Order Form (01/2005)

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	Nan R. Nolan
CASE NUMBER	02 C 5893	**DATE**	01/06/06
CASE TITLE	Jaffe vs. Household Intl Inc, et al		

DOCKET ENTRY TEXT

For the reasons stated below, the Motion of Household Defendants for Partial Reconsideration of the Court's September 28, 2005 Order is granted.

■[For further details see text below.]

Notices mailed by Judicial staff.

STATEMENT

The Household Defendants have moved for partial reconsideration of this Court's September 28, 2005 Order. Defendants' motion is granted.

In response to Plaintiffs' accusation that the "Household Defendants [had] completely ignored the Protective Order's good faith belief requirement in making their designations" and the examples then provided by Plaintiffs, the Court directed Defendants to review and redesignate, if necessary, their confidentiality designations. Defendants' reconsideration memo explains that this would be an "extremely burdensome" task in this case because more than 3 million pages of documents have already been produced to Plaintiffs. Defendants also assert that their designations have been made in good faith. Defendants point out that Plaintiffs have only once questioned their confidentiality designations and argue that any mistakes made in the designation process should be resolved pursuant to the agreed procedures of the Protective Order. The Protective Order requires the parties to first attempt to resolve challenges to confidential designations with the producing party. The only reason offered for not following this process is Plaintiffs' claim that this ignores the magnitude of the problem. Plaintiffs assert this would be a reasonable solution if only a handful of documents were at issue but claims the documents at issue number in the thousands of pages. Plaintiffs believe it would be more efficient for Defendants to go through the documents and redesignate them.

Given Defendants' current assertions, the Court is willing to vacate the portion of the Order that directed Defendants to review and redesignate, if necessary, documents produced to Plaintiffs. However, the Court wants to make clear that it is not excusing either party from complying with the terms of Protective Order. Plaintiffs shall comply with the agreed upon dispute resolution procedure set forth in the Protective Order before seeking further judicial intervention. Defendants may only designate the specific categories of confidential information defined in the Protective Order as confidential. Of course, improper designations inadvertently occur in a case involving millions of pages of documents. Defendants claim that the more than 3.2 millions of pages "have been

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carefully reviewed by counsel for Defendants and good faith designations made where appropriate and necessary." Defs'Memo. at 5. Given the current record, the Court does not know whether the improper designations alleged by the Plaintiffs are isolated examples or evidence of a more widespread abuse of the Protective Order. If Defendants are confident that their designations comply with the Protective Order despite the Plaintiffs' examples, then there probably is no need to review the prior document production. If Defendants have doubts about the overall accuracy of their designations, they need to do whatever is necessary to confirm compliance with the Protective Order or risk losing the protections and advantages of the Protective Order.

Finally, the Court is not persuaded by Defendants' claim that the documents attached to the Mehdi Declaration were properly classified as confidential because they were "part of larger documents which clearly contain confidential information." Defs' Reply. at 4. Only the pages of documents which contain Confidential Information may be designated as Confidential.