

**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. )	
_____ )	

**DECLARATION OF LUKE O. BROOKS IN SUPPORT OF LEAD PLAINTIFFS'  
COMPLIANCE WITH LOCAL RULE 37.2**

I, LUKE O. BROOKS, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am associated with the law firm of Lerach Coughlin Stoia Geller Rudman & Robbins LLP, one of the counsel of record for plaintiffs in the above-entitled action. I am also admitted to the General Bar for the United States District Court for the Northern District of Illinois. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

2. On July 1, 2004, defendants Household International, Inc. (“Household”), Household Finance Corporation, William F. Aldinger, David A. Schoenholz, Gary Gilmer, and J.A. Vozar (“defendants”) answered the Corrected Amended Consolidated Class Action Complaint for Violation of the Federal Securities Laws (“Complaint”). In their answer, defendants asserted 22 affirmative defenses to the claims alleged in plaintiffs’ Complaint. On July 16, 2004, plaintiffs served defendants with Plaintiffs’ First Set of Interrogatories (“Interrogatories”) which sought “all facts” upon which defendants based their affirmative defenses, the identity of all persons with knowledge of these facts, and the identity of all documents which support defendants’ affirmative defenses. A true and correct copy of the Interrogatories is attached hereto as Exhibit A.

3. Defendants have failed to provide a meaningful explanation of the factual basis for defendants’ affirmative defenses in their interrogatory responses, instead choosing to simply designate documents. Plaintiffs held meet and confers with defendants on August 26, 2004, October 20, 2004, January 31, 2005 and July 18, 2005 to attempt to resolve this issue. True and correct copies of letters memorializing the August 26, 2004, October 20, 2004, January 31, 2005 and July 18, 2005 meet and confers are attached hereto as Exs. B-E. Still, defendants have refused to provide the factual basis for their affirmative defenses, consistently maintaining (1) it is too early in the discovery process; and (2) that they need discovery from plaintiffs.

4. Defendants' August 16, 2004 Responses and Objections to Plaintiffs' First Set of Interrogatories ("Responses") did not provide answers to the Interrogatories at all, refusing to identify the facts and documents supporting defendants' affirmative defenses on the grounds that discovery had not yet commenced. However, defendants assured plaintiffs that their responses would be supplemented after further information was obtained. True and correct copies of the Responses are attached hereto as Exhibit F.

5. On August 26, 2004, the parties held a meet and confer during which plaintiffs challenged defendants' blanket objection as both improper and unfounded. Defendants took the position that the Interrogatories were premature and that they could not respond without taking discovery from plaintiffs. Plaintiffs informed defendants of their duty to respond to the Interrogatories in whole or in part with whatever information was currently in their possession. Plaintiffs also pointed out that most, if not all, of defendants' affirmative defenses were completely unrelated to any information that might be gleaned from future discovery of plaintiffs and that there were 13 affirmative defenses for which defendants already possessed most or all of the information required to provide answers. As a compromise, plaintiffs requested responses to 13 affirmative defenses (1-7, 9-10, 12-14, and 18) for which defendants controlled most, if not all, of the information necessary to provide a response to the Interrogatories and, at that time, agreed to defer interrogatories on the nine remaining affirmative defenses (8, 11, 15-17, and 19-22). A true and correct copy of a letter dated August 30, 2004, memorializing the August 26, 2004 meet and confer is attached hereto as Exhibit B.

6. On October 20, 2004, plaintiffs followed up their request for supplementation of the Responses in a meet and confer with defendants during which plaintiffs insisted that they were entitled to know the factual basis for the affirmative defenses asserted by defendants. Plaintiffs again pointed to interrogatories regarding affirmative defenses 1-7, 9, 10, 12-14, and 18 for which

responses could be made without discovery from defendants. A true and correct copy of a letter dated October 26, 2004, memorializing the October 20, 2004 meet and confer is attached hereto as Exhibit C.

7. In a letter dated October 29, 2004, defendants admitted that they possessed information required to respond to the Interrogatories stating that “[m]any of the answers to the interrogatories you seek can be derived from the documents that Household will be gathering and producing in the coming weeks and months.” Yet defendants still maintained the position that the Interrogatories were premature and that they could not respond to the Interrogatories without taking discovery from plaintiffs. Defendants ignored the legal authority cited by plaintiffs in their October 26, 2004, letter which stated that a party could not refuse to answer interrogatories regarding their affirmative defenses “solely because it ha[d] not obtained to its satisfaction other discovery” and instead defendants pointed to three affirmative defenses (7, 12, and 18) which they contended discovery needed to be taken of plaintiffs before any interrogatories about them could be answered. A true and correct copy of the October 29, 2004 letter is attached hereto as Exhibit G.

8. In a letter dated November 8, 2004, plaintiffs countered defendants’ assertions regarding affirmative defenses 7 (knowledge of plaintiffs and assumption of the risk); 12 (offset on plaintiffs’ alleged damages); and 18 (plaintiffs offering to tender their stock barred from further monetary damages) by pointing out to defendants that affirmative defense 7 alleging assumption of risk includes language alleging actual knowledge, a matter upon which defendants can certainly respond, and that affirmative defenses 12 and 18 set forth propositions that do not depend upon discovery for their applicability or inapplicability to the matters of this case. A true and correct copy of the November 8, 2004 letter is attached hereto as Exhibit H.

9. In January 2005, defendants amended their Responses to the 13 affirmative defenses (1-7, 9-10, 12-14, and 18) under the August 30, 2004 compromise, by designating documents from

which the answers to the Interrogatories purportedly could be derived. The documents designated by defendants were comprised of press releases, media articles, Securities and Exchange Commission filings, analyst reports, correspondence, presentations, reports, memos, policies, meeting minutes, and roadshow materials – none of which readily revealed the factual basis for defendants’ affirmative defenses. Defendants did not amend their Responses on the nine remaining affirmative defenses (8, 11, 15-17, and 19-22). True and correct copies of defendants’ Amended Responses and Objections to Plaintiffs’ First Set of Interrogatories are attached hereto as Exhibit I.

10. On January 27, 2005, plaintiffs informed defendants by letter that their amended Responses were inadequate. A true and correct copy of the January 27, 2005 letter is attached hereto as Exhibit J.

11. Shortly thereafter, on January 31, 2005, plaintiffs notified defendants at a meet and confer that their amended Responses were insufficient and violated the spirit of the compromise in which defendants acknowledged that they possessed information required to answer the Interrogatories. Still, defendants refused to supplement their responses stating that the current response was the only answer they could give until discovery from plaintiffs had been obtained. A true and correct copy of a letter dated February 1, 2005, memorializing the January 31, 2005 meet and confer is attached hereto as Exhibit D.

12. In a letter dated February 4, 2005, defendants recognized the October 20, 2004 compromise in which plaintiffs agreed to only request responses to the 13 affirmative defenses (1-7, 9-10, 12-14, and 18) for which defendants controlled most, if not all, of the information necessary to provide a response to the Interrogatories and to defer interrogatories on the nine remaining affirmative defenses (8, 11, 15-17, and 19-22). However, defendants continued to maintain that the Interrogatories were premature and that further responses could not be provided until discovery from

plaintiffs had been obtained. A true and correct copy of the February 4, 2005 letter is attached hereto as Exhibit K.

13. By letter dated February 14, 2005, plaintiffs responded to defendants' February 4, 2005 letter, by informing defendants that the Interrogatories were not "contention" interrogatories as defendants had characterized them, that defendants could not simply withhold discovery solely because they have not obtained to their satisfaction other discovery, and therefore responses to the Interrogatories stating the factual basis for defendants' affirmative defenses were not premature. A true and correct copy of the February 14, 2005 letter is attached hereto as Exhibit L.

14. On July 18, 2005, following several months of discovery, plaintiffs revisited the issue at a meet and confer by again requesting defendants supplement their responses to all of plaintiffs' Interrogatories with the factual basis for their affirmative defenses. A true and correct copy of a letter dated July 27, 2005, memorializing the July 18, 2005 meet and confer is attached hereto as Exhibit E.

15. Defendants replied to plaintiffs' July 18, 2005, request by letter, dated August 4, 2005, maintaining their position that the Interrogatories were premature and that they could not provide answers until after they had received discovery from plaintiffs. A true and correct copy of the August 4, 2005 letter is attached hereto as Exhibit M.

16. Noting an impasse, on August 12, 2005, plaintiffs informed defendants by letter of their intention to seek relief from the Court on this subject unless defendants changed their position and supplemented their answers with the factual basis for their affirmative defenses. A true and correct copy of the August 12, 2005 letter is attached hereto as Exhibit N.

17. Finally, by letter dated August 23, 2005, defendants informed plaintiffs that they would not supplement their responses to the Interrogatories until "later in the discovery process." A true and correct copy of the August 23, 2005 letter is attached hereto as Exhibit O.

18. A true and correct copy of Household Defendants' Motion Pursuant to the Seventh Circuits' Recent Decision in *Foss v. Bear Stearns Co.*, to Dismiss the Complaint in Part is attached hereto as Exhibit P.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 6th day of September, 2005, at San Francisco, California.

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LUKE O. BROOKS

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