

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LAWRENCE E. JAFFE PENSION PLAN,))	
on Behalf of Itself and All Others Similarly))	
Situated,))	Case No. 02 C 5893
Plaintiff,))	
)	Judge Jorge L. Alonso
)	
v.))	
)	
HOUSEHOLD INTERNATIONAL, INC.,))	
et al.,))	
)	
Defendants.))	

**DEFENDANTS' MOTION IN LIMINE NO. 5
TO PRECLUDE REFERENCES TO NON-PARTIES HSBC AND HSBC FINANCE**

Defendants respectfully move the Court for an Order precluding any reference to non-parties HSBC Bank PLC (“HSBC”) or HSBC Finance Corp. (“HSBC Finance”), including the financial condition of either company, as irrelevant and unfairly prejudicial. In support of this motion, Defendants state as follows:

1. Plaintiffs may attempt to offer at trial irrelevant evidence about HSBC or HSBC Finance. Under Federal Rule of Evidence 402, evidence must be relevant to be admissible at trial. Federal Rule of Evidence 401 defines “relevant” evidence as something that “has any tendency to make a fact more or less probable than it would be without the evidence” and that “fact is of consequence in determining the action.”

2. HSBC and HSBC Finance are not parties to the case and any reference to either company would not render a fact of consequence in this trial more or less likely. Defendant Household International, Inc. (“Household”) was not owned by, or in any way associated with, HSBC at any time between March 23, 2001 and October 11, 2002 (the “Class Period”). It was

only after the conclusion of the Class Period that HSBC acquired Household, and only then did Household become HSBC Finance. At all times during the Class Period, Household was an independent corporation. Because HSBC did not own Household or control Household's actions during the Class Period, the financial condition of HSBC and HSBC Finance is irrelevant.

3. Information about the financial condition of HSBC or any of its subsidiaries is also not relevant because the only disputed issues in this trial involve loss causation and damages. The net worth and other financial information of a non-party parent company are not probative to the actions of a subsidiary company unless there is a showing that the parent company is the alter ego of the subsidiary. Because Household was not acquired by HSBC until after October 11, 2002, no alter ego relationship did or could exist. Therefore, any financial information about HSBC is irrelevant. *Mathias v. Accor Economy Lodging, Inc.*, 2002 WL 1611582, at *1 (N.D. Ill. July 22, 2002) (granting motion *in limine* to exclude as irrelevant evidence of net worth of “defendants’ parent company and non-party to this suit”); *Pucci v. Litwin*, 1993 WL 405448, at *1 (N.D. Ill. Oct. 4, 1993) (finding evidence of party’s financial condition “irrelevant and prejudicial”); *see also Grizzle v. Travelers Health Network*, 14 F.3d 261, 271 (5th Cir. 1994) (affirming district court’s decision to “exclude evidence of [parent company’s] net worth”); *Spellbound Dev. Grp. Inc. v. Pacific Handy Cutter Inc.*, 2012 WL 8748801, at *3 (C.D. Cal. Feb. 24, 2012) (granting defendants’ motion *in limine* to exclude as irrelevant evidence about parent company’s “assets or size”); *Greenwell v. Raytheon Aerospace Co.*, 1996 WL 476605, at *1 (E.D. La. Aug. 22, 1996) (granting defendant’s motion *in limine* to exclude as irrelevant evidence about parent company’s “net worth”).

4. Even if the financial information for HSBC and HSBC Finance were relevant, it would be substantially more prejudicial than probative because of its slight probative value

compared with the enormous danger for unfair prejudice. Federal Rule of Evidence 403 allows the Court to preclude evidence, even if relevant, so long as the “probative value” of the evidence “is substantially outweighed by a danger” of, *inter alia*, “unfair prejudice.” Offering evidence of HSBC’s and HSBC Finance’s net worth and assets presents a “particularly high” danger: that the probative value of such evidence is “outweighed by its unfairly prejudicial impact . . . where a plaintiff references a defendant’s financial status for the purpose of invoking the jury’s sympathy by conjuring a David versus Goliath scenario.” *Wielgus v. Ryobi Techs., Inc.*, 2012 WL 1853090, at *6 (N.D. Ill. May 21, 2012). In other words, evidence of HSBC’s and HSBC Finance’s financial status would impermissibly play on juror’s prejudices and should be excluded. *Van Bumble v. Wal-Mart Stores, Inc.*, 407 F.3d 823, 826 (7th Cir. 2005) (“Evidence regarding . . . relative wealth or poverty is irrelevant and would have been prejudicial to the jury’s determination of damages.”); *see also United States v. Stahl*, 616 F.2d 30, 31, 33 (2d Cir. 1980) (holding in criminal case that prosecutor’s attempt to “equate wealth with wrongdoing and to appeal to the potential bias of not-so-wealthy jurors” was “improper” and had “no place in a court room”).

5. Evidence regarding HSBC and HSBC Finance would also prejudice Household by suggesting to the jury that Household has deep pockets, which is permissible only in cases involving potential punitive damages. *Wielgus*, 2012 WL 1853090, at *6. Punitive damages are not at issue in this trial and discussion of the potential resources of Household’s acquirer is therefore improper and prejudicial. *Ehrlich v. Central Transport, LLC*, 2014 WL 1404645, at *6-7 (N.D.W.V. Apr. 10, 2014) (granting motion *in limine* to exclude evidence of defendants’ “monetary assets and/or net worth” as “not relevant” and “because its probative value is

substantially outweighed by the danger of unfair prejudice” because, *inter alia*, punitive damages were not an issue in trial).

WHEREFORE, the Court should grant Defendants’ Motion *In Limine* No. 5 and preclude references to non-parties HSBC and HSBC Finance for the reasons stated above.

Dated: April 22, 2016

Respectfully submitted,

/s/ R. Ryan Stoll

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CERTIFICATE OF SERVICE

R. Ryan Stoll, an attorney, hereby certifies that on April 22, 2016, he caused true and correct copies of the foregoing Defendants' Motion *In Limine* No. 5 To Preclude References to Non-Parties HSBC and HSBC Finance to be served via the Court's ECF filing system on the following counsel of record in this action:

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