

October 12, 2004

Charles R. Fulbruge III  
Clerk

In the  
United States Court of Appeals  
for the Fifth Circuit

\_\_\_\_\_  
m 01-10891  
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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.

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m 01-10905

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JUAN DAVILA,

Plaintiff-Appellant,

VERSUS

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

Defendants-Appellees.

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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)

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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.

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\* 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).