

United States Courts
Southern District of Texas
ENTERED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JUL 11 2003

Michael N. Milby, Clerk

In Re ENRON CORPORATION
SECURITIES, DERIVATIVE &
"ERISA" LITIGATION,

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MDL 1446

MARK NEWBY, ET AL.,

§
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§

Plaintiffs

VS.

CIVIL ACTION NO. H-01-3624
AND CONSOLIDATED CASES

ENRON CORPORATION, ET AL.,

§
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§

Defendants

PAMELA M. TITTLE, on behalf of
herself and a class of persons
similarly situated, ET AL.,

§
§
§

Plaintiffs

VS.

CIVIL ACTION NO. H-01-3913
CONSOLIDATED CASES

ENRON CORP., an Oregon
Corporation, ET AL.,

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Defendants.

AMERICAN NATIONAL INSURANCE
COMPANY, ET AL.,

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§
§

Plaintiffs,

VS.

CIVIL ACTION NO. G-02585

ARTHUR ANDERSEN LLP, ET AL.,

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Defendants.

AMERICAN NATIONAL INSURANCE
COMPANY, ET AL.,

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Plaintiffs,

VS.

CIVIL ACTION NO. G-02-723

CITIGROUP, INC., ET AL.,

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Defendants.

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MARY PAIN PEARSON, ET AL.,
Plaintiffs,

VS.

CIVIL ACTION NO. H-02-3786

ANDREW S. FASTOW, ET AL.,
Defendants.

FRED A. ROSEN, ET AL.,
Plaintiffs,

VS.

CIVIL ACTION NO. H-02-3787

ANDREW S. FASTOW, ET AL.,
Defendants.

HAROLD AHLICH, ET AL.,
Plaintiffs,

VS.

CIVIL ACTION NO. H-02-3794

ARTHUR ANDERSEN LLP, ET AL.
Defendants.

OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF ENRON CORPORATION,
Plaintiffs,

VS.

CIVIL ACTION NO. H-02-3939

ANDREW S. FASTOW, ET AL.,
Defendants.

SCHEDULING ORDER

Having reviewed the submissions of counsel and heard counsel's views on scheduling at the conference on July 10, 2003, the Court emphasizes that the purpose of multidistrict litigation is to establish a discovery process that is orderly, efficient, focused, and observant of the rights of all litigants to

investigate the facts relevant to their claims. In such a massive litigation as this, some otherwise valid arguments for expedited proceedings or individualized treatment necessarily must be trumped by the need for systematic, nonduplicative, coordinated discovery. After careful consideration, the Court

ORDERS that the following schedule is now in effect.

I. Consolidated/Related/Coordinated Cases (those not currently proceeding under the controlling *Newby* and *Tittle* consolidated complaints)

A. Counsel for those Plaintiffs who at this time have decided to proceed under the *Newby* or *Tittle* consolidated amended complaints instead of under their own petitions/complaints shall file a statement to that effect and move to dismiss their own petitions/complaints within two weeks from entry of this order.

B. All other suits shall be stayed as to the filing of amended pleadings and/or responsive pleadings until the motions for class certification in *Newby* and *Tittle* are resolved by the Court, but discovery may proceed.

C. Once the Court has ruled on the class certification motions, Plaintiffs in each

remaining consolidated/related/coordinated suit shall within two weeks of entry of the relevant class certification order either (1) elect whether to proceed under the consolidated amended complaint in Newby or Tittle, or both if appropriate, and dismiss their initial petitions/complaints or (2) file a statement that they will proceed under their own petitions/complaints, or request leave to amend their own pleadings.

D. Defendants shall file any amended responsive pleadings within 30 days of the filing of such an amended complaint. Plaintiffs' replies shall be filed within 30 days of the filing of motions to dismiss.

E. IN ALL AMENDED PLEADINGS, COUNSEL SHALL NOT REITERATE ALLEGATIONS OR ARGUMENTS PREVIOUSLY REJECTED BY THIS COURT IN RULINGS ON MOTIONS TO DISMISS THE CONSOLIDATED COMPLAINTS.

F. Discovery shall proceed in accord with the schedule established below for Newby and Tittle. Plaintiffs' counsel shall work with Lead Counsel in Newby and Tittle to establish a procedure for participation in that discovery to avoid duplication of discovery

sought by Lead Counsel in *Newby* and *Tittle* shall serve as the base line and shall be presumptively adequate; counsel for the consolidated/related/coordinated cases shall avoid duplicative or overlapping document requests and must show *Newby* or *Tittle* Lead Counsel, and only if necessary the Court, that their additional or supplemental requests are for relevant materials that are new and/or unique to their claims. All counsel shall comply with the format established previously in *Newby* and *Tittle* for documents to be deposited in the central depository. Lead Counsel for *Newby* and *Tittle* shall circulate and discuss with counsel for the consolidated/related/coordinated actions any stipulated proposals such as the protocol proposal for depositions or the proposal relating to confidentiality concerns.

II. *Newby* and *Tittle*

A. *Newby* Class Certification

1. Discovery deadline . . . Sept. 15, 2003.¹

¹ The Court denies Mr. Lerach's request to rule on class certification issues before deposing class representatives, but urges counsel to work together to reduce the cost by having a few representative counsel attend the depositions and ask non-redundant questions submitted by co-counsel, as suggested by Ms.

2. Defendants' Responses to Motion for Class Certification Oct. 16, 2003.
 3. Lead Plaintiff's Reply . .Nov. 17, 2003.
- B. Tittle Plaintiffs may move to supplement class certification briefing after the Court rules on the motions to dismiss, if appropriate.
- C. General Discovery
1. Document production shall be substantially completed by Oct. 1, 2003.
 2. Depositions shall not be taken before January 10, 2004 without court approval based on a showing of need.
 3. Deadline for joining new parties or filing third-party complaints or cross complaints is January 10, 2004. New parties must produce documents within 30 days after denial of any motions to dismiss.
 4. Fact discovery shall be completed by Dec. 17, 2004.
 5. Plaintiffs' expert witnesses named and their comprehensive opinion reports furnished by January 7, 2005.

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6. Defendants' expert witnesses named and their comprehensive opinion reports furnished by February 25, 2005.
7. Plaintiffs' rebuttal expert witnesses named and their comprehensive opinion reports furnished by March 15, 2005.
8. Expert discovery completed by April 15, 2005.
9. Motions for summary judgment may be filed up to May 2, 2005.
 - a. Opposition to a motion for summary judgment filed before April 15, 2005 are due 45 days after the date the motion is filed.
 - b. Opposition to a motion filed after April 15, 2005 is due by July 1, 2005.
 - c. All replies are due 30 days after the opposition is filed.
10. Joint Pretrial Orders in Newby and Tittle shall be filed by September 15, 2005.
11. Pretrial Conference at 1:30 p.m. on Oct. 3, 2005.
12. Trials begin on October 17, 2005 at 9:00 a.m.

The Court will address the motions to remand as soon as it issues its decision on the Tittle motions to dismiss,

In light of this order, the Court

ORDERS that the following motions are MOOT: (1) American National Insurance Company et al.'s motion to lift stay in G-02-299, G-02-0723, G-03-0463, and H-03-1276 to allow participation in discovery (#1546 in *Newby*); and (2) UBS PaineWebber, Inc. and UBS Warburg LLC's motion to stay related NASD arbitration (#53 in member case H-02-851, *Lamkin et al. v. UBS PaineWebber, Inc. et al.*). The Court also

ORDERS that the agreed motion (#1544) for briefing schedule relating to Bank Defendants' motions to dismiss is GRANTED.

Finally, the Court commends counsel's professional conduct thus far in resolving with commitment, hard work, and creativity the many difficulties of moving this complex litigation forward. The Court is confident that with such dedication continuing, these cases can be litigated in a orderly manner with all parties having a fair day in court.

SIGNED at Houston, Texas, this 11th day of July, 2003.


MELINDA HARMON
UNITED STATES DISTRICT JUDGE