

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

In Re Enron Corporation	§	
Securities, Derivative &	§	MDL-1446
"ERISA" Litigation	§	
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MARK NEWBY, ET AL.,	§	
Plaintiffs	§	
VS.	§	CIVIL ACTION NO. H-01-3624
	§	CONSOLIDATED CASES
ENRON CORPORATION, ET AL.,	§	
Defendants	§	
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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.	§	
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PAUL OKOMO,	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. H-03-3508
BANC OF AMERICA SECURITIES LLC,	§	
et al.,	§	
Defendants,	§	

**OPINION AND ORDER**

Pending before the Court in H-03-3508 is Plaintiff Paul Okomo's unopposed motion to revoke his request for exclusion from the *Newby* settlement classes (instrument #446).

In a response, *Newby* Lead Plaintiff The Regents of the University of California states that it does not oppose the request, but notes that when Mr. Okomo asked for identical relief

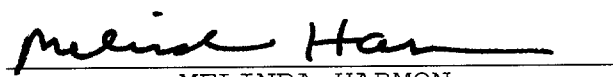
two years ago (#86), the Court denied his motion not only for its extreme untimeliness, but for Plaintiff's continued failure to meet court deadlines and follow court orders (#89).

As Mr. Okomo's current motion points out, the policy behind allowing class members who have opted out of a class action to later rejoin the class membership is to prevent multiple unnecessary lawsuits over the same issues. *In re Elec. Weld Steel Tubing Antitrust Litig.*, No. 81-4737, 1982 WL 1873, \*2 (E.D. Pa. June 30, 1982) (allowing party to opt back into class will "further the policy of Rule 23 to avoid needless relitigation"). See also *In re Urethane Antitrust Litig.*, MDL No. 1616, 2008 WL 5215980, \*1 (D. Kan. Dec. 12, 2008) (and cases cited therein). Despite a number of messages left by the Court's case manager with counsel asking if Mr. Okomo is going to dismiss his pending suit, counsel has failed to respond. The policy behind permitting a party to opt back in will not be realized absent dismissal of Mr. Okomo's independent suit against many of the same defendants that were involved in the *Newby* action. Accordingly, the Court

ORDERS that Mr. Okomo shall file within five days a motion to dismiss that suit or a statement that he chooses to proceed with H-03-3508. Failure to comply or a decision to continue with his independent action will result in denial of his motion to revoke his request for exclusion from the *Newby*

settlement classes.

SIGNED at Houston, Texas, this 7<sup>th</sup> day of ~~April~~ <sup>May</sup>, 2009.

  
MELINDA HARMON  
UNITED STATES DISTRICT JUDGE