

OCT 15 2002

Michael N. Milby, Clerk

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

In Re ENRON CORPORATION §  
SECURITIES, DERIVATIVE and § MDL 1446  
"ERISA" LITIGATION §

MARK NEWBY, ET AL., §  
§  
Plaintiffs §

VS. §

ENRON CORPORATION, ET AL., §  
§  
Defendants §

CIVIL ACTION NO. H-01-3624 ✓  
and CONSOLIDATED CASES

PAMELA M. TITTLE, On Behalf of §  
Herself and A Class of Persons §  
Similarly Situated, ET AL., §  
§  
Plaintiffs, §

VS. §

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

CIVIL ACTION NO. H-01-3913  
and CONSOLIDATED CASES

**MICHAEL J. KOPPER'S OBJECTION TO JOINT MOTION  
ESTABLISHING DOCUMENT DEPOSITORY**

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW Michael J. Kopper ("Kopper"), a defendant in the *Tittle* litigation, and files this limited objection to Plaintiffs' Joint Motion to Enter Order Establishing Document Depository.

1. Kopper is an individual named as a defendant in the *Tittle* litigation. He is not named as a defendant in the *Newby* litigation. Although the document depository order has a

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good deal of merit in certain respects, it unnecessarily seeks to require Kopper (and presumably other individuals) to incur substantial costs beyond those routinely incurred by a party responding to requests for production of documents.

2. The proposed order, if adopted by the Court, would require an individual party producing documents to incur vastly more expense than that which he or she normally incur under FED. R. CIV. P. 34. Under the rules, the producing party normally bears the cost of collecting documents for inspection in the format in which they are maintained, and any copying costs, as well as the costs of converting hard-copy documents to electronic documents, are borne by the party requesting documents. Under the proposed order, Kopper himself would bear the entire up-front cost not only of collecting documents for inspection, but of generating *computer images* and *indexes* of documents he would be required to produce, subject to a right to reimbursement for only 50 percent of those costs. *See Proposed Order Establishing Document Depository at IV(A)(1), VIII(B)*. The costs of generating computer images and a computerized index are significant. The vendor proposed by the parties has provided an estimate running from 42.5 to 48.5 cents *per page* for imaging and indexing. *See Attachment A (excerpt of price schedule from proposed Depository Administrator)*. Even if 50 percent reimbursement is available, this still constitutes a burden of between 21 and 25 cents *per page* more than is required of a litigant producing documents. For an individual defendant, these provisions of the proposed order would impose a significant burden, beyond those normally associated with being named as a defendant to litigation.

3. Kopper thus respectfully suggests that if the Court is inclined to enter the proposed document depository order, it could do so with the following limited changes, and avoid the cost burden on individual defendants, as follows:

- Page 5, footnote 1: Insert the sentence “Individual defendants served with discovery requests may elect, in lieu of the Required Format, to produce hard copies only to the Depository.”
- Page 8, paragraphs V(1) and V(3): Insert the words “Except as provided above” before the words “Each Producing Party” etc.

4. Through counsel, Kopper has attempted to suggest changes to the document depository order to avoid this unnecessary cost burden, but has been unsuccessful in getting the advocates of the proposal to make such changes.

WHEREAS, PREMISED CONSIDERED, Kopper respectfully requests that the Court, should it choose to enter the proposed document depository order, do so only after interlining the suggested changes set out above.

Respectfully submitted,

By: 

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ATTORNEYS FOR DEFENDANT  
MICHAEL J. KOPPER

**CERTIFICATE OF SERVICE**

This pleading was served, in compliance with the Court's service order, on October 15, 2002.

  
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Eric J.R. Nichols

Plan B

Assume that you will arrange for a facility with enough shelving to house all the documents in standard document boxes. The space must be air-conditioned. You must provide access to private areas for the parties to review documents. There must be access to telephones and a telefax at no additional cost to the parties. The depository must be open and staffed with one person you provide from 8:00 am to 5:00 pm and after hours as arranged in advance. The staff person should be familiar with the imaging process and be able to blowback documents as requested and make copies of the CDs as requested. Large volume blowbacks can be handles offsite and delivered to eh requesting party. You will need to provide a printer for use in blowing back small volume requests in the depository index and providing copies of the index to the users of the facility. You may not remove the documents form the depository.

Please provide a description of the facility, the physical address and a copy of the floor plan with your bid.

Assuming a population of 110,000,000 documents (50% autofeed, 25% light litigation and 25% glasswork), please give your price for each of the following:

	RATE
Document preparation, including slip sheeting, paper clip and staple removal	\$.015 per page for prep \$.03 per Lex document break sheet used
Electronic numbering and image capture at 300 dpi into single page Group IV TIFF format	\$.10 = Auto Feed \$.12 = Light Litigation \$.16 = Glass Work
Blow back copy for the depository	\$.05 per page
Blow back selected images in depository as requested	\$.05 per page
Document reassembly	\$.01 per page
OCR	\$.03 per page
Assuming approximately .4.5 pages per document: Objective Indexing, to include Beginning Document Number Ending Document Number Document Date (if available) Producing Party Document Type (selected from list provided)	Beg # End # = no charge Doc Date = \$.14 per document Producing Party = No Charge Doc Type = \$.14 per document
Master CD's (including information file for use in Summation, Concordance or LiveLink database) assuming approximately 600 CDs and approximately 15,000 pages per CD	\$15.00 per CDs Includes all major load files
Copies of CD's	\$8.00 per CD
After hours depository maintenance per hour	\$45.00 per hour
Repository Charges (based per box)	5000 boxes = \$7500 per month

