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District of Texas
FILED
MAR 14 2003
Michael N. Milby, Clerk

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

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| In Re Enron Corporation Securities, Derivative & "ERISA" Litigation | § | MDL - 1446 |
| THIS DOCUMENT RELATES TO: | § | |
| G-02-463 | § | |
| MARK NEWBY, ET AL., | § | |
| *Plaintiffs*, | § | |
| v. | § | CIVIL ACTION NO. H-01-3624 ✓ CONSOLIDATED CASES |
| ENRON CORPORATION, ET AL., | § | |
| *Defendants*. | § | |
| AMERICAN NATIONAL INSURANCE COMPANY; AMERICAN NATIONAL INVESTMENT ACCOUNTS, INC.; SM&R INVESTMENTS, INC.; AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY; STANDARD LIFE AND ACCIDENT INSURANCE COMPANY; FARM FAMILY LIFE INSURANCE COMPANY; FARM FAMILY CASUALTY INSURANCE COMPANY; and NATIONAL WESTERN LIFE INSURANCE COMPANY | § | |
| *Plaintiffs*, | § | |
| v. | § | CIVIL ACTION NO. G-02-723 |



#1281

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| CITIGROUP, INC.; SALOMON SMITH | § |
| BARNEY, INC.; JAMES P. REILLY, JR.; | § |
| C. SCOTT BRUIN; | § |
| MERRILL LYNCH, PIERCE, | § |
| FENNER & SMITH, INC.; MERRILL | § |
| LYNCH & COMPANY, INC.; | § |
| SCHUYLER TILNEY; and | § |
| ROBERT THERRIOT | § |
| | § |
| *Defendants.* | § |

**CERTAIN DEFENDANTS' JOINDER AND NOTICE OF SUPPLEMENTAL AUTHORITY IN OPPOSITION TO PLAINTIFFS' MOTION FOR REMAND**

Defendants Merrill Lynch & Company, Inc., Merrill Lynch, Pierce, Fenner & Smith, Inc., (together "Merrill Lynch"), Citigroup, Inc., Salomon Smith Barney, Inc., James P. Reilly, Jr., C. Scott Bruin, Schuyler Tilney, and Robert Therriot (together with Merrill Lynch "Defendants") respectfully submit this Joinder and Notice of Supplemental Authority in Opposition to Plaintiffs' Motion for Remand. [1]

Defendants join in the arguments and authorities presented by Defendants Lehman Brothers Holdings, Inc., Lehman Brothers, Inc., Lehman Brothers Commercial Paper, Inc. and John Proser's Supplemental Memorandum of Authority in Opposition to Plaintiffs' Motion to Remand ("Lehman Memorandum") filed in *Newby, et al. v. Enron Corp., et al.*, C.A. No. H-01-3024 on March 11, 2003. As reflected in the Lehman Memorandum, the recent decision in *New York City Employees' Retirement System, et al. v. Bernard J. Ebbers, et al.*, No. 02 Civ. 8981 (DLC) (S.D.N.Y.) (hereinafter "*NYCERS*") comports with the Court's decision denying remand in *American National Insurance Co. v. J.P. Morgan Chase & Co.*, C.A. No. G-02-0299 (S.D. Tex. Aug. 9, 2002) and provides

[1] Defendants' Opposition to American National's Motion for Remand or Abstention was filed in this Court on November 27, 2002.

further support for the fact that this Court has subject matter jurisdiction over this dispute because it is "related to" the Chapter 11 bankruptcy case of debtor Enron Corporation ("Enron"). Defendants respectfully request that the Court consider this supplemental authority and reach the same decision in this action.

In order to avoid the submission of duplicative documentation; the *NYCERS* decision is not attached to this request, but is attached to the Lehman Memorandum.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of **Certain Defendants' Joinder and Notice of Supplemental Authority in Opposition to Plaintiffs' Motion for Remand** was served upon all known counsel of record by website, http: //www.esl3624.com, pursuant to the Court's Order dated August 7, 2002 (Docket No. 984), on this the **14th** day of **March, 2003**.

I further certify that a copy of the foregoing has been served via Certified Mail Return Receipt Requested on the following parties, who do not accept service by electronic mail on this the **14th** day of **March, 2003**:

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