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

United States Courts
Southern District of Texas
FILED
MAY 28 2002
Michael N. Milby, Clerk

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

PLAINTIFFS ODAM, ROSEN, DELGADO, AHLICH AND PEARSON'S RESPONSE TO LJM CAYMAN, L.P., *ET AL.*'S MOTION FOR ENTRY OF PRELIMINARY SCHEDULING ORDER FOR COMPLAINTS CONSOLIDATED INTO NEWBY AND PURSUED BY PERSONS OTHER THAN COURT-APPOINTED LEAD PLAINTIFF

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiffs Odam, Rosen, Delgado, Ahlich and Pearson ("Plaintiffs"), subject to and without waiving their motions to remand, file this their response to LJM Cayman, L.P., *et al.*'s ("Cayman") Motion for Entry of Preliminary Scheduling Order for Complaints Consolidated into *Newby* and Pursued by Other Persons Other Than Court Appointed Lead Plaintiff. In support thereof, Plaintiffs would show the following:

1. Plaintiffs currently have motions to remand pending before this Court.[1] Plaintiffs' response to this motion should in no way be construed as a waiver of Plaintiffs' position that they have been improperly removed to this Court. Further, Plaintiffs' response should in no way be intended or construed that Plaintiffs have agreed to the jurisdiction of this Court or intend to waive any argument they have as to this Court's jurisdiction.

[1] The Odam Complaint was originally filed asserting violations of federal security laws in federal court. Odam Plaintiffs do not assert there is a lack of federal question jurisdiction over their claims as presently pleaded.

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2. Plaintiffs hereby object to Cayman's motion for entry of scheduling order. Frankly, Cayman's motion is both premature and nonsensical. With respect to class certification issues, any deadlines for filing opt-outs can be determined after this Court has ruled on the motion to certify the class in accordance with Rule 23 of the Federal Rules of Civil Procedure. It would be a waste of judicial resources to consider these matters now. By the very nature of the consolidation order, Plaintiffs are held captive before this Court and must follow Lead Plaintiffs' footsteps in this matter. The Plaintiffs cannot act independently of Lead Plaintiffs. Cayman would have this Court enter an order, thereby creating yet another subgroup of cases although this Court has already "admonished" Plaintiffs' counsel for seeking to act on their own in other Enron-related litigation.

WHEREFORE, Plaintiffs respectfully request that this Court deny LJM Cayman, L.P., *et al.*'s Motion for Entry of Preliminary Scheduling Order for Complainant Cases Consolidated into *Newby* and Filed by Other Persons Than a Court-appointed Lead Counsel and for any and all further relief to which Plaintiffs may be entitled.

Respectfully submitted,

FLEMING & ASSOCIATES, L.L.P.

G. Sean Jez
State Bar No. 00796829
George M. Fleming
State Bar No. 07123000
Sylvia Davidow
State Bar No. 05430551
1330 Post Oak Blvd., Suite 3030
Houston, Texas 77056-3019
Tel. No.: (713) 621-7944
Fax No.: (713) 621-9638

By_____
G. Sean Jez

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of the above and foregoing has been provided to all parties as indicated on the attached Service List on this the 28th day of May, 2002, by e-mail pursuant to Court order, or by facsimile or first class mail:

G. Sean Jez

SERVICE LIST

Ms. Lynn Lincoln Sarko KELLER ROHRBACK, LLP 1201 Third Avenue, Suite 3200 Seattle, WA 98101-3052 206-623-1900 206-623-3384 (fax) e-mail: lsarko@kellerrohrback.com Co-Lead Counsel for *Tittle* Plaintiffs	Mr. Roger B. Greenberg SCHWARTZ JUNELL ET AL. Two Houston Center 909 Fannin, Suite 2000 Houston, TX 77010 713-752-0017 713-752-0327 (fax) e-mail: rgreenberg@schwartz-junell.com Local Counsel for Securities Plaintiffs in *Newby*
Mr. William S. Lerach Ms. Helen J.Hodges Byron S. Georgiou MILBERG WEISS, ET AL. 401 B Street, Suite 1700 San Diego, CA 92101-5050 619-231-1058 619-231-7423 (fax) -and- Mr. Melvyn I. Weiss Mr. Steven G.Schulman MILBERG WEISS, ET AL. One Pennsylvania Plaza New York, NY 10119-1065 212-594-5300 212-868-1229 (fax) e-mail: enron@milberg.com Lead Counsel for Securities Plaintiffs in *Newby*	Mr. Steve W. Berman Mr. Clyde A.Platt, Jr. HAGENS BERMAN LLP 1301 Fifth Avenue, Suite 2900 Seattle, WA 98101 206-623-7292 206-623-0594 (fax) e-mail: steve@hagens-berman.com Co-Lead Counsel for *Tittle* Plaintiffs
Mr. Robin L. Harrison Mr. Justin M. Campbell, III CAMPBELL HARRISON & DAGLEY, LLP 4000 Two Houston Center 909 Fannin Street Houston, TX 77010 713-752-2332 713-752-2330 (fax) e-mail: rharrison@chd-law.com Liasion Counsel for *Tittle* Plaintiffs	Mr. James F. Marshall JUDICIAL WATCH, INC. 2540 Huntington Dr., Suite 201 San Marino, CA 91108-2601 626-287-4540 626-237-2003 (fax) e-mail: marshall@attglobal.net Attorneys for Plaintiff Ralph A. Wilt, Jr.

Mr. Kenneth S. Marks SUSMAN GODFREY LLP 1000 Louisiana St., Suite 5100 Houston, TX 77002-5096 713-651-9366 713-654-6666 (fax) e-mail: kmarks@susmangodfrey.com Attorneys for Defendant Enron Corp.	Mr. Anthony C. Epstein STEPTOE & JOHNSON, LLP 1330 Connecticut Ave., NW Washington, DC 20036 202-429-3000 202-429-3902 (fax) e-mail: aepstein@steptoe.com Attorney for Philip J. Bazelides, Mary K. Joyce, James S. Prentice
Mr. Eric J.R. Nichols BECK REDDEN & SECREST, LLP One Houston Center 1221 McKinney St., Suite 4500 Houston, TX 77010-2010 713-951-3700 713-951-3720 (fax) e-mail: enichols@brsfirm.com Attorneys for Defendants Michael J. Kopper, Chewco Investments, LJM Cayman, LP	Mr. Robert M. Stern O'MELVENY & MYERS, LLP 555 13th Street N.W., Suite 500 W Washington, DC 20004-1109 202-383-5300 202-383-5414 (fax) e-mail: rstern@omm.com Attorneys for Defendant Jeffrey Skilling
Ms. Abigail K. Sullivan BRACEWELL & PATTERSON, LLP South Tower Pennzoil Place 711 Louisiana St., Suite 2900 Houston, TX 77002-2781 713-223-2900 713-221-1212 (fax) e-mail: asullivan@bracepatt.com Attorneys for Defendant James V. Derrick, Jr.	Mr. John J. McKetta, III GRAVES DOUGHERTY ET AL. 515 Congress Ave., Suite 2300 Austin, TX 78701 512-480-5600 512-478-1976 (fax) e-mail: mmcketta@gdhm.com Attorneys for Defendant Rebecca Mark-Jusbasche
Ms. Linda L. Addison FULBRIGHT & JAWORSKI, LLP 1301 McKinney, Suite 5100 Houston, TX 77010 713-651-5628 713-651-5246 (fax) e-mail: laddison@fulbright.com Attorneys for Defendants The Northern Trust Company, Northern Trust Retirement Consulting LLC	Mr. Jack C. Nickens NICKENS LAWLESS & FLACK, LLP 1000 Louisiana, Suite 5360 Houston, TX 77002 713-571-9191 713-571-9652 (fax) e-mail: trichardson@nlf.law.com Attorneys for Defendants Estate of J. Clifford Baxter, Deceased, Joseph M. Hirko, Lou L. Pai, Paula Ricker, Kenneth D. Rice, Richard B. Buy, Richard A. Causey, Mark A. Frevert, Stanley C. Horton, Michael S. McConnell, Jeffrey McMahon, Cindy K. Olson, J. Mark Metts, Joseph W. Sutton, Steven J. Kean, Mark E. Koenig

Mr. Billy Shepherd CRUSE SCOTT HENDERSON & ALLEN, LLP 600 Travis St., Suite 3900 Houston, TX 77002-2910 713-650-6600 713-650-1720 (fax) e-mail: bshepherd@crusescott.com Attorneys for Defendant David Stephen Goddard, Jr.	Dr. Bonnee Linden, Pro Se LINDEN COLLINS ASSOCIATES 1226 West Broadway P.O. Box 114 Hewlett, NY 11557 516-295-7906 e-mail: DO NOT FAX OR E-MAIL
Mr. James E. Coleman, Jr. CARRINGTON COLEMAN, ET AL. 200 Crescent Court, Suite 1500 Dallas, TX 75201 214-855-3000 214-855-1333 (fax) e-mail: deakin@ccsb.com Attorneys for Defendant Kenneth L. Lay	Mr. William F. Martson, Jr. TONKON TORP, LLP 888 S.W. Fifth Ave., Suite 1600 Portland, OR 97204-2099 503-221-1440 503-972-3705 (fax) e-mail: rick@tonkon.com Attorneys for Defendant Ken L. Harrison
Mr. Jeremy L. Doyle GIBBS & BRUNS, LLP 1100 Louisiana, Suite 5300 Houston, TX 77002 713-650-8805 713-750-0903 (fax) e-mail: jdoyle@gibbs-bruns.com Attorneys for Defendants Robert A. Belfer, Norman P. Blake, Jr., Ronnie C. Chan, John H. Duncan, Joe H. Foy, Charles A. LeMaistre, Wendy L. Gramm, Robert K. Jaedicke, Charls E. Walker, John Wakeham, John Mendelsohn, Paulo V. Ferraz Pereira, Frank Savage, Herbert S. Winokur, Jr., Jerome J. Meyer, Bruce G. Willison	Mr. Charles G. King KING & PENNINGTON, LLP 711 Louisiana St., Suite 3100 Houston, TX 77002-2734 713-225-8400 713-225-8488 (fax) e-mail: cking@kandplaw.com Attorneys for Defendants Goldman Sachs & Co., Banc of America Securities LLC, Salomon Smith Barney Inc.
Ms. Carolyn S. Schwartz U.S. Trustee, Region 2 33 Whitehall St., 21st Floor New York, NY 10004 212-510-0500 212-668-2255 (fax) NO E-MAIL ADDRESS	Mr. Craig Smyser SMYSER, KAPLAN & VESELKA, LLP 700 Louisiana St., Suite 2300 Houston, TX 77002 713-221-2300 713-221-2320 (fax) e-mail: csmyser@skv.com Attorneys for Defendant Andrew S. Fastow

Mr. H. Bruce Golden GOLDEN & OWENS, LLP 1221 McKinney St., Suite 3600 Houston, TX 77010 713-223-2600 713-223-5002 (fax) e-mail: golden@goldenowens.com Attorneys for Defendant John A. Urquhart	Ms. Jacalyn Scott WILSHIRE SCOTT & DYER, P.C. 1221 McKinney, Suite 3000 Houston, TX 77010 713-651-1221 713-651-0020 (fax) e-mail: jscott@wsd-law.com Attorneys for CitiGroup, Inc. and Salomon Smith Barney, Inc.
Mr. Rusty Hardin RUSTY HARDIN & ASSOCIATES, PC 1201 Louisiana, Suite 3300 Houston, TX 77002 713-652-9000 713-652-9800 (fax) e-mail: rhardin@rustyhardin.com Attorneys for Defendant Arthur Andersen, LLP	Mr. Barry G. Flynn LAW OFFICES OF BARRY G. FLYNN, P.C. 1300 Post Oak Blvd., Suite 750 Houston, TX 77056 713-840-7474 713-840-0311 (fax) e-mail: bgflaw@mywavenet.com Attorneys for Defendant David B. Duncan
Mr. Paul Vizcarrondo, Jr. WACHTELL LIPTON ROSEN & KATZ 51 West 52nd Street New York, NY 10019 212-403-1000 212-403-2000 (fax) e-mail: pvizcarrondo@wlrk.com Attorneys for Defendants Goldman Sachs & Co., Banc of America Securities LLC, Salomon Smith Barney Inc.	Ms. Sharon Katz DAVIS POLK & WARDWELL 450 Lexington Ave. New York, NY 10017 212-450-4000 212-450-3633 (fax) e-mail: andersen.courtpapers@dpw.com Attorneys for Defendant Arthur Andersen, LLP
Mr. Henry F. Schuelke, III JANIS SCHUELKE & WECHSLER 1728 Massachusetts Ave., NW Washington, DC 20036 202-861-0600 202-223-7230 (fax) e-mail: hsschuelke@janisschuelke.com Attorneys for Defendant Ben Glisan	Mr. Mark A. Glasser KING & SPALDING 1100 Louisiana St., Suite 4000 Houston, TX 77002-5213 713-751-3200 713-751-3290 (fax) e-mail: mkglasser@kslaw.com Attorneys for Defendant LJM2 Co-Investments
Mr. Robert Hayden Burns BURNS WOOLEY & MARSEGLIA 1415 Louisiana, Suite 3300 Houston, TX 77002 713-651-0422 713-651-0817 (fax) e-mail: hburns@bwmzlaw.com Attorneys for Defendant Kristina Mordaunt	Mr. Gary A. Orseck Mr. Lawrence S. Robbins ROBBINS, RUSSELL, ET AL. 1801 K. St., NW, Suite 411 Washington, DC 20006 202-775-4500 202-775-4510 (fax) e-mail: gorseck@robbinsrussell.com Attorneys for Defendant Michael M. Lowther

Mr. Scott B. Schreiber ARNOLD & PORTER 555 Twelfth Street, N.W. Washington, DC 20004-1206 202-942-5000 202-942-5999 (fax) e-mail: s_schreiber@aporter.com Attorneys for Defendant Thomas H. Bauer	Mr. John K. Villa WILLIAMS & CONNOLLY, LLP 725 Twelfth St., NW Washington, DC 20005 202-434-5000 202-434-5029 (fax) e-mail: jvilla@wc.com Attorneys for Defendants Vinson & Elkins, LLP, Ronald T. Astin, Joseph Dilg, Michael P. Finch, Max Hendrick, III
Mr. Mark C. Hansen Mr. Reid M. Figel KELLOGG HUBER HANSEN, ET AL. 1615 M St., NW, Suite 400 Washington, DC 20036 202-326-7900 202-326-7999 (fax) e-mail: mhansen@khhte.com rfigel@khhte.com Attorneys for Defendant Nancy Temple	Mr. Bernard V. Preziosi, Jr. CURTIS MALLET-PREVOST, ET AL. 101 Park Avenue New York, NY 10178-0061 212-696-6000 212-697-1559 (fax) e-mail: bpreziosi@cm-p.com Attorneys for Defendant Michael C. Odom
Mr. Andrew J. Mytelka Mr. David LeBlanc GREER, HERZ & ADAMS, LLP One Moody Plaza, 18th Fl. Galveston, TX 77550 409-797-3200 409-766-6424 e-mail: amytelka@greerherz.com dleblanc@greerherz.com bnew@greerherz.com swindsor@greerherz.com Attorneys for Plaintiffs American National Insurance Co., National Western Life Insurance Co, American National Investment Accounts Inc, SM&R Investments Inc., American National Property and Casualty Inc., Standard Life and Accident Insurance Co, Farm Family Life Insurance Co., Farm Family Casualty Insurance Co.	Mr. William Edward Matthews GARDERE WYNNE SEWELL, LLP 1000 Louisiana, Suite 3400 Houston, TX 77002 Fax: 713/308-5555 Attorneys for Defendant Andersen Worldwide, S.C.
Mr. John L. Murchison, Jr. VINSON & ELKINS, LLP 2300 First City Tower 1001 Fannin Houston, TX 77002 713-758-2222 713-758-2346 (fax) e-mail: jmurchison@velaw.com	Mr. Taylor M. Hicks HICKS THOMAS & LILIENSTERN, LLP 700 Louisiana, Suite 1700 Houston, Texas 77002 713-547-9100 713-547-9150 (Fax) e-mail: thicks@hicks-thomas.com Attorneys for Merrill Lynch & Co., Inc.

Mr.Richard Mithoff MITHOFF & JACKS 500 Dallas, Penthouse Houston, Texas 77002 713-654-1122 713-739-8085 (fax) e-mail: enronlitigation@mithoff-jacks.com cgall@jenkens.com t_rice@stblaw.com Attorneys for J.P. Morgan Chase & Co.	