

The preferred course, however, is for this Court to disregard Plaintiffs' newly minted arguments and deny this prong of their motion on the basis of waiver. There is abundant support for that outcome, as the Court of Appeal for the Seventh Circuit has definitively held that arguments not made in an opening brief are deemed waived, *see, e.g., Estate of Phillips v. City of Milwaukee*, 123 F.3d 586, 597 (7th Cir. 1997), and that a "necessary corollary to the principle is that '[a]rguments raised for the first time in the reply brief are waived.'" *Id.* *See also, Central States, Southeast and Southwest Areas Pension Fund v. Midwest Motor Express, Inc.*, 181 F.3d 799, 808 (7th Cir. 1999) ("Arguments not developed in any meaningful way are waived"); *American National Bank and Trust Co. v. AXA Client Solutions, LLC*, No. 00 C 6786, 01 C 9974, 2004 WL 438505, at *3 (N.D. Ill. Mar. 5, 2004) (same); *Renaldi v. Sears Roebuck and Co.*, No. 97 C 6057, 2001 WL 290372, at *17 (N.D. Ill. Mar. 21, 2001) (Nolan, M.J.) (rejecting an argument because its proponent "cite[d] no authority for his assertions").

CONCLUSION

Plaintiffs' Cross Motion for an order compelling Household to disclose its confidential litigation database and documents discussing individual case reserves should be denied on the basis of waiver because Plaintiffs offered no justification for this aspect of its Cross Motion in their opening brief. In the alternative, should the Court receive any of the arguments raised by Plaintiffs for the first time in their Reply Brief, Defendants respectfully ask that it also accept and review the Sur-Reply brief and Supplemental Affidavit submitted herewith.

CERTIFICATE OF SERVICE

Adam B. Deutsch, an attorney, certifies that on June 30, 2006, he served copies of The Household Defendants' Motion for Leave to File a Sur-Reply to Plaintiffs' Cross-Motion to Compel Production of Certain Documents, to the parties listed below in the manner stated.

s/ Adam B. Deutsch

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