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

United States Courts
Southern District of Texas
FILED
MAY 24 2002 LF
Michael N. Milby, Clerk

MARK NEWBY,	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO.: H 01-3624
	§	AND CONSOLIDATED CASES
ENRON CORPORATION, et al.,	§	
Defendants.	§	

UNOPPOSED MOTION OF DEFENDANT JOHN A. URQUHART TO SUBSTITUTE PROPOSED FORM OF ORDER

Defendant John A. Urquhart now respectfully requests leave of Court to substitute the proposed form of Order attached hereto as Exhibit "A" for the proposed form of Order previously submitted with Mr. Urquhart's Motion to Dismiss the Consolidated Complaint. Plaintiffs do not oppose Mr. Urquhart's requested substitution of these papers. In support of this motion, Mr. Urquhart respectfully says:

1. On May 8, 2002, Mr. Urquhart filed his Motion to Dismiss. In accordance with Local Rule 6(A)(3), a proposed form of Order accompanied Mr. Urquhart's Motion to Dismiss, but that form of Order inadvertently did not propose the dismissal of all claims asserted against Mr. Urquhart "with prejudice."

2. Because it is Mr. Urquhart's position that, under the circumstances of this case, all claims asserted against him should be dismissed with prejudice and without leave to amend the Consolidated Complaint, and because the proposed form of Order that he previously submitted

787

did not specify that the dismissal would be "with prejudice," Mr. Urquhart seeks the substitution of the form of Order attached hereto as Exhibit "A" in place of the form of Order that previously accompanied Mr. Urquhart's Motion to Dismiss.

3. As reflected in the Certificate of Conference below, although Lead Plaintiffs do not agree that their claims against Mr. Urquhart should be dismissed, Lead Plaintiffs are not opposed to the substitution of the proposed orders that Mr. Urquhart is hereby requesting.

WHEREFORE, Defendant John A. Urquhart respectfully requests that the Court grant his motion and allow him to substitute the form of Order attached hereto as "Exhibit A" in place of the form of Order that accompanied Mr. Urquhart's Motion to Dismiss the Consolidated Complaint. A form of Order reflecting this requested substitution of papers accompanies this motion.

Respectfully submitted,

By: _____

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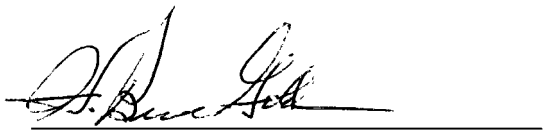
CERTIFICATE OF CONFERENCE

I hereby certify that on May 21, 2002, I conferred by telephone with Mr. Roger B. Greenberg, one of Lead Plaintiffs' counsel, about the foregoing Motion. Mr. Greenberg stated that while Lead Plaintiffs do not agree that the claims being asserted against Mr. Urquhart should be dismissed, Lead Plaintiffs do not oppose the substitution of the proposed orders as requested by Mr. Urquhart herein.

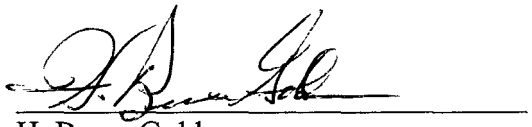


H. Bruce Golden

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Unopposed Motion of Defendant John A. Urquhart To Substitute Proposed Form of Order was served on all counsel of record on this 24th day of May, 2002, in accordance with the Court's April 4, 2002 Order Regarding Service of Papers and Notice of Hearings.

Please see attached Service List.



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

MARK NEWBY, Plaintiff, v. ENRON CORPORATION, et al., Defendants.	§ § § § § § § § § § § §	CIVIL ACTION NO.: H 01-3624 AND CONSOLIDATED CASES

ORDER

On this _____ day of _____, 2002, came on for consideration Defendant John A. Urquhart's Motion to Dismiss. After considering the motion, Plaintiffs' response and all of the pleadings and papers bearing on this matter, the Court finds and concludes that the motion to dismiss should be GRANTED and that because Plaintiffs previously have been given ample opportunity to plead any claims against Mr. Urquhart, Plaintiffs should not be given leave to amend or replead. Accordingly, the Court

ORDERS that all claims asserted by Plaintiffs against John A. Urquhart are hereby DISMISSED WITH PREJUDICE, without leave to amend or replead.

SIGNED at Houston, Texas, this _____ day of _____, 2002.

_____
MELINDA HARMON
UNITED STATES DISTRICT JUDGE

EXHIBIT "A"

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

MARK NEWBY,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO.: H 01-3624
	§	AND CONSOLIDATED CASES
ENRON CORPORATION, et al.,	§	
	§	
Defendants.	§	
	§	
	§	

ORDER

Pending before the Court is the Unopposed Motion of Defendant John A. Urquhart To Substitute Proposed Form of Order, by which Mr. Urquhart seeks leave of Court to substitute the form of Order attached hereto as Exhibit "A" in place of the form of Order that accompanied Mr. Urquhart's Motion to Dismiss the Consolidated Complaint. Because Mr. Urquhart's Motion is meritorious and is unopposed, the Court

ORDERS that the form of Order originally submitted with Mr. Urquhart's Motion to Dismiss the Consolidated Complaint is hereby withdrawn and that the form of Order attached hereto as Exhibit "A" is substituted in its place.

SIGNED at Houston, Texas, this _____ day of _____, 2002.

_____
MELINDA HARMON
UNITED STATES DISTRICT JUDGE

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

MARK NEWBY, Plaintiff, v. ENRON CORPORATION, et al., Defendants.	§ § § § § § § § § § §	CIVIL ACTION NO.: H 01-3624 AND CONSOLIDATED CASES

ORDER

On this _____ day of _____, 2002, came on for consideration Defendant John A. Urquhart's Motion to Dismiss. After considering the motion, Plaintiffs' response and all of the pleadings and papers bearing on this matter, the Court finds and concludes that the motion to dismiss should be GRANTED and that because Plaintiffs previously have been given ample opportunity to plead any claims against Mr. Urquhart, Plaintiffs should not be given leave to amend or replead. Accordingly, the Court

ORDERS that all claims asserted by Plaintiffs against John A. Urquhart are hereby DISMISSED WITH PREJUDICE, without leave to amend or replead.

SIGNED at Houston, Texas, this _____ day of _____, 2002.

_____
MELINDA HARMON
UNITED STATES DISTRICT JUDGE

EXHIBIT "A"

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

MARK NEWBY,	§	
Plaintiff,	§	
v.	§	CIVIL ACTION NO.: H 01-3624
	§	AND CONSOLIDATED CASES
ENRON CORPORATION, et al.,	§	
Defendants.	§	

ORDER

On this _____ day of _____, 2002, came on for consideration Defendant John A. Urquhart's Motion to Dismiss. After considering the motion, Plaintiffs' response and all of the pleadings and papers bearing on this matter, the Court finds and concludes that the motion to dismiss should be GRANTED and that because Plaintiffs previously have been given ample opportunity to plead any claims against Mr. Urquhart, Plaintiffs should not be given leave to amend or replead. Accordingly, the Court

ORDERS that all claims asserted by Plaintiffs against John A. Urquhart are hereby DISMISSED WITH PREJUDICE, without leave to amend or replead.

SIGNED at Houston, Texas, this _____ day of _____, 2002.

_____
MELINDA HARMON
UNITED STATES DISTRICT JUDGE