

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

United States Courts
Southern District of Texas
FILED
FEB 10 2003
Michael N. Milby, Clerk

MARK NEWBY, et al.

Plaintiffs,

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v.

ENRON CORPORATION, et al.,

Defendants

Civil Action No. H-01-3624 ✓
And Consolidated Cases

ABBEY NATIONAL TREASURY
SERVICES plc

Plaintiff,

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v.

CREDIT SUISSE FIRST BOSTON
CORPORATION, et al.

Defendants

Civil Action No. H-02-3869

**PLAINTIFF'S AMENDED MOTION TO ENLARGE
TIME TO SERVE THE SUMMONSES,
COMPLAINT AND AMENDED COMPLAINT IN THIS ACTION**

Plaintiff Abbey National Treasury Services plc files its Amended Motion to Enlarge Time to Serve the Summonses, Complaint and Amended Complaint in this action to June 10, 2003.

1. This Amended Motion to Enlarge Time is filed to reflect the consolidated caption in this matter and is otherwise identical to Plaintiff's Motion to Enlarge Time filed on February 6, 2003.

#1247

2. The Complaint in this action was filed on October 11, 2002 and an Amended Complaint was filed on October 29, 2002. Presently, the 120-day limitation for the completion of service with respect to the complaint expires on February 10, 2003.

3. Service of foreign defendants pursuant to the Hague Convention, as contemplated under Federal Rule of Civil Procedure 4(f), does not appear to be subject to the 120-day limitation for completion of service set forth in Federal Rule of Civil Procedure 4(m). However, to avoid unnecessary motion practice in the future, plaintiff respectfully requests that the Court sign the enclosed proposed Order enlarging plaintiff's time to complete service by 120 days.

4. This action arises from the Enron securities fraud. Plaintiff asserts claims against Enron's accountants and underwriters with respect to its losses resulting from off-balance sheet securities issued by Enron-created Special Purpose Entities: Marlin Water Trust II 6.19% Senior Secured Notes, due July 15, 2003, and 6.31% Senior Secured Notes, due July 15, 2003.

5. All 21 domestic defendants in this action have already been served. The remaining 13 foreign defendants are located in five countries and must be served pursuant to the time-consuming requirements of the Hague Convention On The Service Abroad Of Judicial And Extra-Judicial Documents In Civil And Commercial Matters.

6. To do this, plaintiff engaged an international service of process firm after this action was commenced and promptly forwarded the relevant documents for translation. Seventy-four pages of the documents to be served on the defendants had to be translated into three different foreign languages (German, French and Dutch).

7. Additionally, plaintiff reproduced and shipped to the process server 17 boxes of documents, representing the copies requested by the process server to effectuate service

abroad. The process server reports that the documents will be shipped to the appropriate foreign authorities within the next few days.

8. Because of the significant and time consuming work involved in preparing the relevant documentation for service in this instance and because plaintiff has little or no control over when the foreign central authorities will complete service of process in each jurisdiction, plaintiff respectfully requests that the Court enlarge the time for the completion of service of process for an additional period of 120 days from February 10, 2003 until June 10, 2003.

9. Federal Rule of Civil Procedure 6(b) permits the Court to order the time for service enlarged “with or without motion or notice . . . if [, as here, the] request . . . is made before the expiration of the period originally prescribed”

10. Enlargement of time is appropriate here not only because of the unavoidable delay inherent in service of process under the Hague Convention, but also because, prior to expiration of 120 days from the filing of the complaint, each of the foreign defendants will have notice of the complaints that will be served on them *via* the Hague Convention. Each defendant has an affiliated corporation in the United States. Copies of the summons, complaint, amended summons and amended complaint have or will have been delivered to the foreign defendants at the offices of their corporate affiliates or their registered agents in the United States within 120 days of the filing of the complaint.

11. Accordingly, plaintiff respectfully requests that its Amended Motion to Enlarge the Time to Serve the Summonses, Complaint, and Amended Complaint in this action to June 10, 2003 be granted.

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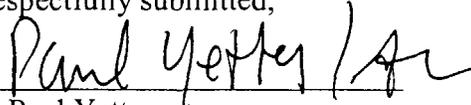
Dated: February 6, 2003

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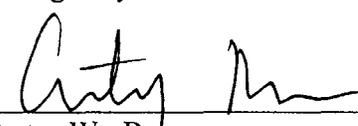
Respectfully submitted,


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ATTORNEY-IN-CHARGE FOR
ABBAY NATIONAL TREASURY
SERVICES plc

CERTIFICATE OF CONFERENCE

I certify that one or more opposing counsel have not responded to inquiries concerning their position on this Motion. The relief sought by the Motion is hereby believed to be opposed.


Autry W. Ross

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2003, a true and correct copy of the foregoing pleading was served on the following counsel pursuant to the Federal Rules of Civil Procedure:

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I further certify that on this 6th day of February, 2003, service of the foregoing pleading was also performed electronically via the www.csl3624.com web site.



Autry W. Ross

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v.

CREDIT SUISSE FIRST BOSTON
CORPORATION, et al.

Defendants

Civil Action No. H-02-3869

ORDER

The Court has considered plaintiff Abbey National Treasury Services plc's Amended Motion to Enlarge Time to Serve the Summonses, Complaint and Amended Complaint In This Action and has determined that it should be GRANTED. Accordingly, pursuant to Federal Rules of Civil Procedure 4(m) and 6(b), plaintiff Abbey National Treasury Services plc is hereby granted a 120-day enlargement of time within which to serve the summonses, complaint and amended complaint in this action to June 10, 2003.

SIGNED and ENTERED this ____ day of February , 2003.

THE HONORABLE MELINDA HARMON
UNITED STATES DISTRICT JUDGE