

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

FILED
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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEPUTY

IN RE EL PASO ELECTRIC §
COMPANY SECURITIES §
LITIGATION §
This Document Relates To: §
All Actions §

EP-03-CA-0004-DB

ORDER

On this day, the Court considered a "Motion By El Paso Electric Company, Terry D. Bassham, Julius F. Bates, James Haines, Jr., Gary R. Hedrick, and Eduardo A. Rodriguez to Dismiss" ("Motion to Dismiss"), filed in the above-captioned cause on August 20, 2003, by Defendants. Plaintiffs Jordan Roth, James Richards, and Kevmar Holdings Limited Partnership, ("Plaintiffs") filed a "Memorandum in Opposition To Motion To Dismiss" ("Response") on September 15, 2003. On October 2, 2003, Defendants filed a "Reply Memorandum In Support Of Motion To Dismiss" ("Reply"). After reviewing the factual recitations and the arguments in the Motion, Response, and Reply, the Court is of the opinion that the Motion to Dismiss should be denied in part and granted in part. The Motion to Dismiss is denied as pertaining to Defendants El Paso Electric Company, Terry D. Bassham, James Haines, Jr., and Gary R. Hedrick. However, the Motion to Dismiss is granted as pertaining to Defendants Julius F. Bates and Eduardo A. Rodriguez. A Memorandum Opinion explaining the Court's decision will follow.

In addition, the Court directs the Parties' attention to Federal Rule of Civil Procedure 26(f) and Rules 16 and 16(c) of the Local Court Rules for the Western District of Texas. Pursuant to those rules, the Parties are required to file with the Court a written report

outlining the Parties' proposed discovery plan not later than fifty-three days after defendant first appears, and a proposed scheduling order within sixty days after the appearance of any defendant.

Accordingly, **IT IS HEREBY ORDERED** that the "Motion to Dismiss" is **DENIED IN PART AND GRANTED IN PART** as set forth herein.

IT IS FURTHER ORDERED, that on or before **December 26, 2003**, the Parties **FILE a Joint Proposed Discovery Plan and Joint Proposed Scheduling Order** in accordance with the Local Court Rules and the Federal Rules of Civil Procedure.

SIGNED this 26th day of November, 2003.



THE HONORABLE DAVID BRIONES
UNITED STATES DISTRICT JUDGE