

FILED

October 12, 2004

Charles R. Fulbruge III
Clerk

In the
United States Court of Appeals
for the Fifth Circuit

m 01-10891

RUBY R. CALAD,

Plaintiff-Appellant-
Cross-Appellee,

WALTER PATRICK THORN,

Plaintiff-Cross-Appellee,

VERSUS

CIGNA HEALTHCARE OF TEXAS, INCORPORATED,
DOING BUSINESS AS HEALTHSOURCE,
DOING BUSINESS AS CIGNA CORPORATION,

Defendant-Appellee,

AETNA U.S. HEALTHCARE;
AETNA U.S. HEALTHCARE OF NORTH TEXAS, INC.,

Defendants-Appellees-
Cross-Appellants.

m 01-10905

JUAN DAVILA,

Plaintiff-Appellant,

VERSUS

AETNA U.S. HEALTHCARE, INC.;;
AETNA U.S. HEALTHCARE OF NORTH TEXAS, INC.,

Defendants-Appellees.

Appeals from the United States District Court
for the Northern District of Texas
Dist. Ct. m 3:00-CV-2368-D (5th Cir. Nos. 01-10891, 01-10905)
Dist. Ct. m 3:00-CV-2693-H (5th Cir. m 01-10891)

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before SMITH and BENAVIDES,
Circuit Judges.*

PER CURIAM:

The Supreme Court reversed and remanded this panel's opinion. *See Roark v. Humana, Inc.*, 307 F.3d 298 (5th Cir. 2002), *reversed sub nom. Aetna Health Inc. v. Davila*, ___

U.S. ___, 124 S. Ct. 2488 (2004). We requested and have received letters from the parties advising of their respective positions regarding the appropriate action to be taken by this court on remand. The parties appear to agree that this litigation is at an end. Plaintiffs Calad and Davila have nonsuited their actions in state court.

Accordingly, the appeals are DISMISSED. All costs are taxed against the plaintiffs.

* Judge Parker was a member of this panel but resigned from the court after the initial opinion was issued. This matter is now decided by a quorum. *See* 28 U.S.C. § 46(d).