

APR 16 2003

Michael N. Milby, Clerk

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

In re ENRON CORPORATION SECURITIES
LITIGATION

§ Civil Action No. H-01-3624
§ (Consolidated)

This Document Relates To:

§ CLASS ACTION

MARK NEWBY, et al., Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants.

WASHINGTON STATE INVESTMENT
BOARD and EMPLOYER-TEAMSTERS
LOCAL NOS. 175 and 505 PENSION TRUST
FUND, On Behalf of Themselves and All
Others Similarly Situated,

§ Civil Action No. 02-3401

§ CLASS ACTION

Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

**LEAD PLAINTIFF'S SUR-REPLY IN SUPPORT OF OPPOSITION TO
MOTION TO STRIKE THE WASHINGTON STATE INVESTMENT BOARD
CLASS ACTION COMPLAINT**

1337

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
II. ARGUMENT	1
A. Defendants May Not Raise New Legal Theories in Their Reply	1
B. Defendants' Purported Statute of Limitations Defense Is Not a Basis for a Motion to Strike	2
C. Defendants' Arguments Interpreting the Sarbanes-Oxley Act Nonetheless Fail	2
1. The Text of Sarbanes-Oxley Clearly and Unambiguously Lengthens the Statute of Limitations Applicable to the Claims in the Washington Complaint	3
a. Sarbanes-Oxley Clearly and Unambiguously Applies to Claims Under §3(a)(47), Which Includes §11 Claims Such as Those Brought Here	3
b. Sarbanes-Oxley Clearly and Unambiguously Applies to the Washington Complaint	5
2. The Legislative History of Sarbanes-Oxley Contradicts Defendants' Interpretation of the Act	6
III. CONCLUSION	9

I. INTRODUCTION

Lacking any basis in fact or law, defendants' motion to strike the complaint filed by the Washington State Investment Board and Employer-Teamsters Local Nos. 175 & 505 Pension Trust Fund ("Washington Complaint") should be denied. In their motion the only issue in dispute was, according to defendants, whether the Washington Complaint was "unauthorized, untimely, and inconsistent with this Court's Orders." Motion to Strike at 7. However, after defendants filed their motion, this Court denied another motion to strike filed by defendants on virtually identical grounds. Left with moot or otherwise meritless arguments, in their Reply, defendants *now* argue that "the Sarbanes-Oxley Act does not expand the statute of limitations for claims under §§11 and 15 of the 1933 Act; it is limited to claims asserted in fraud." *See* Certain Defendants' Reply at 1-9. In addition, defendants argue that "[t]he Sarbanes-Oxley Act is not retroactive." *Id.* at 10-11. Defendants' new legal theories are not properly raised, not a basis for a motion to strike, and, in any event, neither of defendants' assertions has merit.

II. ARGUMENT

A. Defendants May Not Raise New Legal Theories in Their Reply

Defendants unnecessarily complicate these proceedings by raising new legal theories in their Reply. Courts frequently refuse to consider arguments raised for the first time in a reply brief. *See, e.g., United States v. Wright*, 215 F.3d 1020, 1030 n.3 (9th Cir. 2000) ("[Defendant] also raised a new argument for the first time in his reply brief Because this argument was not raised previously, we decline to consider it."); *United States v. Kenneth C.*, No. 01-50235, 2002 U.S. App. LEXIS 27246, at *5 (9th Cir. Dec. 30, 2002); *Gold v. Wolpert*, 876 F.2d 1327, 1331 (7th Cir. 1989) ("It is well-settled that new arguments cannot be made for the first time in reply."); *Shlay v. Montgomery*, 802 F.2d 918, 922 n.2 (7th Cir. 1986). Indeed, defendants have raised new legal theories that are not a proper basis for a motion to strike in the first place. Defendants' new arguments should be rejected for being improperly raised, among other reasons.

B. Defendants' Purported Statute of Limitations Defense Is Not a Basis for a Motion to Strike

A purported statute of limitations defense is not a proper basis for a motion to strike pursuant to Fed. R. Civ. P. 12. The Bank Defendants recognize this. They request that if "the Court needs to determine the applicability of the Sarbanes- Oxley Act in order to adjudicate the pending motion [to strike]" the Court should "*defer* ruling on the motion [to strike] until all parties have had the opportunity to fully brief the issue, in the context of their motions to dismiss." *See* Supplemental Response by Bank Defendants to Plaintiffs' Opposition to Certain Defendants' Motion to Strike the Washington State Investment Board Class Action Complaint at 2. The Moving Defendants recognize this too, but they nonetheless raise their arguments. Certain Defendants' Reply at 2-3 ("Defendants reserve the right to fully brief the statute of limitations issue and other grounds relating to the Plaintiffs' claims in a Motion to Dismiss, to be filed as contemplated by the Court's August 7, 2002 Order (H-01-3624, Instrument #983).").

Rule 12(f) provides that the Court may order stricken from any pleading "any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." But a motion to strike is not the procedure for raising a purported statute of limitations defense. Thus, the issue of whether the statute of limitations prescribed by Sarbanes-Oxley applies to the Washington Complaint should not be decided in a motion to strike and the instant motion should be denied.

C. Defendants' Arguments Interpreting the Sarbanes-Oxley Act Nonetheless Fail

Defendants' statute of limitations defense is not only improperly raised, it lacks merit too. Defendants claim that "the Sarbanes-Oxley Act does not expand the statute of limitations for claims under §§11 and 15 of the 1933 Act; it is limited to claims asserted in fraud." *See* Certain Defendants' Reply at 1-9. In addition, defendants claim that "[t]he Sarbanes-Oxley Act is not retroactive," *i.e.*, the longer statute of limitations does not apply to victims of the Enron fraud. *Id.* at 10-11. Defendants are wrong.

1. The Text of Sarbanes-Oxley Clearly and Unambiguously Lengthens the Statute of Limitations Applicable to the Claims in the Washington Complaint

Any question of statutory interpretation begins with an examination of the text of the statute to determine whether its meaning is clear. *See Cmty. for Creative Non-Violence v. Reid*, 490 U.S. 730, 739 (1989); *United States v. Ron Pair Enters.*, 489 U.S. 235, 241 (1989) (holding that when a statute's language is plain, "the inquiry should end"); *Kelly v. Boeing Petroleum Servs.*, 61 F.3d 350, 362 (5th Cir. 1995) (stating that if the statutory language is plain and unambiguous, it must be given effect).

a. Sarbanes-Oxley Clearly and Unambiguously Applies to Claims Under §3(a)(47), Which Includes §11 Claims Such as Those Brought Here

Here, the text of the statute at issue is plain and unambiguous and its meaning is clear. Section 804 of Sarbanes-Oxley amends 28 U.S.C. §1658 by extending the statute of limitations for *all* private securities claims to two years from the discovery of facts constituting the violation, rather than one year, and to five years from the violation, rather than three years. Indeed, the pertinent portion of 28 U.S.C. §1658 now provides:

[A] private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of –
(1) 2 years after the discovery of the facts constituting the violation; or
(2) 5 years after such violation.

On its face, the application of 28 U.S.C. §1658 is not limited to fraud claims, as defendants contend. *See Certain Defendants Reply* at 1-9. The amended 28 U.S.C. §1658 specifically references non-fraud 1933 Act claims under §3(a)(47). *See* §3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. §78c(a)(47)) ("*The term 'securities laws' means the Securities Act of 1933 (15 U.S.C. §77a et seq.)*") (emphasis added). Thus, by its own terms, the Sarbanes-Oxley statute of limitations clearly applies to all private securities claims, including those for violations of the 1933 Act.

Moreover, by its own terms, §804 of Sarbanes-Oxley clearly mandates that it applies to all private securities claims despite the fact that 1933 Act claims previously had their own limitations

period. Again, this is obvious on the face of the statute. Had Congress sought to exclude 1933 Act claims from the reach of Sarbanes-Oxley, it would have done so by omitting this reference to 1933 Act claims in the express language of §804. However, in §804 of Sarbanes-Oxley, Congress explicitly refers to "the securities laws, as defined in section 3(a)(47)." And §3(a)(47) specifically states that "[t]he term 'securities laws' means the Securities Act of 1933." 15 U.S.C. §78c(a)(47). Thus, Congress clearly intended for the new Sarbanes-Oxley statute of limitations to apply to 1933 Act claims. Accordingly, defendants' contention that the amended 28 U.S.C. §1658 applies only to claims under the Securities Exchange Act of 1934 is wrong.

The thoughtful analysis of a similar question of statutory interpretation provided by the United States Bankruptcy Court for the Southern District of New York is particularly instructive. In *In re Gibbons*, 289 B.R. 588, 2003 Bankr. LEXIS 161, at *9-*10 (Bankr. S.D.N.Y. Mar. 7, 2003), the court discussed the application of §803 of Sarbanes-Oxley, titled "Debts nondischargeable if incurred in violation of securities fraud laws." See Pub. L. No. 107-204, §803. The court stated that §803 added subsection (19) to the exceptions to discharge enumerated in §523(a) of the Bankruptcy Code and provides, in pertinent part, "that a discharge in a Chapter 7 case (among others) does not discharge an individual debtor from a debt ... 'that (A) is for – (i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934).'" *Id.* at *9. The court then explained that "Section 523(a)(19) incorporates by reference §3(a)(47) of the Securities Exchange Act of 1934, which defines 'securities laws' to mean the Securities Act of 1933." *Id.* at *10 n.6. Accordingly, the court held that "[t]he section, by its terms, applies to both statutory claims under the securities laws and common law fraud, so long as it arises in connection with the purchase or sale of a security." *Id.* at *9-*10.

Similarly, here, §804 of Sarbanes-Oxley expressly refers to §3(a)(47) of the Securities Exchange Act of 1934, which defines "securities laws" to mean the Securities Act of 1933. Thus, §804 of Sarbanes-Oxley means exactly what it says, that it applies to all claims brought under the "securities laws," including those brought under the Securities Act of 1933.

In their Reply, defendants assert that because other sections of Sarbanes-Oxley within Title VIII of Sarbanes-Oxley reference scienter, that §804 only applies to causes of action which require

scienter. Certain Defendants' Reply at 8-9. This argument is entirely meritless because defendants would have the Court compare apples to oranges. The other sections of Sarbanes-Oxley defendants reference (§§802, 805, and 807) are all *criminal* provisions. Of course these criminal statutes all have intent requirements. In contrast, §804 clearly applies only to private rights of action and contains no reference to scienter. Therefore, §804 applies to all private civil actions available under the securities laws.

b. Sarbanes-Oxley Clearly and Unambiguously Applies to the Washington Complaint

Subsection (b) of §804, entitled "EFFECTIVE DATE" explicitly and unambiguously provides that "[t]he limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, *shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.*" (Emphasis added.) Subsection (b) does not in any way limit the applicability of Sarbanes-Oxley to actions that would be within the prior, shorter statute of limitations, as defendants contend. It simply states that Sarbanes-Oxley applies to *all proceedings* commenced on or after the date of enactment of Sarbanes-Oxley.¹

Here, the Washington Complaint was filed on September 9, 2002, roughly five weeks *after* the enactment of Sarbanes-Oxley. Accordingly, because the Washington Complaint was filed *after* the enactment of Sarbanes-Oxley, the new longer two year/five year statute of limitations applies to the Washington Complaint.

The only cases to have addressed the issue have held that Sarbanes-Oxley means exactly what it says, that the new longer statute of limitations applies to all proceedings that are commenced on or after the date of enactment of Sarbanes-Oxley. In *Roberts v. Dean Witter Reynolds, Inc.*, No. 8:02-CV-2115, 2003 U.S. Dist. LEXIS 5676 (M.D. Fla. Mar. 14, 2003), Judge Lazzara

¹Defendants point out that this Court in its March 12, 2003 Order recognized that the expanded limitations period for private securities actions under Sarbanes-Oxley "does not apply to *Newby*." *In re Enron Corp. Secs.*, No. H-01-3624, 2003 U.S. Dist. LEXIS 3786, at *49 n.20 (S.D. Tex. Mar. 12, 2003); Certain Defendants' Reply at 10. The Court is correct, the new Sarbanes-Oxley statute of limitations does not apply to *Newby*. This is because *Newby* was commenced *before* the enactment of Sarbanes-Oxley. However, the Washington Complaint was commenced *after* the enactment of Sarbanes-Oxley. Thus, the longer Sarbanes-Oxley statute of limitations applies to the Washington Complaint. Plaintiffs Washington and Local 175/505 must not be punished because their case was consolidated with *Newby*.

specifically held that "*Congress intended to lengthen the statute of limitations to enable people who lost their life-savings to companies like Enron to recover some of their investments. To do so, the amendment must be given retroactive application.*" *Id.* at *9 (emphasis added). And in *De La Fuente v. DCI Telecomms.*, No. 01 Civ. 3365 (CM), 2003 U.S. Dist. LEXIS 3236, at *17 (S.D.N.Y. Mar. 4, 2003), the court, while not deciding whether the Sarbanes-Oxley Act applies "retroactively," stated "Congress's intent is clear – the statute of limitations established by the Sarbanes-Oxley Act applies only to proceedings commenced on or after July 30, 2002."

In *Roberts*, the defendants asserted Sarbanes-Oxley does not apply to claims that have extinguished or expired before Sarbanes-Oxley was passed on July 30, 2002. 2003 U.S. Dist. LEXIS 5676, at *5-*6. The court disagreed, stating that "[t]he effective date, which is July 30, 2002, hinges on the date that 'proceedings' commence or commenced rather than on the date the violation occurred." *Id.* at *8. Accordingly, "[t]his language, standing alone, seems to presume that the Act affords redress for violations that had already occurred before July 30, 2002." *Id.*² So too, this Court should rely on the explicit language of the statute and apply the lengthier statute of limitations to the Washington Complaint, commenced after the date of enactment of Sarbanes-Oxley. Thus, the Court need only rely on the unambiguous language of Sarbanes-Oxley which makes clear its proper application to the instant action.

2. The Legislative History of Sarbanes-Oxley Contradicts Defendants' Interpretation of the Act

Even assuming, *arguendo*, that Sarbanes-Oxley was not clear and unambiguous on its face, a careful review of the legislative history of Sarbanes-Oxley, particularly the Conference Report, clearly indicates that Congress intended Sarbanes-Oxley to be applied to *all* private securities causes of action filed after the date of enactment of Sarbanes-Oxley. The section of Sarbanes-Oxley at issue, Title VIII, was authored by Senator Leahy, who intended the application of Sarbanes-Oxley to all private securities actions be apparent from its face. Indeed, Senator Leahy's section-by-section

²See also *In re Initial Pub. Offering Sec. Litig.*, 241 F. Supp. 2d 281, 294 n.4 (S.D.N.Y. 2003) ("One Plaintiff filed her action on December 6, 2002, *see Muller v. Diversa Corp.*, No. 02 Civ. 9699, *taking advantage of the newly expanded statute of limitations for securities fraud actions contained in the Sarbanes-Oxley Act of 2002.*") (emphasis added).

analysis of Title VIII is included in the Congressional Record of July 26, 2002, as part of the official legislative history:

Section 804. – Statute of Limitations

This provision states that it is not meant to create any new private cause of action, but only to govern all the already existing private causes of action under the various federal securities laws that have been held to support private causes of action. This provision is intended to lengthen any statute of limitations under federal securities law, and to shorten none. ***The section, by its plain terms, applies to any and all cases filed after the effective date of the Act, regardless of when the underlying conduct occurred.***

148 Cong. Rec. S7418 (daily ed. July 26, 2002) (emphasis added). "The phrase 'regardless of when the underlying conduct occurred' demonstrates that Congress intended for the extended statute of limitations to apply retroactively." *Roberts*, 2003 U.S. Dist. LEXIS 5676, at *11. Furthermore, the phrase this provision is meant "to govern *all* the already existing private causes of action under *the various federal securities laws* that have been held to support private causes of action" demonstrates that Congress intended for the extended statute of limitations to apply to all federal securities laws, including §§11 and 15 of the 1933 Act.³

Senator Leahy extensively addressed the intent and the applicability of Title VIII on July 10, 2002, just 16 days prior to its passage as a component of Sarbanes-Oxley. And there it was clear that Title VIII of Sarbanes-Oxley was intended to provide an opportunity for victimized Enron investors to seek redress. In fact, Title VIII of Sarbanes-Oxley was specifically intended for plaintiffs like Washington, who lost millions, to use the new statute of limitations to bring their claims. As Senator Leahy stated:

³In *Gibbons*, the court discussed Senator Leahy's section-by-section analysis of Sarbanes-Oxley. "***Courts frequently give substantial weight to a 'section-by-section analysis' in determining legislative intent.***" 2003 Bankr. LEXIS 161, at *17 (emphasis added) (citing *Garrett v. United States*, 471 U.S. 773 (1985); *Philko Aviation, Inc. v. Shacket*, 462 U.S. 406 (1983)). "***Moreover, the purpose of the section-by-section analysis was 'to provide guidance in the legal interpretation' of the Sarbanes-Oxley Act, and it was offered by Senator Leahy, the author of the Accountability Act and Senate Judiciary Committee Chairman at the time of the enactment of the legislation.***" *Id.* at *17-*18 (citing 148 Cong. Rec. S7418 (daily ed. July 26, 2002) (statement of Senator Leahy)) (emphasis added). Furthermore, the *Gibbons* court held, "[a] section-by-section analysis may not be as persuasive if it was introduced *after* the enactment of the legislation. In this case, however, the section-by-section analysis was offered into the Congressional Record as legislative history contemporaneously with the passage of the Sarbanes-Oxley Act of 2002, and without any objection." *Id.* at *18 n.12 (emphasis added). Thus, Senator Leahy's section-by-section analysis of this section of Sarbanes-Oxley must be given substantial weight.

When I look at places such as *Washington State* alone where the pension funds of firefighters and police lost \$50 million because of the fraud on the leaders of *Enron*, I don't feel too sympathetic. We already have a very short statute of limitations in here anyway. *We ought to at least have that so people might be able to recover some of the money they have lost*, if it is at all possible, instead of just a few executives going up and building their \$50 million mansions and hiding it there. There ought to be some way for the people who lost their pensions, lost their life savings, to get it back.

* * *

Florida lost \$335 million because of *Enron*; the University of California, \$144 million – all the way down to Vermont; we lost millions of dollars. *These are people who would like, in these kinds of cases, at least to have a statute of limitations such that we can go after them.*

* * *

I am here to try and protect people and give them an opportunity – when there has been such enormous fraud and all the pension funds have been lost, and all the people who have lost their life savings – *give them at least some chance to recover something*, especially as the executives of these companies walk off with tens of millions of dollars. We go two-five instead of one-three.... That was negotiated and voted on in the Judiciary Committee, and the final bill was passed unanimously.

148 Cong. Rec. S6524 (daily ed. July 10, 2002) (statement of Sen. Leahy) (emphasis added). Thus, Title VIII of Sarbanes-Oxley was intended to apply to defrauded Enron investors, like Washington. Indeed, "[t]he language referring to victims of Enron recovering damages indicates the intent to retroactively apply the statute of limitations." *Roberts*, 2003 U.S. Dist. LEXIS 5676, at *11 (emphasis added).

Thus, it is clear from both the statutory language and legislative history that §804 of Sarbanes-Oxley was intended to apply to the claims brought here by Washington.

III. CONCLUSION

For the foregoing reasons, Lead Plaintiff respectfully requests that the Court enter an order denying the Motion to Strike.

DATED: April 16, 2003

Respectfully submitted,

MILBERG WEISS BERSHAD
HYNES & LERACH LLP
WILLIAM S. LERACH
DARREN J. ROBBINS
HELEN J. HODGES
BYRON S. GEORGIOU
G. PAUL HOWES
JAMES I. JACONETTE
MICHELLE M. CICCARELLI
JAMES R. HAIL
JOHN A. LOWTHER
ALEXANDRA S. BERNAY
MATTHEW P. SIBEN
ROBERT R. HENSSLER, JR.



HELEN J. HODGES *of permission*

401 B Street, Suite 1700
San Diego, CA 92101
Telephone: 619/231-1058

MILBERG WEISS BERSHAD
HYNES & LERACH LLP
STEVEN G. SCHULMAN
One Pennsylvania Plaza
New York, NY 10119-1065
Telephone: 212/594-5300

Lead Counsel for Plaintiffs

SCHWARTZ, JUNELL, CAMPBELL
& OATHOUT, LLP



ROGER B. GREENBERG
State Bar No. 08390000
Federal I.D. No. 3932
Two Houston Center
909 Fannin, Suite 2000
Houston, TX 77010
Telephone: 713/752-0017

HOEFFNER & BILEK, LLP
THOMAS E. BILEK
Federal Bar No. 9338
State Bar No. 02313525
440 Louisiana, Suite 720
Houston, TX 77002
Telephone: 713/227-7720

Attorneys in Charge

BERGER & MONTAGUE, P.C.
SHERRIE R. SAVETT
1622 Locust Street
Philadelphia, PA 19103
Telephone: 215/875-3000

Attorneys for Staro Asset Management

WOLF POPPER LLP
ROBERT C. FINKEL
845 Third Avenue
New York, NY 10022
Telephone: 212/759-4600

SHAPIRO HABER & URMY LLP
THOMAS G. SHAPIRO
75 State Street
Boston, MA 02109
Telephone: 617/439-3939

Attorneys for Nathaniel Pulsifer

SCOTT & SCOTT, LLC
DAVID R. SCOTT
NEIL ROTHSTEIN
S. EDWARD SARSKAS
108 Norwich Avenue
Colchester, CT 06415
Telephone: 860/537-3818

**Attorneys for the Archdiocese of Milwaukee
Supporting Fund, Inc.**

THE CUNEO LAW GROUP, P.C.
JONATHAN W. CUNEO
MICHAEL G. LENETT
317 Massachusetts Avenue, N.E., Suite 300
Washington, D.C. 20002
Telephone: 202/789-3960

Washington Counsel

((

DECLARATION OF SERVICE BY WEBSITE AND UPS

I, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of San Diego, over the age of 18 years, and not a party to or interest in the within action; that declarant's business address is 401 B Street, Suite 1700, San Diego, California 92101.

2. That on April 16, 2003, declarant served the Lead Plaintiff's Sur-reply in Support of Opposition to Motion to Strike the Washington State Investment Board Class Action Complaint by posting to the website or UPS overnight to the parties as indicated on the attached Service List, pursuant to the Court's August 7, 2002 Order Regarding Service of Papers and Notice of Hearings.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 16th day of April, 2003, at San Diego, California.

Mo Maloney

Mo Maloney

SERVICE LIST
April 16, 2003

<p>Lynn Lincoln Sarko VIA WEBSITE KELLER ROHRBACK, LLP 1201 Third Avenue, Suite 3200 Seattle, WA 98101-3052 206/623-1900 206/623-3384 (fax) e-mail: lsarko@kellerrohrback.com</p> <p>Co-Lead Counsel for <i>Tittle</i> Plaintiffs</p>	<p>Roger B. Greenberg VIA WEBSITE SCHWARTZ, JUNELL, CAMPBELL & OATHOUT, LLP Two Houston Center 909 Fannin, Suite 2000 Houston, TX 77010 713/752-0017 713/752-0327 (fax) e-mail: rgreenberg@schwartz-junell.com</p> <p>Local Counsel for Securities Plaintiffs in <i>Newby</i></p>
<p>William S. Lerach Helen J. Hodges Byron S. Georgiou MILBERG WEISS BERSHAD HYNES & LERACH, LLP 401 B Street, Suite 1700 San Diego, CA 92101-5050 619/231-1058 619/231-7423 (fax) - and - Melvyn I. Weiss Steven G. Schulman Samuel H. Rudman MILBERG WEISS BERSHAD HYNES & LERACH, LLP One Pennsylvania Plaza New York, NY 10119-0165 212/594-5300 212/868-1229 (fax) e-mail: enron@milberg.com</p> <p>Lead Counsel for Securities Plaintiffs in <i>Newby</i></p>	<p>Steve W. Berman VIA WEBSITE Clyde A. Platt, Jr. HAGENS BERMAN, LLP 1301 Fifth Avenue, Suite 2900 Seattle, WA 98101 206/623-7292 206/623-0594 (fax) e-mail: steve@hagens-berman.com</p> <p>Co-Lead Counsel for <i>Tittle</i> Plaintiffs</p>

<p>Justin M. Campbell, III VIA WEBSITE CAMPBELL HARRISON & DAGLEY, LLP 4000 Two Houston Center, 909 Fannin Street Houston, TX 77010 713/752-2332 713/752-2330 (fax) e-mail: rharrison@chd-law.com</p> <p>Liaison Counsel for <i>Tittle</i> Plaintiffs</p>	<p>Thomas E. Bilek VIA WEBSITE HOEFFNER & BILEK, LLP 440 Louisiana, Suite 720 Houston, TX 77002 713/227-7720 713/227-9404 (fax) e-mail: tbilek722@aol.com</p> <p>Local Counsel for Securities Plaintiffs in <i>Newby</i></p>
<p>James F. Marshall VIA WEBSITE JUDICIAL WATCH INC. 2540 Huntington Drive, Suite 201 San Marino, CA 91108-2601 626/287-4540 626/237-2003 (fax) e-mail: marshall@attglobal.net</p> <p>Attorneys for Plaintiff Ralph A. Wilt, Jr.</p>	<p>David R. Scott VIA WEBSITE SCOTT & SCOTT, LLC 108 Norwich Avenue Colchester, CT 06415 860/537-3818 860/537-4432 (fax) e-mail: drscott@scott-scott.com</p> <p>Attorneys for Plaintiff Archdiocese of Milwaukee</p>
<p>Jon Cuneo VIA WEBSITE THE CUNEO LAW GROUP, P.C. 317 Massachusetts Avenue, N.E., Suite 300 Washington, D.C. 20002 202/789-3960 202/789-1813 (fax) e-mail: jonc@cuneolaw.com</p> <p>Washington Counsel</p>	<p>George M. Fleming VIA WEBSITE FLEMING & ASSOCIATES 1330 Post Oak Blvd., Suite 3030 Houston, TX 77056-3019 713/621-7944 713/621-9638 (fax) e-mail: enron@fleming-law.com</p> <p>Attorneys for Individual Plaintiffs</p>
<p>Sherrie R. Savett VIA WEBSITE BERGER & MONTAGUE, P.C. 1622 Locust Street Philadelphia, PA 19103 215/875-3000 215/875-4604 (fax) e-mail: ssavett@bm.net</p> <p>Attorneys for Plaintiff Staro Asset Management</p>	<p>Robert M. Stern VIA WEBSITE O'MELVENY & MYERS, LLP 555 13th Street, N.W., Suite 500W Washington, DC 20004-1109 202/383-5300 202/383-5414 (fax) e-mail: rstern@omm.com</p> <p>Attorneys for Defendant Jeffrey Skilling</p>
<p>Thomas G. Shapiro VIA UPS SHAPIRO HABER & URMY LLP 75 State Street Boston, MA 02109 617/439-3939 617/439-0134 (fax)</p> <p>Attorneys for Plaintiff van deVelde</p>	<p>Robert C. Finkel VIA UPS WOLF POPPER LLP 845 Third Avenue New York, NY 10022 212/759-4600 212/486-2093 (fax)</p> <p>Attorneys for Plaintiff van deVelde</p>

<p>Scott Lassetter VIA WEBSITE WEIL, GOTSHAL & MANGES 700 Louisiana Street, Suite 1600 Houston, TX 77002 713/546-5000 713/224-9511 (fax) e-mail: scott.lassetter@weil.com</p> <p>Attorneys for Defendant Enron</p>	<p>Anthony C. Epstein VIA WEBSITE STEPTOE & JOHNSON, LLP 1330 Connecticut Ave., N.W. Washington, D.C. 20036 202/429-3000 202/429-3902 (fax) e-mail: aepstein@steptoe.com</p> <p>Attorneys for Defendants Philip J. Bazelides, Mary K. Joyce, James S. Prentice</p>
<p>Eric Nichols VIA WEBSITE BECK, REDDEN & SECREST, L.L.P. One Houston Center 1221 McKinney Street, Suite 4500 Houston, TX 77010 713/951-3700 713/951-3720 (fax) e-mail: enichols@brsfirm.com</p> <p>Attorneys for Defendants Michael J. Kopper, Chewco Investments, LJM Cayman, L.P.</p>	<p>Abigail K. Sullivan VIA WEBSITE BRACEWELL & PATTERSON, L.L.P. South Tower Pennzoil Place 711 Louisiana Street, Suite 2900 Houston, TX 77002-2781 713/223-2900 713/221-1212 (fax) e-mail: asullivan@bracepatt.com</p> <p>Attorneys for Defendant James V. Derrick, Jr.</p>
<p>Linda L. Addison VIA WEBSITE FULBRIGHT & JAWORSKI, LLP 1301 McKinney, Suite 5100 Houston, TX 77010 713/651-5628 713/651-5246 (fax) e-mail: laddison@fulbright.com</p> <p>Attorneys for Defendants The Northern Trust Company, Northern Trust Retirement Consulting LLC</p>	<p>John J. McKetta III VIA WEBSITE GRAVES, DOUGHERTY, HEARON & MOODY, P.C. 515 Congress Avenue, Suite 2300 Austin, TX 78701 512/480-5600 512/478-1976 (fax) e-mail: mmcketta@gdhm.com</p> <p>Attorneys for Defendant Rebecca Mark- Jusbasche</p>
<p>Billy Shepherd VIA WEBSITE CRUSE, SCOTT, HENDERSON & ALLEN, L.L.P. 600 Travis Street, Suite 3900 Houston, TX 77002-2910 713/650-6600 713/650-1720 (fax) e-mail: bshepherd@crusescott.com</p> <p>Attorneys for Defendants David Stephen Goddard, Jr., Debra A. Cash, Michael M. Lowther and Michael C. Odom</p>	<p>Jack C. Nickens VIA WEBSITE NICKENS, KEETON, LAWLESS, FARRELL & FLACK, LLP 600 Travis Street, Suite 7500 Houston, TX 77002 713/571-9191 713/571-9652 (fax) e-mail: trichardson@nlf-law.com</p> <p>Attorneys for Defendants Estate of J. Clifford Baxter, Deceased, Joseph M. Hirko, Paula Ricker, Kenneth D. Rice, Richard B. Buy, Richard A. Causey, Mark A. Frevert, Michael S. McConnell, Jeffrey McMahon, Cindy K. Olson, J. Mark Metts, Steven J. Kean, Mark E. Koenig, Kevin P. Hannon and Lawrence Greg Whalley</p>

<p>James E. Coleman, Jr. VIA WEBSITE CARRINGTON, COLEMAN, SLOMAN & BLUMENTHAL, LLP 200 Crescent Court, Suite 1500 Dallas, TX 75201 214/855-3000 214/855-1333 (fax) e-mail: deakin@ccsb.com</p> <p>Attorneys for Defendant Kenneth Lay</p>	<p>Mark J. Rochon VIA WEBSITE Emmett B. Lewis MILLER & CHEVALIER 655 Fifteenth Street, N.W., Suite 900 Washington, D.C. 20005-5701 202-626-5819 202-628-0858 (fax) e-mail: mrochon@milchev.com</p> <p>Attorneys for Paulo V. Ferraz Pereira</p>
<p>Charles G. King VIA WEBSITE KING & PENNINGTON, L.L.P. 1100 Louisiana Street, Suite 5055 Houston, TX 77002-5220 713/225-8400 713/225-8488 (fax) e-mail: cking@kandplaw.com</p> <p>Attorneys for Defendants Bank of America Corp., Banc of America Securities LLC</p>	<p>William F. Martson, Jr. VIA WEBSITE TONKON TORP, LLP 888 S.W. Fifth Avenue, Suite 1600 Portland, OR 97204-2099 503/802-2005 503/972-7407 (fax) e-mail: enronservice@tonkon.com</p> <p>Attorneys for Defendant Ken L. Harrison</p>
<p>Jeremy L. Doyle VIA WEBSITE GIBBS & BRUNS, L.L.P. 1100 Louisiana, Suite 5300 Houston, TX 77002 713/650-8805 713/750-0903 (fax) e-mail: jdoyle@gibbs-bruns.com</p> <p>Attorneys for Defendants Robert A. Belfer, Norman P. Blake, Jr., Ronnie C. Chan, John H. Duncan, Joe H. Foy, Charles A. LeMaistre, Wendy L. Gramm, Robert K. Jaedicke, Charls E. Walker, John Wakeham, John Mendelsohn, Frank Savage, Herbert S. Winokur, Jr., Jerome J. Meyer</p>	<p>Carolyn S. Schwartz VIA UPS United States Trustee, Region 2 33 Whitehall St., 21st Floor New York, NY 10004 212/510-0500 212/668-2255 (fax)</p>
<p>H. Bruce Golden VIA WEBSITE GOLDEN & OWENS, LLP 1221 McKinney Street, Suite 3150 Houston, TX 77010 713/223-2600 713/223-5002 (fax) e-mail: golden@goldenowens.com</p> <p>Attorneys for Defendant John A. Urquhart</p>	<p>Craig Smyser VIA WEBSITE SMYSER KAPLAN & VESELKA, L.L.P. 700 Louisiana Street, Suite 2300 Houston, TX 77002 713/221-2300 713/221-2320 (fax) e-mail: enronservice@skv.com</p> <p>Attorneys for Defendant Andrew Fastow</p>

<p>Rusty Hardin VIA WEBSITE RUSTY HARDIN & ASSOCIATES, P.C. 1201 Louisiana, Suite 3300 Houston, TX 77002 713/652-9000 713/652-9800 (fax) e-mail: rhardin@rustyhardin.com</p> <p>Attorneys for Defendants Arthur Andersen LLP, Arthur Andersen-Puerto Rico, Andersen LLP (Andersen-Cayman Islands), C.E. Andrews, Dorsey L. Baskin, Michael L. Bennett, Joseph F. Berardino, Donald Dreyfus, James A. Friedlieb, Gary B. Goolsby, Gregory W. Hale, Gregory J. Jonas, Robert G. Kutsenda, Benjamin S. Neuhausen, Richard R. Petersen, Danny D. Rudloff, Steve M. Samek, John E. Sorrells, John E. Stewart and William E. Swanson</p>	<p>Jacalyn D. Scott VIA WEBSITE WILSHIRE SCOTT & DYER P.C. 3000 One Houston Center, 1221 McKinney Houston, TX 77010 713/651-1221 713/651-0020 (fax) e-mail: jscott@wsd-law.com</p> <p>Attorneys for Defendant Citigroup, Inc. and Salomon Smith Barney, Inc.</p>
<p>Sharon Katz VIA WEBSITE DAVIS POLK & WARDWELL 450 Lexington Avenue New York, NY 10017 212/450-4000 212/450-3633 (fax) e-mail: andersen.courtpapers@dpw.com</p> <p>Attorneys for Defendants Arthur Andersen LLP, Arthur Andersen-Puerto Rico, C.E. Andrews, Dorsey L. Baskin, Michael L. Bennett, Joseph F. Berardino, Donald Dreyfus, James A. Friedlieb, Gary B. Goolsby, Gregory W. Hale, Gregory J. Jonas, Robert G. Kutsenda, Benjamin S. Neuhausen, Richard R. Petersen, Danny D. Rudloff, Steve M. Samek, John E. Sorrells, John E. Stewart, Michael D. Jones and William E. Swanson</p>	<p>Barry G. Flynn VIA WEBSITE LAW OFFICES OF BARRY G. FLYNN, PC 1300 Post Oak Blvd., Suite 750 Houston, TX 77056 713/840-7474 713/840-0311 (fax) e-mail: bgflaw@mywavenet.com</p> <p>Attorneys for Defendant David B. Duncan</p>
<p>Paul Vizcarrondo, Jr. VIA WEBSITE WACHTELL, LIPTON, ROSEN & KATZ 51 West 52nd Street New York, NY 10019 212/403-1000 212/403-2000 (fax) e-mail: pvizcarrondo@wlrk.com</p> <p>Attorneys for Defendants Banc of America Securities LLC and Salomon Smith Barney Inc.</p>	<p>Mark A. Glasser VIA WEBSITE KING & SPALDING 1100 Louisiana Street, Suite 4000 Houston, TX 77002-5213 713/751-3200 713/751-3290 (fax) e-mail: mkglasser@kslaw.com</p> <p>Attorneys for Defendant LJM2 Co-Investments</p>

<p>William Edward Matthews VIA UPS GARDERE WYNNE SEWELL LLP 1000 Louisiana, Suite 3400 Houston, TX 77002 713/276-5500 713/276-5555 (fax)</p> <p>Attorneys for Defendant Andersen Worldwide, S.C., Roman W. McAlindan and Philip A. Randall</p>	<p>Tom P. Allen VIA WEBSITE McDANIEL & ALLEN, APC 1001 McKinney Street, 21st Floor Houston, TX 77002 713/227-5001 713/227-8750 (fax) e-mail: tallen@mcdanielallen.com</p> <p>Attorneys for Defendant Ben F. Glisan, Jr.</p>
<p>John K. Villa VIA WEBSITE WILLIAMS & CONNOLLY, LLP 725 Twelfth Street, N.W. Washington, D.C. 20005 202/434-5000 202/434-5029 (fax) e-mail: jvilla@wc.com</p> <p>Attorneys for Defendants Vinson & Elkins, L.L.P, Ronald T. Astin, Joseph Dilg, Michael P. Finch, Max Hendrick, III</p>	<p>Robert Hayden Burns VIA WEBSITE BURNS WOOLEY & MARSEGLIA 1415 Louisiana, Suite 3300 Houston, TX 77002 713/651-0422 713/651-0817 (fax) e-mail: hburns@bwmzlaw.com</p> <p>Attorneys for Defendant Kristina Mordaunt</p>
<p>Bernard V. Preziosi, Jr. VIA WEBSITE CURTIS, MALLET-PREVOST, COLT & MOSLE, L.L.P. 101 Park Avenue New York, NY 10178-0061 212/696-6000 212/697-1559 (fax) e-mail: bpreziosi@cm-p.com</p> <p>Attorneys for Defendant Michael C. Odom</p>	<p>Scott B. Schreiber VIA WEBSITE ARNOLD & PORTER 555 Twelfth Street, N.W. Washington, D.C. 20004-1206 202/942-5000 202/942-5999 (fax) e-mail: enroncourtpapers@aporter.com</p> <p>Attorneys for Defendant Thomas H. Bauer</p>
<p>John W. Spiegel VIA WEBSITE MUNGER, TOLLES & OLSON 355 South Grand Avenue, 35th Floor Los Angeles, CA 90071 213/683-9100 213/683-5152 (fax) e-mail: enron@mto.com</p> <p>Attorneys for Defendants Kirkland & Ellis</p>	<p>Mark C. Hansen VIA WEBSITE KELLOGG, HUBER HANSEN, TODD & EVANS, P.L.LC. 1615 M Street, N.W., Suite 400 Washington, D.C. 20036 202/326-7900 202/326-7999 (fax) e-mail: mhansen@khhte.com</p> <p>Attorneys for Defendant Nancy Temple</p>
<p>Michael D. Warden VIA WEBSITE SIDLEY AUSTIN BROWN & WOOD, LLP 1501 K Street, N.W. Washington, D.C. 20005 202/736-8000 202/736-8711 (fax) e-mail: mwarden@sidley.com</p> <p>Attorney for Defendant D. Stephen Goddard, Jr.</p>	<p>Ronald E. Cook VIA WEBSITE COOK & ROACH, LLP Chevron Texaco Heritage Plaza 1111 Bagby, Suite 2650 Houston, TX 77002 713/652-2031 713/652-2029 (fax) e-mail: rcook@cookroach.com</p> <p>Attorney for Defendant Alliance Capital Management</p>

<p>Jack O'Neill VIA WEBSITE CLEMENTS, O'NEILL, PIERCE, WILSON & FULKERSON, LLP 1000 Louisiana, Suite 1800 Houston, TX 77002 713/654-7607 713/654-7690 (fax) e-mail: sutton@copwf.com</p> <p>Attorneys for Defendant Joseph W. Sutton</p>	<p>Andrew J. Mytelka VIA WEBSITE GREER, HERZ & ADAMS, L.L.P. One Moody Plaza, 18th Fl. Galveston, TX 77550 409/797-3200 409/766-6424 (fax) e-mail: amytelka@greerherz.com</p> <p>Attorneys for American National Plaintiffs</p>
<p>Amelia Toy Rudolph VIA UPS SUTHERLAND ASBILL & BRENNAN LLP 999 Peachtree Street, N.E., Suite 2300 Atlanta, GA 30309 404/853-8000 404/853-8806 (fax)</p> <p>Attorneys for Defendant Roger D. Willard</p>	<p>Gregory A. Markel VIA UPS CADWALADER, WICKERSHAM & TAFT LLP 100 Maiden Lane New York, NY 10038 212/504-6000 212/504-6666 (fax)</p> <p>Attorneys for Defendant Bank of America Corp.</p>
<p>Joel M. Androphy VIA WEBSITE BERG & ANDROPHY 3704 Travis Street Houston, TX 77002 713/529-5622 713/529-3785 (fax) e-mail: androphy@bahou.com</p> <p>Attorneys for Defendant Deutsche Bank AG</p>	<p>Lawrence Byrne VIA WEBSITE WHITE & CASE LLP 1155 Avenue of the Americas New York, NY 10036-2787 212/819-8200 212/354-8113 (fax) e-mail: lbyrne@whitecase.com</p> <p>Attorneys for Defendant Deutsche Bank AG</p>
<p>Richard Mithoff VIA WEBSITE MITHOFF & JACKS One Allen Center, Penthouse, 500 Dallas Houston, TX 77002 713/654-1122 713/739-8085 (fax) e-mail: enronlitigation@mithoff-jacks.com</p> <p>Attorneys for Defendant J.P. Morgan Chase & Co.</p>	<p>Bruce D. Angiolillo VIA WEBSITE SIMPSON THACHER & BARTLETT 425 Lexington Avenue New York, NY 10017-3954 212/455-2000 212/455-2502 (fax) e-mail: bangiolillo@stblaw.com</p> <p>Attorneys for Defendant J.P. Morgan Chase & Co.</p>
<p>Chuck A. Gall VIA WEBSITE JENKENS & GILCHRIST 1445 Ross Avenue, Suite 3200 Dallas, TX 75202-2799 214/855-4338 214/855-4300 (fax) e-mail: cgall@jenkens.com</p> <p>Attorneys for Defendant J.P. Morgan Chase & Co.</p>	<p>Mark A. Kirsch VIA WEBSITE CLIFFORD CHANCE US LLP 200 Park Avenue, Suite 5200 New York, NY 10166 212/878-8000 212/878-8375 (fax) e-mail: mark.kirsch@cliffordchance.com</p> <p>Attorneys for Defendants Alliance Capital Management and Merrill Lynch & Co., Inc.</p>

<p>Lawrence D. Finder VIA WEBSITE HAYNES AND BOONE, LLP 1000 Louisiana Street, Suite 4300 Houston, TX 77002-5012 713/547-2000 713/236-5520 (fax) e-mail: finderl@haynesboone.com</p> <p>Attorneys for Defendant Credit Suisse First Boston Corp.</p>	<p>Richard W. Clary VIA WEBSITE CRAVATH, SWAINE & MOORE 825 Eighth Ave. New York, NY 10019 212/474-1000 212/474-3700 (fax) e-mail: rclary@cravath.com</p> <p>Attorneys for Defendant Credit Suisse First Boston Corp.</p>
<p>John L. Murchison, Jr. VIA WEBSITE VINSON & ELKINS, L.L.P. 2300 First City Tower 1001 Fannin Houston, TX 77002 713/758-2222 713/758-2346 (fax) e-mail: jmurchison@velaw.com</p>	<p>Taylor M. Hicks VIA WEBSITE Stephen M. Loftin HICKS THOMAS & LILIENSTERN, LLP 700 Louisiana, Suite 2000 Houston, TX 77002 713/547-9100 713/547-9150 (fax) e-mail: thicks@hicks-thomas.com sloftin@hicks-thomas.com</p> <p>Attorneys for Defendant Merrill Lynch & Co., Inc.</p>
<p>David H. Braff VIA WEBSITE SULLIVAN & CROMWELL LLP 125 Broad Street New York, NY 10004-2498 212/558-4000 212/558-3588 (fax) e-mail: enronpapers@sullcrom.com</p> <p>Attorneys for Defendant Barclays Bank PLC</p>	<p>Barry Abrams VIA WEBSITE ABRAMS SCOTT & BICKLEY, LLP 700 Louisiana, Suite 1800 Houston, TX 77002 713/228-6601 713/228-6605 (fax) e-mail: babrams@asbtexas.com</p> <p>Attorneys for Defendant Barclays Bank PLC</p>
<p>Brad S. Karp VIA WEBSITE PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP 1285 Avenue of the Americas New York, NY 10019-6064 212/373-3000 212/757-3990 (fax) e-mail: grp-citi-service@paulweiss.com</p> <p>Attorneys for Defendant CitiGroup, Inc. and Salomon Smith Barney, Inc.</p>	<p>Hugh R. Whiting VIA WEBSITE JONES, DAY, REAVIS & POGUE 600 Travis Street, Suite 6500 Houston, TX 77002-3008 832/239-3939 832/239-3600 (fax) e-mail: hrwhiting@jonesday.com</p> <p>Attorneys for Defendant Lehman Brothers Holding, Inc.</p>
<p>David F. Wertheimer VIA WEBSITE HOGAN & HARTSON, L.L.P. 875 Third Avenue New York, NY 10022 212/918-3000 212/918-3100 (fax) e-mail: dfwertheimer@hhlaw.com</p> <p>Attorneys for Defendant Debra A. Cash</p>	<p>Gary A. Orseck VIA WEBSITE ROBBINS, RUSSELL, ENGLERT, ORSECK & UNTEREINER, L.L.P. 1801 K Street, N.W., Suite 411 Washington, DC 20006 202/775-4500 202/775-4510 (fax) e-mail: gorseck@robbinsrussell.com</p> <p>Attorneys for Defendant Michael M. Lowther</p>

<p>William H. Knull, III VIA WEBSITE MAYER, BROWN, ROWE & MAW 700 Houston Street, Suite 3600 Houston, TX 77002-2730 713/221-1651 713/224-6410 (fax) e-mail: cibc-newby@mayerbrownrowe.com</p> <p>Attorneys for Defendant Canadian Imperial Bank of Commerce</p>	<p>Alan N. Salpeter VIA WEBSITE MAYER, BROWN, ROWE & MAW 190 South LaSalle St. Chicago, IL 60603 312/782-0600 312/701-7711 (fax) e-mail: cibc-newby@mayerbrownrowe.com</p> <p>Attorneys for Defendant Canadian Imperial Bank of Commerce</p>
<p>Murray Fogler VIA WEBSITE McDADE FOGLER MAINES, LLP Two Houston Center, 909 Fannin, Suite 1200 Houston, TX 77010-1006 713/654-4300 713/654-4343 (fax) e-mail: mfogler@mfml.com</p> <p>Attorneys for Defendant Lou L. Pai</p>	<p>Harvey G. Brown VIA UPS ORGAIN BELL & TUCKER LLP 2700 Post Oak Blvd., Suite 1410 Houston, TX 77056 713/572-8772 713/572-8766 (fax)</p> <p>Attorneys for Defendants Andersen-United Kingdom and Andersen-Brazil</p>
<p>Stephen J. Crimmins VIA WEBSITE PEPPER HAMILTON LLP Hamilton Square 600 Fourteenth Street, N.W. Washington, DC 20005 202/220-1665 (fax) e-mail: crimminss@pepperlaw.com</p> <p>Attorneys for Defendant Kevin P. Hannon</p>	<p>Roger E. Zuckerman VIA WEBSITE ZUCKERMAN SPAEDER LLP 1201 Connecticut Avenue, N.W. Washington, DC 20026-2638 202/778-1800 202/822-8106 (fax) e-mail: enron@zuckerman.com</p> <p>Attorneys for Defendant Lou L. Pai</p>
<p>Elizabeth T. Parker VIA WEBSITE PEPPER HAMILTON LLP 3000 Two Logan Square, 18th & Arch Sts. Philadelphia, PA 19103 215/981-4000 215/981-4756 (fax) e-mail: parkere@pepperlaw.com</p> <p>Attorneys for Defendant Kevin P. Hannon</p>	<p>Mitchell A. Karlan VIA WEBSITE GIBSON DUNN & CRUTCHER, L.L.P. 200 Park Avenue New York, NY 10166-0193 212/351-4000 212/351-4035 (fax) e-mail: enronlitigation@gibsondunn.com</p> <p>Attorneys for Defendant Merrill Lynch & Co., Inc.</p>
<p>Herbert S. Washer VIA WEBSITE James Miller Ignatius Grande CLIFFORD CHANCE ROGERS & WELLS 200 Park Avenue, Suite 5200 New York, NY 10166 212/878-8000 212/878-8375 (fax) e-mail: herbert.washer@cliffordchance.com james.miller@cliffordchance.com ignatius.grande@cliffordchance.com</p> <p>Attorneys for Defendant Merrill Lynch & Co., Inc.</p>	<p>Michael G. Davies VIA WEBSITE HOGUET NEWMAN & REGAL, LLP 10 East 40th Street New York, NY 10016 212/689-8808 212/689-5101 (fax) e-mail: mdavies@hnrlaw.com</p> <p>Attorneys for Defendant Andersen Co. (Andersen-India)</p>

Glen M. Boudreaux **VIA WEBSITE**
BOUDREAUX, LEONARD & HAMMOND,
P.C.

Two Houston Center
909 Fannin, Suite 2350

Houston, TX 77010

713/757-0000

713/757-0178 (fax)

gboudreaux@boudreauxleonard.com

Attorneys for Defendant Stanley C. Horton

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

In re ENRON CORPORATION SECURITIES § Civil Action No. H-01-3624
LITIGATION § **(Consolidated)**

This Document Relates To: § CLASS ACTION

MARK NEWBY, et al., Individually and On §
Behalf of All Others Similarly Situated, §

Plaintiffs, §

vs. §

ENRON CORP., et al., §

Defendants. §

WASHINGTON STATE INVESTMENT §
BOARD and EMPLOYER-TEAMSTERS §
LOCAL NOS. 175 and 505 PENSION TRUST §
FUND, On Behalf of Themselves and All §
Others Similarly Situated, §

Civil Action No. 02-3401

CLASS ACTION

Plaintiffs, §

vs. §

KENNETH L. LAY, et al., §

Defendants. §

**ORDER GRANTING LEAD PLAINTIFF'S MOTION FOR LEAVE TO FILE
A SUR-REPLY IN SUPPORT OF OPPOSITION TO MOTION TO STRIKE
THE WASHINGTON STATE INVESTMENT BOARD
CLASS ACTION COMPLAINT**

Before the Court is Lead Plaintiff's Motion for Leave to File a Sur-Reply in Support of Opposition to Certain Defendants' Motion to Strike the Washington State Investment Class Action Complaint. After considering the motion, any response, and the arguments of counsel, if any, the Court finds that the motion should be GRANTED. It is therefore

ORDERED that Lead Plaintiff's Motion for Leave to File a Sur-Reply in Support of Opposition to Certain Defendants' Motion to Strike the Washington State Investment Class Action Complaint is GRANTED.

SIGNED this _____ day of _____, 2003.

HONORABLE MELINDA HARMON
UNITED STATES DISTRICT JUDGE