

September 13, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-30343

AETNA LIFE INSURANCE COMPANY,

Plaintiff-Counter Defendant-Appellee,

versus

DFW SLEEP DIAGNOSTIC CENTER; ET AL.,

Defendants-Counter Claimants;

DFW SLEEP DIAGNOSTIC CENTER; TOTAL SLEEP DIAGNOSTICS INC;
TOTAL SLEEP DIAGNOSTICS OF KANSAS INC;
TOTAL SLEEP DIAGNOSTICS OF OHIO INC;
TOTAL SLEEP DIAGNOSTICS OF INDIANA INC;
TOTAL SLEEP DIAGNOSTIC BILLING INC;
TOTAL SLEEP DIAGNOSTICS OF GEORGIA INC;
SLEEP SPECIALTIES INC;

Defendants-Counter Claimants-Appellants.

Appeal from the United States District Court
for the Eastern District of Louisiana
Case No. 2:02-CV-1335

Before JONES, Chief Judge, and REAVLEY, and PRADO, Circuit Judges.

PER CURIAM:*

Appellants, led by DFW Sleep Diagnostic Center, appeal the denial of their request for attorneys' fees under the Employment Retirement Income Security Act of 1974. 29 U.S.C. § 1132(g)(1). Analyzing the factors set forth in Iron Workers

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Local No. 702 v. Bowen, 624 F.2d 1255, 1266 (5th Cir. 1980), the district court held that there was no basis for an award of attorneys' fees because Aetna's claims were not made in bad faith and the merits of the case presented complex issues.

The court has carefully reviewed this appeal in light of the briefs and pertinent parts of the record. Having done so, we find no reversible error of law or fact. We therefore AFFIRM for essentially the same reasons stated by the trial court.

AFFIRMED.