United States Courts
Southern District of Texas
FILED
JUL 0 9 2003
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

JEROME F. PAQUIN, on behalf of himself and all others similar situated, Plaintiff, v. ENRON CORPORATION, KENNETH L. LAY, JEFFREY K. SKILLING, and ANDREW S. FASTOW, Defendants.	Civil Action No. H-01-4475 **CONSOLIDATED LEAD H-01-3624** Jury Trial Demanded

PLAINTIFF'S MOTION FOR VOLUNTARY DISMISSAL

Plaintiff asks the court to dismiss his suit against defendants, as authorized by Federal Rule of Civil Procedure 41(a)(2).

A. Introduction

1. Plaintiff is Jerome F. Paquin.

2. Defendants are Enron Corporation, Kenneth L. Lay, Jeffrey K. Skilling, and Andrew S. Fastow.

3. On December 21, 2001, plaintiff sued defendants in a securities class action.

4. Plaintiff asks the court to dismiss his suit because he is already represented as an absent class member in Civil Action No. H-01-3624; *Newby v. Enron Corp., et al.*

B. Argument

5. The court may grant a motion for voluntary dismissal if the dismissal will not

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prejudice or operate to the detriment of the nonmovant.[1]

6. Plaintiff seeks a dismissal because he is already represented as an absent class member in Civil Action No. H-01-3624; *Newby v. Enron Corp., et al.*

7. Plaintiff requests that the dismissal be without prejudice to refiling the suit because a dismissal with prejudice could cause the plaintiff to lose his status as a class member or absent class member in Civil Action No. H-01-3624; *Newby v. Enron Corp., et al.*

8. Defendants will not be prejudiced by the dismissal.[2] Plaintiff is already represented as an absent class member in another suit against defendants. The defendants' effort and expense in preparing for trial will not change because they are already defending these claims by the plaintiff in another case. The dismissal will not deny the defendants any defense that would otherwise be available.[3]

9. Defendants have not filed a counterclaim.

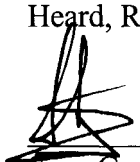
10. Plaintiff has not been granted a dismissal of an action based on or including the same claims as those presented in this suit.

C. Conclusion

11. For the reason stated above, plaintiff asks the court to dismiss without prejudice.

Respectfully submitted,

Heard, Robins, Cloud, Lubel & Greenwood, LLP



Sean Greenwood

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[1]Fed. R. Civ. P. 41(a)(2); *Davis v. USX Corp.*, 819 F.2d 1270, 1273 (4th Cir. 1987).

[2]*Grover v. Eli Lilly & Co.*, 33 F.3d 716, 718 (6th Cir. 1994).

[3]*Ikospentakis v. Thalassic S.S. Agency*, 915 F.2d 176, 177 (5th Cir. 1990).

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