

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Nos. 95-50525 & 95-50763

LUIS SOBREVILLA, SR., individually, and as
next friend of Luis R. Sobrevilla, Jr.;
ONELDA SOBREVILLA, individually, and as
next friend of Luis R. Sobrevilla, Jr.;
SANTA ROSA HEALTH CARE CORP.,

Plaintiffs-Appellants,

v.

CENTRAL STATES, SOUTHEAST AND SOUTHWEST
AREAS HEALTH AND WELFARE FUND; LORAN W.
ROBBINS; MARION M. WINSTEAD; ROBERT C.
SANSONE; R. JERRY COOK; ROBERT J. BAKER;
R.V. PULLIAM, SR.; HOWARD MCDUGALL;
ARTHUR H. BUNTE, JR.,

Defendants-Appellees,

and

HAROLD D. LEU, Trustee of Central States,
Southeast and Southwest Areas Health and
Welfare Fund; RAY CASH, Trustee of Central
States, Southeast and Southwest Areas
Health and Welfare Fund; THE TEXAS DEPARTMENT
OF HEALTH; THE TEXAS DEPARTMENT OF HUMAN
SERVICES; DAVID SMITH, Commissioner of the
Texas Department of Health; BURTON RAIFORD,
Commissioner of the Texas Department of
Health and Human Services,

Defendants.

LUIS SOBREVILLA, SR., individually, and as
next friend of Luis R. Sobrevilla, Jr.;
ONELDA SOBREVILLA, individually, and as
next friend of Luis R. Sobrevilla, Jr.;
SANTA ROSA HEALTH CARE CORP.,

Plaintiffs-Appellees,

v.

CENTRAL STATES, SOUTHEAST AND SOUTHWEST
AREAS HEALTH AND WELFARE FUND; ET AL.,

Defendants,

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS
HEALTH AND WELFARE FUND,

Defendant-Appellant.

Appeals from the United States District Court
for the Western District of Texas
(SA-92-CA-329)

October 11, 1996

Before KING and HIGGINBOTHAM, Circuit Judges, and LAKE*,
District Judge.

PER CURIAM:**

Plaintiffs-appellants, Luis R. Sobrevilla, Sr. and Onelda
Sobrevilla, individually and as next friends of Luis R.

*District Judge of the Southern District of Texas, sitting
by designation.

**Pursuant to Local Rule 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this opinion should not be published and is not precedent except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 Local Rule 47.5.4.

Sobrevilla, Jr., and Santa Rosa Health Care Corporation (collectively, "Santa Rosa"), appeal from the summary judgment entered by the district court in favor of defendant-appellee, Central States, Southeast and Southwest Areas Health and Welfare Fund (the "Fund"). Santa Rosa argues that the Trustees of the Fund abused their discretion in denying certain medical benefits for Luis R. Sobrevilla, Jr. Following briefing and oral argument, we conclude that the district court did not err in granting summary judgment for the Fund.

In No. 95-50763, Santa Rosa appeals the order of the district court denying its motion for attorneys fees. And in No. 95-50722, the Fund appeals the order of the district court denying its motion for attorneys fees. We are not persuaded that the district court abused its discretion in denying attorneys fees to Santa Rosa or the Fund. We do not consider Santa Rosa's challenge to the award of costs to the Fund because (as Santa Rosa concedes) Santa Rosa failed to file a notice of appeal with respect to such costs.

AFFIRMED.