United States Courts
Southern District of Texas
FILED

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Michael N. 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.	§	

LEAD PLAINTIFF'S *EX PARTE* APPLICATION FOR A FACTUAL DETERMINATION REGARDING SERVICE OF THE *WILT* ACTION ON MS. TEMPLE AND MEMORANDUM IN SUPPORT THEREOF

Lead Counsel requests that the Court hold a telephonic hearing on the requests below at the Court's earliest convenience. We will arrange for a conference call for all counsel and the Court as soon as we learn the Court's availability.

Pursuant to the Order of the Fifth Circuit Court of Appeals dated March 15, 2002, Lead Plaintiff respectfully requests that the Court make a factual determination regarding whether Ms. Temple was served in the *Wilt* action. *See* Fifth Circuit Order attached as Exhibit A to the Declaration of Helen J. Hodges in Support of Lead Plaintiff's *Ex Parte* Application for a Factual Determination Regarding Service of the *Wilt* Action on Ms. Temple ("Hodges Decl."). Ms. Temple was served with the *Wilt* complaint and summons on March 7, 2002. *See* Proof of Service, Hodges Decl., Ex. B. Accordingly, this Court has jurisdiction over Ms. Temple. The *Wilt* case was consolidated into the *Newby* case on February 18, 2002. *See* Hodges Decl., Ex. C.

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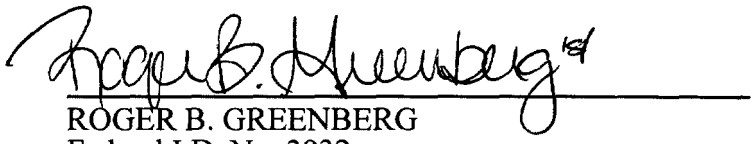
Given that Ms. Temple is a party and can therefore be ordered to appear in Houston, Lead Plaintiff respectfully requests that the Court enter another order requiring Ms. Temple to appear in Houston for her deposition at a time and place chosen by Lead Counsel.

DATED: March 18, 2002

Respectfully submitted,



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DECLARATION OF SERVICE BY MAIL AND FACSIMILE

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 March 18, 2002, declarant served the LEAD PLAINTIFF'S *EX PARTE* APPLICATION FOR A FACTUAL DETERMINATION REGARDING SERVICE OF THE *WILT* ACTION ON MS. TEMPLE AND MEMORANDUM IN SUPPORT THEREOF by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List. Declarant also served the parties by facsimile.

3. That there is a regular communication by mail between the place of mailing and the places so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 18th day of March, 2002, at San Diego, California.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
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	§	CLASS ACTION
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MARK NEWBY, et al., Individually and On Behalf of All Others Similarly Situated,	§	
Plaintiffs,	§	
vs.	§	
ENRON CORP., et al.,	§	
Defendants.	§	

ORDER OF FACTUAL DETERMINATION REGARDING SERVICE OF THE *WILT* ACTION ON MS. TEMPLE AND ORDER REQUIRING MS. TEMPLE TO APPEAR FOR DEPOSITION IN HOUSTON

Upon consideration of Lead Plaintiff's *ex parte* application for a factual determination regarding service of the *Wilt* action on Ms. Temple, IT IS HEREBY ORDERED:

1. The Court finds that Ms. Temple was served with the *Wilt* complaint and summons on March 7, 2002.

2. Accordingly, this Court has jurisdiction over Ms. Temple.

3. Ms. Temple shall appear for her deposition in Houston at 9:00 a.m. on March __, 2002.

IT IS SO ORDERED.

DATED: _____

_____
THE HONORABLE MELINDA HARMON
UNITED STATES DISTRICT JUDGE

DECLARATION OF SERVICE BY MAIL AND FACSIMILE

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 March 18, 2002, declarant served the ORDER OF FACTUAL DETERMINATION REGARDING SERVICE OF THE *WILT* ACTION ON MS. TEMPLE AND ORDER REQUIRING MS. TEMPLE TO APPEAR FOR DEPOSITION IN HOUSTON by depositing a true copy thereof in a United States mailbox at San Diego, California in a sealed envelope with postage thereon fully prepaid and addressed to the parties listed on the attached Service List. Declarant also served the parties by facsimile.

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