

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Thomas K. Kahn
Clerk

In Reply, Give Number
Of Case And Names of Parties

November 20, 2002

MEMORANDUM TO COUNSEL OR PARTIES

RE: 02-90039-B Aetna, Inc. v. Leonard J. Klay, M.D.
DC DKT NO.: 00-01334 MD-FAM

GENERAL DOCKET NUMBER: 02-16333-C

Enclosed is the court's order granting permission to appeal. Pursuant to this order this cause has been docketed under the general docket number shown above which should be used in all future correspondence and filings instead of the previously assigned number.

Eleventh Circuit Rule 33-1 directs the appellant to file a Civil Appeal Statement in most civil appeals. The enclosed 11th Cir. Rule 33-1 and Civil Appeal Statement form provide instructions for submitting the completed Civil Appeal Statement in this case, which must be filed in this Court within ten (10) days of the date of this letter.

Pursuant to Fed.R.App.P 5(d), appellant must within ten (10) days after the date of entry of this order pay to the district court clerk the \$100 docket fee plus the \$5 filing fee required by statute (28 U.S.C. §§1913, 1917). **This appeal will be dismissed without further notice** [11th Cir. R. 42-1(b)] unless the fee is paid within fourteen (14) days, with notice to this office.

Pursuant to Fed.R.App.P. 10(b), appellant must also within ten (10) days order any transcript required. A Transcript Information Form is available from the district court clerk. Appellant is required to and serve copies of the form in accordance with the instructions included on the form. **UNLESS A TRANSCRIPT IS ORDERED, APPELLANT'S BRIEF MUST BE FILED WITHIN 40 DAYS OF THE DATE THE APPEAL WAS DOCKETED IN THIS COURT. See 11th Cir. R. 12-1 and 31-1.** This appeal will be dismissed without further notice [11th Cir. R. 42-1(b)] unless the appellant files a Transcript Information Form within fourteen (14) days.

Counsel who wish to participate in this appeal must complete and return the enclosed appearance form within fourteen (14) days. The clerk may not accept **motions or other filings** from an attorney until that attorney files an appearance form. See 11th Cir. R. 46-1(d).

Sincerely,

THOMAS K. KAHN, Clerk

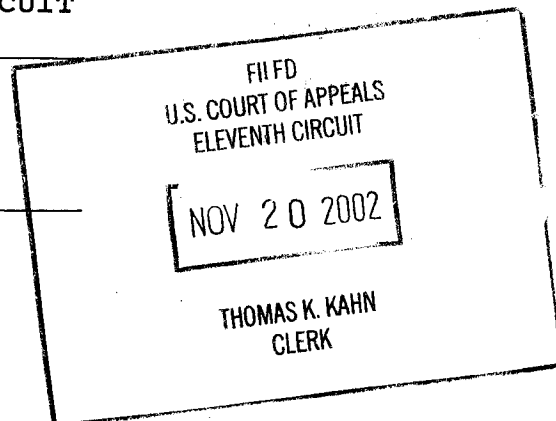
Reply To: Pam Hollowy/dwb (404)335-6182

Encl.

DKT-10 (3-2002)

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 02-90039-B



AETNA, INC.,
f.k.a. Aetna-U.S. Healthcare, Inc.,
CIGNA CORPORATION,
HUMANA, INC.,
HUMANA HEALTH PLAN, INC.,
FOUNDATION HEALTH SYSTEMS, INC.,
n.k.a. Health Net, Inc.,
PACIFICARE HEALTH SYSTEMS, INC.,
PACIFICARE OPERATIONS, INC.,
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,
UNITEDHEALTH GROUP, INC.,
f.k.a. United HealthCare Corporation,
UNITEDHEALTH CARE, INC.,

Petitioners,

versus

LEONARD J. KLAY, M.D.,
CHARLES B. SHANE, M.D.,
ALL PLAINTIFFS,
PRICE PLAINTIFFS,
Price, Sessa, Katz & Yingling,
PROVIDER PLAINTIFFS, et al.,

Respondents.

On Petition for Permission to Appeal from the United States
District Court for the Southern District of Florida

BEFORE: TJOFLAT, ANDERSON and BLACK, Circuit Judges.

BY THE COURT:

The petition for permission to appeal, filed pursuant to
Federal Rule of Civil Procedure 23(f), is **GRANTED**.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 02-90039-B

F11FD
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT

NOV 20 2002

THOMAS K. KAHN
CLERK

AETNA, INC.,
f.k.a. Aetna-U.S. Healthcare, Inc.,
CIGNA CORPORATION,
HUMANA, INC.,
HUMANA HEALTH PLAN, INC.,
FOUNDATION HEALTH SYSTEMS, INC.,
n.k.a. Health Net, Inc.,
PACIFICARE HEALTH SYSTEMS, INC.,
PACIFICARE OPERATIONS, INC.,
THE PRUDENTIAL INSURANCE COMPANY OF AMERICA,
UNITEDHEALTH GROUP, INC.,
f.k.a. United HealthCare Corporation,
UNITEDHEALTH CARE, INC.,

Petitioners,

versus

LEONARD J. KLAY, M.D.,
CHARLES B. SHANE, M.D.,
ALL PLAINTIFFS,
PRICE PLAINTIFFS,
Price, Sessa, Katz & Yingling,
PROVIDER PLAINTIFFS, et al.,

Respondents.

On Petition for Permission to Appeal from the United States
District Court for the Southern District of Florida

ORDER:

Petitioner's motion for leave to file reply to respondents' opposition to petition for permission to appeal is **GRANTED**.

/S/ GERALD BARD TJOFLAT
UNITED STATES CIRCUIT JUDGE

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
Appearance of Counsel Form

AN ATTORNEY MUST FILE THIS FORM IN EACH APPEAL IN WHICH THE ATTORNEY PARTICIPATES
WITHIN 14 DAYS AFTER NOTICE IS MAILED BY THE CLERK.

02-16333

C

Please Type or Print

Court of Appeals No. _____

vs. _____

The Clerk will enter my appearance for these named parties: _____

In this court these parties are: appellant(s) petitioner(s) intervenor(s)
 appellee(s) respondent(s) amicus curiae

The following related or similar cases are pending on the docket of this court: _____

Check here if you are court-appointed counsel.

Signature: _____

Name (Type or Print): _____

Phone: _____

Firm/Govt. Office: _____

Fax: _____

Street Address: _____

E-mail: _____

City: _____

State: _____

Zip: _____

To enter an appearance, you must be an 11th Circuit bar member or be exempt under 11th Cir. R. 46-1(c) (see reverse).

You may apply for admission to the bar using the form below.

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
Application for Admission to the Bar

VERIFIED PERSONAL STATEMENT

PART I. (Please Type or Print)

Social Security No.: _____

Name: _____

Phone: _____

(As you want it to appear on Certificate)

Firm/Govt. Office: _____

Fax: _____

Street Address: _____

E-mail: _____

City: _____

State: _____

Zip: _____

Pursuant to Fed.R.App.P. 46(a), to qualify for admission you must be a member in good standing of the bar of the U.S. Supreme Court, another U.S. Court of Appeals, a U.S. District Court, or the highest court of any state. Please specify which court qualifies you for admission. **You must attach a certificate of good standing from your qualifying court to this application.**

Qualifying Court: _____

Date Admitted: _____

PART II. (Answer each question. If any answer is yes, attach a statement giving details.)

YES NO

1. Have you changed your name or been known by any names or surnames other than the one appearing on this application?
- 2a. Have you been disbarred or suspended from practice before any court, department, bureau or commission of any State or the United States, or have you received a reprimand from any of them pertaining to your conduct or fitness to practice?
- 2b. Are any such proceedings or allegations presently pending against you?
- 3a. Have you been a party to criminal proceedings, or to civil proceedings in which allegations of fraud, misrepresentation or other dishonesty were made against you?
- 3b. Are you presently under investigation for any matter specified in question 3a?

(Reverse Side Must Also Be Completed In Full)

(a) Admission and Fees. Only attorneys admitted to the bar of this court may practice before the court. Admission is governed by FRAP 46 and this Eleventh Circuit Rule. An attorney seeking admission shall submit an application on a form supplied by the clerk to the clerk's principal office in Atlanta accompanied by an admission fee of \$20.00 payable to U.S. Court of Appeals, Non-Appropriated Fund, 11th Circuit. It is the responsibility of each member of the bar to keep this court informed of any changes to addresses, phone numbers, fax numbers, and e-mail addresses.

(b) Readmission and Fees. Each attorney admitted to the bar of this court shall pay a readmission fee of \$10.00 every five years. A new certificate of admission will *not* issue upon payment of this fee. Attorneys admitted *after* April 1, 1989, shall pay this readmission fee to the clerk on or before the fifth anniversary of their admission. Attorneys admitted *prior to* April 1, 1989, shall pay this readmission fee to the clerk during the month indicated in the following schedule, and then during that same month each five years thereafter:

<u>Last Name (Initial)</u>	<u>Payment Due</u>
A - D	April, 1994
E - K	May, 1994
L - R	June, 1994
S - Z	July, 1994

If the readmission fee is not timely paid, the clerk shall send notice of nonpayment to the attorney at the address on the roll of attorneys admitted to practice before this court (attorney roll) and advise the attorney that payment of the readmission fee is due within 30 days of said notice. If the readmission fee is not thereafter paid within 30 days, the clerk shall strike that attorney's name from the attorney roll, sending notice of same to the attorney at the address on the attorney roll. If the court's 30-day notice is returned undelivered due to an incorrect address, no further notice is required to be sent. If an attorney whose name is stricken from the attorney roll due to nonpayment of the readmission fee thereafter wishes to seek readmission to the bar of this court, said attorney shall apply for admission to the bar pursuant to section (a) of this rule.

(c) Admission for Particular Proceeding. The following attorneys shall be admitted for the particular proceeding in which they are appearing without the necessity of formal application or payment of the admission fee: an attorney appearing on behalf of the United States, a federal public defender, an attorney appointed by a federal court under the Criminal Justice Act or appointed to represent a party in forma pauperis. Attorneys in these categories who desire to receive an admission certificate from the Eleventh Circuit must pay the admission fee.

* * * *

OATH (OR AFFIRMATION):

I, _____, do solemnly swear (or affirm) that I will conduct myself as an attorney and counselor of this court, uprightly and according to law; and that I will support the Constitution of the United States. I do further swear (or affirm) that all responses in the foregoing personal statement, including attachments which are incorporated herein by reference, are true and correct to the best of my knowledge, information and belief.

Signature of Applicant

Subscribed and sworn (or affirmed) to before me a Notary Public in and for the _____
of _____, State of _____, this _____ day of _____.

My commission expires: _____

Signature and Seal of Notary

MOTION: (Optional)

(Please Type or Print)

I, _____, a member of the bar of the Eleventh Circuit Court of Appeals, hereby move the admission of the applicant to the bar of this court. I am satisfied that the applicant possesses the necessary qualifications and is of good moral and professional character.

Social Security Number of Movant

Signature of Movant

NOTE: Make check payable to "U.S. Court of Appeals, Non-Appropriated Fund, 11th Circuit," and attach to your application. The completed application, a certificate of good standing from your qualifying court, and a \$20 admission fee should be forwarded to: Attorney Admissions Clerk, U.S. Court of Appeals, Eleventh Circuit, 56 Forsyth Street, N.W., Atlanta, GA 30303.

NOTICE

Amendments to the Eleventh Circuit Rules took effect on **January 1, 2002**.
The revised rules are available on the Internet at

www.ca11.uscourts.gov

Among the revised circuit rules are provisions that:

- provide that motions for reconsideration **must** be filed within **21 days** of the entry of an order. See 11th Cir. R. 27-2.
- **require** counsel to file an Appearance of Counsel Form in each appeal in which the attorney participates **within 14 days** after notice is mailed by the clerk. See 11th Cir. R. 46-1(d). *After 14 days, the clerk may not accept filings from an attorney until an appearance form is filed.*
- **require** counsel to attach a copy of the court's opinion to petitions for rehearing and to petitions for rehearing en banc. See 11th Cir. R. 35-6(k) and 11th Cir. R. 40-1.