

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

United States Courts
Southern District of Texas

JAN - 8 2004

In Re ENRON CORPORATION §
SECURITIES, DERIVATIVE & § MDL 1446 Michael N. Milby, Clerk of Court
"ERISA" LITIGATION, §

MARK NEWBY, ET AL., §
 §
 § Plaintiffs §
 §
VS. § CIVIL ACTION NO. H-01-3624
 § AND CONSOLIDATED CASES
ENRON CORPORATION, ET AL., §
 §
 § Defendants §

AMERICAN HOME ASSURANCE §
COMPANY, §
 § Plaintiff, §
 §
VS. § CIVIL ACTION NO. H-03-5757
 §
SALLY W. BECK, et al., §
 §
 § Defendants. §

ORDER OF COORDINATION

American Home Assurance Company v. Sally W. Beck, et al., H-03-5757, was removed from the District Court of Dallas County, Texas, B-44th Judicial District, based on "related to" bankruptcy jurisdiction, and then transferred to this Court by the Multidistrict Litigation Panel as part of MDL 1446 because it is related to the collapse of Enron Corporation and its subsidiary, Enron Natural Gas Marketing Corporation ("ENGMC").

Although Plaintiff American Home Assurance Company alleges that Defendants fraudulently induced Plaintiff to issue a surety bond in favor of American Public Energy Agency for a gas transaction ENGMC, which was supposed to indemnify Plaintiff in

1923

the event of default but instead filed for bankruptcy, discovery in H-03-5757 will necessarily overlap that in *Newby v. Enron Corporation*, H-01-3624, since it involves common questions of fact relating to the collapse of the parent company.

The Court is aware of the pending motion to remand (#18). By agreement of the Court and counsel in MDL 1446, there is currently a stay until at least January 22, 2004 on any rulings on motions to remand by the Court. This Court also defers ruling on Defendants' pending motions to dismiss until it can address and resolve the jurisdictional issue in the motion to remand. In the mean time, to insure that this case receives all relevant pleadings and orders, the Court

ORDERS that the docketing clerk shall henceforth designate H-03-5757 as a "coordinated case" in conjunction with *Newby* and shall enter it as such on the docket sheet of *Newby*. Moreover, because the Court has previously reviewed substantial briefing and conducted its own research on "related to" bankruptcy jurisdiction, and because counsel here have submitted briefs, the Court

ORDERS that Plaintiff's motion for a hearing (#20) on the issue is DENIED. Finally, the Court

ORDERS that the following motions are MOOT:

(1) Defendants Sally W. Beck, Mark A. Frevert, Mark E. Haedicke, Kevin P. Hannon, and Lawrence Greg Whalley's motion to

transfer (#9), but not their motion to dismiss or for a more definite statement;

(2) Defendants Sally W. Beck, Mark A. Frevert, Mark E. Haedicke, Kevin P. Hannon, and Lawrence Greg Whalley's motion to stay proceedings (#11);

(3) Defendant Wincenty J. Kaminski's motion to transfer venue (#13), but not his motion to dismiss under Rules 12(b)(6) and (9); and

(4) Defendants Sally W. Beck, Mark A. Frevert, Mark E. Haedicke, Kevin P. Hannon, and Lawrence Greg Whalley's motion to transfer tag-along action (#31).

SIGNED at Houston, Texas, this 5th day of January,

2004.



MELINDA HARMON
UNITED STATES DISTRICT JUDGE