, 1-C.14, 1-E.1, 1-E.3-4, 1-E.18, 1-E.35-37, 1-E.40, 1-F.2, 1-F.4, 15, 21, 38, 50, 68, 114, 130-31, 149-50, 179-80, 185. Because defendants improperly withheld information required to be disclosed under Rule 26(a), they are precluded from using that same information against plaintiffs at trial.

Finally, defendants should be precluded from presenting needlessly cumulative testimony about market disclosures and their impact on Household's stock price. Defendants have identified three cumulative experts on the subject, and it appears they would like to introduce additional testimony on the topic from lay witnesses. Many of these witnesses are subject to objections and/or motions to exclude, but to the extent any of them are permitted to testify defendants should be allowed only one witness on the topic.

II. ARGUMENT

A. Defendants Should Be Precluded from Introducing the Disclosure Exhibits, Testimony About the Disclosure Exhibits, and Testimony that Company-Specific, Nonfraud-Related Factors Distorted Professor Fischel's Models

After analyzing each category of nonfraud, company-specific information defendants claimed distorted Professor Fischel's models, this Court ruled that the identified disclosures were, in fact, neither company-specific nor nonfraud-related.[2] *See* 2/1/16 Order at 6. The Court further held that defendants had failed to meet the burden placed upon them by the Seventh Circuit to demonstrate that there was some firm-specific, nonfraud related information that distorted Professor

[2] Defendants claimed the disclosures pertained to the following topics: (1) Household's liquidity, access to capital markets, and widening bond spreads; (2) credit quality; (3) increased capital requirements for subprime lending institutions; (4) concerns regarding future regulatory and legislative changes; (5) matters specific to Household's auto and credit services business lines; and (6) the disproportionate impact of the "double-dip" recession on subprime lenders. *See* 2/1/16 Order at 6, 14; Ferrell Report, ¶¶44-54 (Dkt. No. 2060-3); James Report, ¶¶24-57 (Dkt. No. 2060-4); Dkt. No. 2059 at 20-21.

Fischel's models. *See id*. at 6-7, 14; *Glickenhaus & Co. v. Household Int'l, Inc.*, 787 F.3d 408, 419 (7th Cir. 2015) ("*Glickenhaus*") (requiring defendants to provide "significant negative information about Household unrelated to these corrective disclosures (and not attributable to market or industry trends)" to discredit Fischel's Quantification Including Leakage). Finally, the Court rejected defendants' and their experts' other attacks on "the validity of the leakage model generally as a method for quantifying artificial inflation" because "[t]hese arguments . . . were rejected by Judge Guzmán and/or the Court of Appeals and defendants provide no basis for revisiting them now." 2/1/16 Order at 5. Specifically, the Court rejected the arguments that, as applied to this case, the leakage model "does not comport with the academic literature, violates accepted economic standards, improperly includes net inflation both from the days on which there was no statistically significant stock price decline and on the days that there was, and uses the wrong peer index." *Id*. In light of these rulings, evidence concerning defendants' Disclosure Exhibits and testimony about purported "firm-specific, nonfraud related information" during the Leakage Period, or its impact on Fischel's inflation calculations, no longer has any bearing on an issue in this case, and should not be presented to the jury.

Rule 402 is unequivocal that "[i]rrelevant evidence is not admissible." Fed. R. Evid. 402. In order to be relevant, evidence must have a "'tendency to make the existence of any fact that is ***of consequence to the determination of the action*** more probable or less probable than it would be without the evidence." *Thompson v. City of Chicago*, 472 F.3d 444, 453 (7th Cir. 2006) (quoting Fed. R. Evid. 401) (emphasis in original).

Evidence concerning the Disclosure Exhibits is irrelevant to any factual issue in this case. First, as this Court recognized, the Disclosure Exhibits reflect only market and industry factors or general economic trends – the very types of information the Seventh Circuit held Fischel adequately controls for in his model. *See* 2/1/16 Order at 6-7, 14; *Glickenhaus*, 787 F.3d at 421. As the Seventh Circuit's holding is the law of the case, whether Fischel controlled for the factors identified in the Disclosure Exhibits is not an issue the jury will decide. *See Redfield v. Continental Cas. Corp.*, 818 F.2d 596, 605 (7th Cir. 1987) ("when a court decides upon a rule of law, that decision

should continue to govern the same issues in subsequent stages of the same case"); *McCauley v. Nucor Corp.*, No. 1:05-cv-0024-TAB-RLY, 2007 WL 2316463, at *7 (S.D. Ind. Aug. 10, 2007) (expert testimony not relevant where it concerned matters the court had already disposed of).

Second, this Court has determined that Ferrell's and James incorrectly categorized the disclosures they identified as company-specific and nonfraud-related. *See* 2/1/16 Order at 6-7, 14. The Disclosure Exhibits and related testimony are therefore of no probative value and should not be presented to the jury. Nor should Ferrell's and James' opinions that firm-specific, nonfraud-related information "may have" or "could have" contributed to Household's stock price decline on various days during the disclosure period. *See, e.g.*, Ferrell Depo. Tr. at 293:23-294:4, attached as Ex. 1 to the Declaration of Luke O. Brooks in Support of Plaintiffs' Motions *in Limine* ("Brooks Decl."), filed herewith;[3] James Report, ¶58.[4] Not only are these opinions derived from false premises, they are not based on any quantitative analyses and, as such, are purely speculative. *See* Ferrell Depo. Tr. at 293:23-294:4; James Depo. Tr. at 15:5-13 (Dkt. No. 2130-9). Expert ***guesses*** do not help jurors determine the facts, and indeed, are far more likely to confuse or mislead them. *See Jones v. Nat'l Council of Young Men's Christian Ass'ns of the United States*, 34 F. Supp. 3d 896, 901 (N.D. Ill. 2014) (excluding expert testimony that "blur[red], if not erase[d] altogether, the line between hypothetical possibility and concrete fact" pursuant to Rule 403); *Minemyer v. B-Roc Representatives, Inc.*, No. 07-C-1763, 2012 WL 346621, at *5 (N.D. Ill. Feb. 2, 2012) (excluding evidence that would "do no more than invite speculation" as "juries may not base judgments on speculation and conjecture").

Even if it is somehow marginally relevant, the Disclosure Exhibits and testimony about them should be excluded under Federal Rule of Evidence 403.[5] Under Rule 403, trial courts have the

[3] *See also* Ferrell Report, ¶¶56, 62-64, 66, 71, 74, 79, 81-82, 84, 88, 90, 93, 96, 100, 102-195 (identifying information that ***may*** have contributed to Household's stock price decline).

[4] *See also* James Rebuttal Report, ¶¶25, 28, 30, 32 (Dkt. No. 2074-4) (various news ***may*** have impacted quantification of "firm-specific" returns).

[5] *See Minemyer*, 2012 WL 346621, at *4 (noting that "among the purposes of the Federal Rules of Evidence is assuring that irrelevant evidence does not unfairly prejudice the trial").

discretion to "exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." *See also Thompson*, 472 F.3d at 457-58 (citing Fed. R. Evid. 403). As described above, the probative value of evidence concerning the existence of company-specific, nonfraud disclosures during the Leakage Period, and the impact of such disclosures on Fischel's models, if any, is extremely minimal.[6] The risk that the jury's determination will be prejudiced by such information is substantially greater.

First, the Disclosure Exhibits, having already been found inadequate by the Court, present a real danger of confusing the jury regarding what issues they are being asked to determine and whether jurors should consider the allegedly "company-specific, nonfraud" disclosures contained therein when determining damages. Testimony concerning the Disclosure Exhibits poses the same risks. *See Paine v. Johnson*, No. 06-CV-3173, 2010 WL 724909, at *3 (N.D. Ill. Feb. 23, 2010) (excluding expert's testimony where her unsound conclusions would "only mislead, and not assist, the jury in their role as the ultimate finder of fact"); *see also Glickenhaus*, 787 F.3d at 420 (noting e-mails and reports from Household's executives, as well as various reports from market analysts, attributed the entirety of the stock's decline to fraud-related disclosures); 2/1/16 Order at 6-22 (detailing evidence contradicting Ferrell's and James' opinions that certain disclosures were company-specific and unrelated to the fraud). The Disclosure Exhibits and related evidence could therefore easily confuse the jury about the nature or extent of Household's fraud, and how Fischel's models account for such information, issues critical to determining whether defendants' actions caused plaintiffs' losses.

In sum, permitting defendants to present the Disclosure Exhibits and related unsupported expert opinion and lay testimony about their subject matter is likely to have an unfairly prejudicial effect on the jury's loss causation and damages findings that vastly outweighs the probative value of such evidence. *See Fail-Safe, LLC v. A.O. Smith Corp.*, 744 F. Supp. 2d 870, 900 (E.D. Wis. 2010)

[6] *See United States v. Boros*, 668 F.3d 901, 910 (7th Cir. 2012) ("Evidence bearing minimal probative value is admissible only if it bears a ***remote*** risk of prejudice.") (emphasis added).

(excluding expert testimony under Rule 403 where there were "fundamental problems" with basic assumptions underlying the opinions and an "obvious danger of putting unrealistic damages figures before the jury"); *Daubert v. Merrell Dow Pharms.*, 509 U.S. 579, 595 (1993) (noting that "'[e]xpert evidence can be both powerful and quite misleading'" and so cautioning "'judge[s] in weighing possible prejudice against probative force under Rule 403 . . . [to] exercise[] more control over experts than over lay witnesses'") (citation omitted).

In addition, testimony and argument that Fischel's leakage model is not a valid method to measure inflation should be precluded because defendants' attacks on this topic already were rejected by Judge Guzmán and/or the Seventh Circuit, and it would be impermissible to revisit them in the retrial. *United States v. Barnes*, 660 F.3d 1000, 1006 (7th Cir. 2011) (under the law of the case doctrine, "[i]f this Court remands to correct a 'discrete, particular error that can be corrected . . . without . . . a redetermination of other issues, the district court is limited to correcting that error'") (quoting *United States v. Parker*, 101 F.3d 527, 528 (7th Cir. 1996)); *Roboserve, Inc. v. Kato Kagaku Co.*, 121 F.3d 1027, 1031 (7th Cir. 1997) ("'the most elementary application of the doctrine of law of the case'" requires the district court to "'comply with the rulings of the appellate court'") (citation omitted).

B. *Institutional Investor* Magazine and Other Exhibits Not Cited in the Experts' Reports Should Be Excluded

Rule 26(a)(2) requires an expert witness to disclose "all opinions the witness will express and the basis and reasons for them" along with "the facts or data considered by the witness in forming" his opinions. Fed. R. Civ. P. 26(a)(2)(B)(i), (ii). Rule 26(a)(2) is designed to prevent one party from ambushing its adversary at trial. *See Salgado by Salgado v. General Motors Corp.*, 150 F.3d 735, 742 n.6 (7th Cir. 1998). To that end, information that is not disclosed as required by Rule 26(a) is "automatic[ally]" excluded from being used as evidence at trial unless the party at fault can show that its violation was substantially justified or harmless. *See* Fed. R. Civ. P. 37(c)(1); *Baker v. Indian Prairie Community Unit*, No. 96 C 3927, 1999 WL 988799, at *3 (N.D. Ill. Oct. 26, 1999) (striking untimely expert opinions and data where failure to disclose was neither justified nor harmless).

Here, defendants' failure to disclose data on which their expert relied was neither justified nor harmless and merits exclusion. For example, defendants proffer *Institutional Investor* magazine as an intended trial exhibit, a publication Ferrell admitted for the first time at his deposition that he had relied on extensively in forming his opinions. *See* Ferrell Depo. Tr. at 229:5-230:19.[7] Defs' Trial Exs. 2, 77. Ferrell testified that he had consulted *Institutional Investor*, a publication that purports to "rank" analysts, in order to ascertain the "star" analyst from 2001. Ferrell Depo. Tr. at 227:8-228:11. Because the "star" analyst identified for that year was from CSFB, Ferrell chose to select companies from the CSFB Specialty Finance Universe for his peer index. *Id.* Ferrell's index not only forms the basis of his opinion that firm-specific, nonfraud-related information could have impacted Household's stock price,[8] *see, e.g.*, Ferrell Report, ¶42, it is also integral to the model Ferrell uses to arrive at his alternative quantification of inflation. *See* Ferrell Rebuttal Report, ¶75 (Dkt. No. 2074-3). Ferrell's omission of a material he claims was essential in forming his opinions from either of his expert reports violates Rule 26(a)(2), and warrants exclusion of the omitted material from trial.

Defendants' exhibit list also contains numerous Disclosure Exhibits and reliance materials never identified in the experts reports. *See* Exs. 1-A.4, 1-B.3-4, 1-B.6, 1-B.14, 1-C.1, 1-C.12, 1-C.14, 1-E.1, 1-E.3-4, 1-E.18, 1-E.35-37, 1-E.40, 1-F.2, 2, 15, 21, 38, 50, 68, 77, 114, 130-31, 149-50, 171, 179-80, 185.[9]

Further, defendants' failure to disclose *Institutional Investor* and numerous other Disclosure Exhibits and reliance materials was not substantially justified. Defendants have offered no

[7] Even if *Institutional Investor* had not been improperly withheld during expert discovery, it would still be inadmissible under Federal Rules of Evidence 703 and 403.

[8] To the extent defendants offer this document in support of Ferrell's opinions regarding company-specific, nonfraud disclosures during the disclosure period, it should be excluded for the reasons cited in §II.A., *supra*.

[9] Defendants have not disclosed how they intend to use these exhibits; however, there is no witness on defendants' list that could testify about these exhibits for any permissible purpose other than to give opinion testimony. If these exhibits are intended for use with defendants' retained experts, defendants were required to disclose them in their experts' reports. Use of these documents to support or supplement lay opinion testimony by defendants' other witnesses would be improper because defendants have not complied with Fed. R. Civ. P. 26(a)(2). *See* Plaintiffs' Motion *in Limine* to Preclude Fact Witnesses From Offering Impermissible Opinion Testimony (Motion *in Limine* No. 6).

explanation for the omission of such critical reliance material from any expert's reports. *See* Ferrell Report, Appendix B; Ferrell Rebuttal Report, Appendix B. Ferrell's noncompliance with Rule 26(a)(2) was also not harmless, given the importance of Ferrell's peer index to his overall conclusions and the admittedly integral role the omitted materials played in Ferrell's formation of his peer index. Nor is defendants' failure to disclose numerous additional Disclosure Exhibits and other reliance materials after the deadline for expert disclosures harmless – they were disclosed well after plaintiffs' expert's final opportunity to respond, and defendants have never disclosed how their experts intend to use the documents. *Musser v. Gentiva Health Servs.*, 356 F.3d 751, 755 (7th Cir. 2004) (emphasizing that the formal requirements of Rule 26 are not pointless, and upholding exclusion of untimely expert testimony). Having ambushed plaintiffs with undisclosed information first at Ferrell's deposition and then again after the close of expert discovery, defendants cannot now benefit from their misconduct by using that same information at trial. *See Hoffman v. Caterpillar, Inc.*, 368 F.3d 709, 714-15 (7th Cir. 2004) (excluding evidence relating to undisclosed basis for expert testimony).

C. Defendants Should Be Precluded from Presenting Needlessly Cumulative Testimony at Trial

Defendants intend to call three experts and at least one lay witness[10] to testify about market disclosures and their impact on Household's stock price. In tendering such testimony, defendants ignore this District's Rule that "[o]nly one F.R. Evid. witness on each subject for each party will be permitted to testify absent good cause shown," *see* Form LR 16.1.1, as well as Rule 403's stricture against needlessly cumulative testimony. *See* Fed. R. Evid. 403 (relevant evidence is excludable where its probative value is substantially outweighed by the danger of "wasting time or needlessly presenting cumulative evidence"); *Forsythe v. Rosen Med. Group, LLC*, No. 11-CV-7676, 2015 WL

[10] Defendants have listed five individuals that may be called as fact witnesses: defendants William Aldinger, Gary Gilmer and David Schoenholz and Household's former Treasurer Edgar Ancona and former Vice President of Corporate Relations and Communications Craig Streem. *See* Pretrial Order, Ex. D-3. Mr. Ancona is likely to testify to matters concerning Household's liquidity, access to capital markets, and widening bond spreads – in other words, one of the six categories of purportedly nonfraud, company-specific information identified by defendants' experts. It is possible defendants also intend to elicit similar testimony from other lay witnesses.

127921, at *5 (excluding expert testimony under Rule 403 as needlessly cumulative where the party's two experts would offer the same opinion at trial).

Permitting Ferrell, Cornell, James and lay witnesses to testify as to possible market disclosures and their effect on Household's share price will result in the presentation of duplicative evidence that will waste both the jury's and the Court's time. For example, both Ferrell and James opine that various industry or market information could have affected Household's stock price during the Leakage Period,[11] including: the recession; a potential double-dip recession; overall industry credit quality issues; the difficult funding environment; an increase in bankruptcy filings and unemployment; increased capital requirements; new FFIEC guidelines for credit card companies; and changes in regulations for subprime lenders. Such testimony is already unnecessarily duplicative; additional lay testimony on these topics can offer no further value for the jury.[12]

Defendants cannot show that good cause exists to allow them to call multiple witnesses to testify to matters that were adequately covered by one defense expert in the first trial, particularly in light of the unfairly prejudicial effect that would likely result. *See Harbor Ins. Co. v. Continental Bank Corp.*, No. 95 C 7081, 1991 WL 222260, at *5-*7 (N.D. Ill. Oct. 25, 1991) (excluding cumulative testimony proffered without good cause). Allowing multiple witnesses to testify to the same material will inevitably waste a significant amount of time. *See Sunstar, Inc. v. Albert-Culver Co., Inc.*, No. 01 C 0736, 01 C 5825, 2004 WL 1899927, at *25 (N.D. Ill. Aug. 23, 2004) (witnesses expressing the same opinions on a subject "is a waste of time"); *Fields v. Withoff*, No. 3:12-cv-1170-NJR-DGW, 2015 WL 5174000, at *2 (S.D. Ill. Sept. 2, 2015) (precluding expert testimony that

[11] Indeed, in support of their identical opinions, they often cite to the exact same analyst reports. *Compare, e.g.*, Ferrell Report, ¶52 *with* James Report, ¶54; Ferrell Rebuttal Report, ¶¶39-43 *with* James Report, ¶¶36-37; and Ferrell Report, ¶¶45-46 *with* James Report, ¶29.

[12] As discussed in Plaintiffs' Omnibus Motion to Exclude Defendants' Experts, Dkt. No. 2128, Ferrell and Cornell similarly overlap, with each claiming that Fischel's leakage model: (1) uses an overly long event window that results in the compounding of errors; (2) does not account for statistical noise; (3) attributes leakage of the fraud to declines on the 171 days with no statistical significance; (4) improperly attributes the fraud to 15 statistically significant days. *See* Dkt. No. 2130-1. Meanwhile, all three experts claim that Fischel's opinions lack academic support, claim his regression analysis is flawed, and dispute the propriety of Fischel's 228-trading day window. *See id.*, Nos. 2-4.

would "simply be cumulative" of party's lay testimony). Moreover, while the relevancy of evidence of market disclosures and their effect on Household's stock price is doubtful, at best (*see supra*, §II.A.), allowing multiple witnesses to testify to such matters may mislead the jury to give that evidence and testimony undue weight – simply because defendants have taken care to repeat them. *See, e.g.*, *Thompson*, 472 F.3d at 457-58 ("'evidence is considered unfairly prejudicial . . . [where] its admission makes it likely that the jury will be induced to decide the case on an improper basis'") (citation omitted); *Sunstar*, 2004 WL 1899927, at *25 (citing "unfair possibility" that "jurors will resolve competing expert testimony by 'counting heads' rather than evaluating the quality and credibility of the testimony"). The probative value of cumulative testimony concerning market disclosures and their effect on Household's stock price is substantially outweighed by unfair prejudice to plaintiffs. Defendants should therefore be ordered to select one witness, ***at most***, to testify on such matters.

III. CONCLUSION

For the reasons stated above, plaintiffs respectfully request an Order to bar (1) testimony or evidence concerning allegedly company-specific non-fraud information that purportedly distorted Professor Daniel Fischel's leakage and/or specific disclosures models; (3) testimony or argument that Fischel's leakage model is not a valid method for quantifying artificial inflation; (4) use of *Institutional Investor* magazine and other reliance materials not cited in defendants' experts' reports; and (5) cumulative testimony.

DATED: April 22, 2016

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP
MICHAEL J. DOWD (135628)
SPENCER A. BURKHOLZ (147029)
DANIEL S. DROSMAN (200643)
LUKE O. BROOKS (90785469)
LAWRENCE A. ABEL (129596)
HILLARY B. STAKEM (286152)

s/ Luke O. Brooks
LUKE O. BROOKS

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

ROBBINS GELLER RUDMAN
& DOWD LLP
MAUREEN E. MUELLER
120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432
Telephone: 561/750-3000
561/750-3364 (fax)

Lead Counsel for Plaintiffs

MILLER LAW LLC
MARVIN A. MILLER
LORI A. FANNING
115 S. LaSalle Street, Suite 2910
Chicago, IL 60603
Telephone: 312/332-3400
312/676-2676 (fax)

Liaison Counsel

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2016, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses for counsel of record denoted on the attached Service List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 22, 2016.

s/ Luke O. Brooks

LUKE O. BROOKS

ROBBINS GELLER RUDMAN
& DOWD LLP
655 West Broadway, Suite 1900
San Diego, CA 92101-8498
Telephone: 619/231-1058
619/231-7423 (fax)

E-mail: LukeB@rgrdlaw.com

Jaffe v. Household Int'l, Inc., No. 02-5893 (N.D. Ill.)
Service List

Counsel	E-mail address
Stewart Theodore Kusper Giovanni Antonio Raimondi THE KUSPER LAW GROUP, LTD. 20 North Clark Street, Suite 3000 Chicago, IL 60602 (312) 204-7938 Tim S. Leonard JACKSON WALKER L.L.P. 1401 McKinney Street, Ste. 1900 Houston, TX 77010 (713)752-4439	Stewart.Kusper@Kusperlaw.com Giovanni.Raimondi@Kusperlaw.com tleonard@jw.com
Counsel for Defendant David A. Schoenholz	
Dawn Marie Canty Gil M. Soffer KATTEN MUCHIN ROSENMAN LLP 525 West Monroe Street Chicago, Illinois 60661 (312)902-5253	dawn.canty@kattenlaw.com gil.soffer@kattenlaw.com
Counsel for Defendant William F. Aldinger	
David S. Rosenbloom C. Maeve Kendall McDERMOTT WILL & EMERY, LLP 227 West Monroe Street Chicago, IL 60606 (312) 984-2175	drosenbloom@mwe.com makendall@mwe.com
Counsel for Defendant Gary Gilmer	
R. Ryan Stoll Mark E. Rakoczy Andrew J. Fuchs Donna L. McDevitt Patrick Fitzgerald SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP 155 North Wacker Drive Chicago, IL 60606 (312)407-0700	rstoll@skadden.com mrakoczy@skadden.com Andrew.Fuchs@skadden.com Donna.McDevitt@skadden.com Patrick.Fitzgerald@skadden.com pclement@bancroftpllc.com zhudson@bancroftpllc.com TKavaler@cahill.com Jhall@cahill.com dbutswinkas@wc.com sfarina@wc.com

Counsel	E-mail address
Paul D. Clement D. Zachary Hudson BANCROFT PLLC 1919 M Street NW, Ste. 470 Washington, DC 20036 (202)234-0090 Thomas J. Kavaler Jason M. Hall CAHILL GORDON & REINDEL LLP 80 Pine Street New York, NY 10005 (212)701-3000 Dane H. Butswinkas Steven M. Farina Leslie C. Mahaffey Amanda M. MacDonald WILLIAMS & CONNOLLY LLP 725 Twelfth Street NW Washington DC 20005 202-434-5000 Luke DeGrand Tracey L. Wolfe DEGRAND & WOLFE, P.C. 20 South Clark Street Suite 2620 Chicago, Illinois 60603 (312) 236-9200 (312) 236-9201 (fax)	lmahaffey@wc.com amacdonald@wc.com twolfe@degrandwolfe.com ldegrand@degrandwolfe.com
Counsel for Defendant Household International Inc.	

Counsel	E-mail address
Michael J. Dowd Spencer A. Burkholz Daniel S. Drosman Luke O. Brooks Hillary B. Stakem ROBBINS GELLER RUDMAN & DOWD LLP 655 West Broadway, Suite 1900 San Diego, CA 92101 (619)231-1058 619/231-7423 (fax) Jason C. Davis ROBBINS GELLER RUDMAN & DOWD LLP Post Montgomery Center One Montgomery Street, Suite 1800 San Francisco, CA 94104 (415)288-4545 (415)288-4534 (fax) Maureen E. Mueller ROBBINS GELLER RUDMAN & DOWD LLP 120 East Palmetto Park Road, Suite 500 Boca Raton, FL 33432 (561)750-3000 (561)750-3364 (fax)	miked@rgrdlaw.com spenceb@rgrdlaw.com dand@rgrdlaw.com lukeb@rgrdlaw.com hstakem@rgrdlaw.com jdavis@rgrdlaw.com mmueller@rgrdlaw.com
Lead Counsel for Plaintiffs	
Marvin A. Miller Lori A. Fanning MILLER LAW LLC 115 S. LaSalle Street, Suite 2910 Chicago, IL 60603 (312)332-3400 (312)676-2676 (fax)	Mmiller@millerlawllc.com Lfanning@millerlawllc.com
Liaison Counsel for Plaintiffs	