

United States Courts
Southern District of Texas
FILED
JUL 06 2004
Michael M. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re ENRON CORPORATION SECURITIES
LITIGATION

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

§
§ CLASS ACTION
§

This Document Relates To:

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

Plaintiffs,

vs.

ENRON CORP., et al.,

Defendants.

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA, et al., Individually and On Behalf
of All Others Similarly Situated,

Plaintiffs,

vs.

KENNETH L. LAY, et al.,

Defendants.

**LEAD PLAINTIFF'S JOINDER IN JOE H. FOY'S MOTION TO COMPEL
PRODUCTION OF SEC TRANSCRIPTS
(DOCKET NO. 2217)**

2258

Lead Plaintiff joins in the Motion to Compel Production of SEC Deposition Transcripts filed by Joe H. Foy on June 21, 2004 (the "Motion") (Docket No. 2217). Lead Plaintiff adopts and incorporates the arguments and authorities set forth in Mr. Foy's Motion papers.

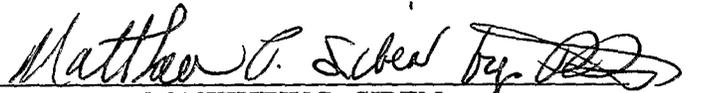
To the extent that the Court is inclined to deny the Motion in light of the SEC's stated position with respect to the production of the transcripts, Lead Plaintiff respectfully requests, without addressing the merits of the SEC's position, that the Court order the production of all transcripts already shared between any unaffiliated parties to this action. If any party has provided a copy of any transcript to another party in this action, production to the depository is necessary so as to not work an unfair prejudice upon Lead Plaintiff. Confronted with this issue previously with respect to sworn testimony provided the Enron Bankruptcy Examiner, the Court determined, "fairness dictates that all parties to the litigation should have access to the non-privileged information concerning the lawsuit." March 16, 2004 Order on Motions to Compel the Banks to Produce the Sworn Statements and Deposition Transcripts of their Employees at 4 (Docket No. 2021). Moreover, whereas the SEC has asserted that production of the transcripts might enable defendants to determine the "direction and specific subject areas of the investigation," this concern is obviously lessened with respect to

transcripts already shared among defendants. If parties have shared SEC testimony among themselves, but not afforded the same discovery to Lead Plaintiff, Lead Plaintiff would be unfairly prejudiced if the SEC could block discovery at this 11th hour.

DATED: July 6, 2004

Respectfully submitted,

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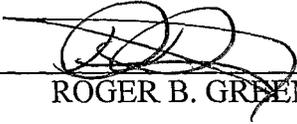
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing LEAD PLAINTIFF'S JOINDER IN JOE H. FOY'S MOTION TO COMPEL PRODUCTION OF SEC TRANSCRIPTS (DOCKET NO. 2217) document has been served by sending a copy via electronic mail to serve@ESL3624.com on this July 6, 2004.

I further certify that a copy of the foregoing LEAD PLAINTIFF'S JOINDER IN JOE H. FOY'S MOTION TO COMPEL PRODUCTION OF SEC TRANSCRIPTS (DOCKET NO. 2217) document has been served via overnight mail on the following parties, who do not accept service by electronic mail on this July 6, 2004.

Carolyn S. Schwartz
United States Trustee, Region 2
33 Whitehall Street, 21st Floor
New York, NY 10004



Mo Maloney