


The Impact of Enron on the U.S. Judicial System



David J. Beck
Beck, Redden & Secret, L.L.P.
Houston, Texas

Enron Collapses



- On October 16, 2001, Enron announces a \$618 million third-quarter loss and discloses a \$1.2 billion reduction in shareholder equity.
- During next six weeks, shares plummet to below \$1.00 as SEC initiates investigation.
- On December 2, 2001, Enron becomes at the time the largest company to file a bankruptcy petition in U.S. history.
- \$22 billion in market value of Enron stock wiped out; thousands of employees laid off; and thousands of employees saw their retirement funds disappear.

Explosive Reaction



- Estimated in excess of 200 lawsuits filed in less than 6 months from October 2001 announcement in state and federal courts across the country.
 - Federal court securities fraud suits.
 - State court securities fraud suits.
 - State and federal shareholder derivative suits.
 - Federal and state employee lawsuits.
 - Federal and state lawsuits against underwriters of Enron debt offerings.
- Congressional Hearings
 - Since Enron filed for bankruptcy, Congress has held no less than 45 hearings focusing on the Company and its demise.
 - Testimony taken from current and former Enron employees, advisors (accountants and lawyers), and others.

Explosive Reaction



- SEC investigation.
- Investigations by State Attorneys General.
- Department of Justice establishes an Enron Task Force.
 - Centered in D.C., with offices in Houston.
 - Enron relationship with State of California investigated in N.D. Cal.
 - Securities issues investigated in the S.D.N.Y.

Civil Litigation



- **Consolidation of Cases by Causes of Action**
 - Within 2 weeks after Enron filed for bankruptcy, 45 Enron-related cases were pending in the Southern District of Texas.
 - Cases included federal securities claims, derivative actions, and ERISA allegations. The cases involved diverse legal standards and differing procedural requirements – including the heightened pleading requirements under the Private Securities Litigation Reform Act (“PSLRA”) and restrictions on early discovery and the impact of the bankruptcy stay on the derivative actions.

Civil Litigation



- Consolidation of Cases by Causes of Action
 - Judge Lee Rosenthal consolidated cases for all purposes into three categories:
 - *Newby*: securities fraud
 - *Tittle*: ERISA
 - *Pirelli Armstrong Tire*: shareholder derivative
 - Following Judge Rosenthal's recusal, Melinda Harmon, as the judge randomly assigned the case with the next lowest number, stepped in.

Civil Litigation



- **Consolidation of Cases by Causes of Action**
 - Who becomes lead counsel for plaintiffs in each category?
 - Negotiation among competing plaintiffs' attorneys.
 - PSLRA procedure for appointing lead counsel also applied effectively to employee ERISA cases.
 - Judge Harmon appoints "lead" and "liaison" counsel in each of the securities fraud and ERISA consolidated cases.

