

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GUARDIAN FLIGHT LLC, ET AL 4:23-CV-00805

VS. HOUSTON, TEXAS

AETNA LIFE INSURANCE COMPANY OCTOBER 10, 2023

TRANSCRIPT OF MOTION HEARING AND STATUS CONFERENCE PROCEEDINGS
HEARD BEFORE THE HONORABLE ALFRED H. BENNETT
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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1 P R O C E E D I N G S

2 (Call to order of the court.)

3 THE COURT: Good morning. Thank you. Please have a
4 seat.

09:59AM 5 Cause Number 4:23-cv-805,
6 Guardian Flight LLC, et al versus Aetna Life Insurance
7 Company, et al.

8 Counsel, your appearances for the record.

9 MR. SCHRAMEK: Adam Schramek and Dewey Gonsoulin for
10:00AM 10 plaintiffs.

11 MS. STRAHAN: Good morning, Your Honor.
12 Katherine Strahan and David Hughes for defendants Aetna Life
13 Insurance and affiliates.

14 MR. FERACHI: Good morning, Your Honor. Kyle Ferachi
10:00AM 15 on behalf of Cigna.

16 MR. SMITH: Good morning, Your Honor. Ruel Smith and
17 Steve Lehner, pro hac vice admitted on behalf of Cigna.

18 THE COURT: Very well. Good morning, counsel.

19 Counsel, this is a motion hearing/status
10:00AM 20 conference. I know that the case was recently consolidated and
21 what we have, I know, outstanding to be the motion to dismiss
22 filed by defendants as well as the motion to stay the discovery
23 in the case.

24 First I'll hear brief status from the plaintiff
10:01AM 25 and if I have missed any motion that needs to be addressed

1 today, you can point that out to me as well, counsel.

2 MR. SCHRAMEK: Good morning, Your Honor. Adam Schramek
3 on behalf of plaintiffs.

4 As you may recall, there's kind of two sets of
5 litigation going on with respect to the IDR awards. There's
6 the enforcement litigation and then there's the challenge
7 litigation. Aetna is here today, and we have one of each
8 against Aetna pending here in this Court.

9 As you may recall, Judge Corrigan in Florida said
10 that he was going to handle the challenge first. Back in, I
11 think, June we had that discussion. He has not issued an
12 opinion yet, so we still wait on the challenge side.

13 But we're here today to talk about the
14 enforcement side, which is separate in our point of view from
15 any challenge, how you enforce the IDR awards.

16 As of today, we have 303 awards that are unpaid
17 by Cigna and Aetna that are at least 30 days past due, meaning
18 it's been at least 60 days since they were issued, with a total
19 outstanding of \$3,861,818.

10:02AM 20 And so we are here to oppose the motion to
21 dismiss and to obtain the relief for the unpaid awards,
22 including interest and attorney fees under various state causes
23 of action.

24 THE COURT: What say you regarding the motion to stay?

10:02AM 25 MR. SCHRAMEK: The motion to stay, Your Honor, we

1 oppose any stay, of course. We do not believe these should be
2 stayed. In fact, we believe these awards are well past due.
3 We believe we need a decision from this Court that holds the
4 insurers accountable for not paying IDR awards and we think
10:02AM 5 that's the only thing that will get them to start paying
6 timely.

7 You're going to hear today from the defendants
8 various arguments. In fact, one of them is going to get up to
9 you and tell you that I have no ability to enforce these
10:02AM 10 awards, that the courthouse door is closed to me.

11 Your Honor, that's not the case and even the
12 other defendant doesn't argue that, doesn't go that far. We
13 believe that the courthouse door is completely open, that these
14 awards are ready to be enforced, that we are ready for a
10:02AM 15 decision that we get, we believe, interest and attorneys' fees
16 as well as penalties for the late payments.

17 This is systemic -- a systemic problem on the
18 insurers, Your Honor, and my client wants their day in court.
19 We do not believe any stay is appropriate. We do believe that
10:03AM 20 after you decide the motions to dismiss, with just a small
21 amount of discovery, we're going to be filing a motion for
22 summary judgment.

23 THE COURT: In regards to what could be viewed as a
24 duality by the plaintiff seeking to enforce awards on one hand
10:03AM 25 and seeking to challenge and/or disband awards on the other,

1 what say you?

2 MR. SCHRAMEK: Sure, Your Honor. The statute says that
3 essentially that the award is fully enforceable and binding
4 between the parties unless certain requirements have been met,
5 certain things have occurred, one of which is a material
6 misrepresentation was made during the process.

7 So the challenges we're bringing, we're saying,
8 "Look, you won these awards because you made misrepresentations
9 during the process; but all these other awards, there's really
10 no argument that they should be paid. They're just not being
11 paid. They're not being challenged. There's no material
12 actual defense to these awards. The insurers just aren't
13 paying them. They're forcing me to be here today. I wish I
14 wasn't here. I wish every one had been paid.

15 THE COURT: Very well. Thank you.

16 First, counsel for the defense, who is going to
17 be up?

18 MS. STRAHAN: Thank you, Your Honor. Katherine Strahan
19 for Aetna.

20 Your Honor, I just would like to reorient us
21 quickly. With respect to the IDR awards that plaintiffs'
22 counsel was referring to that are the subject of the other
23 lawsuit where there are alleged misrepresentations, I want to
24 set those aside. Of course, we dispute the fact there were any
25 misrepresentations. Plaintiffs' counsel just doesn't like the

1 process and the regulations by the federal government and is
2 seeking to challenge those by alleging baseless
3 misrepresentations.

4 With respect to this lawsuit, Your Honor, and the
10:05AM 5 awards that plaintiff alleges have not been paid, we received a
6 demand, Your Honor, for 51 awards back in, I believe it was
7 February. Within 10 days of us trying to look into those
8 awards and make sure they got paid, plaintiffs filed this
9 lawsuit against Aetna.

10:05AM 10 All of those 51 awards have been paid,
11 Your Honor. And the problems with respect to why awards are
12 not getting paid are very complicated problems with respect to
13 the administration of the NSA itself, Your Honor, which I can
14 get into a little more in our argument.

10:05AM 15 But with respect to Aetna's intent and process
16 for paying awards once it has complete notification,
17 Your Honor, and can match it up to an IDR dispute, Aetna has
18 been paying those awards.

19 Opposing counsel sent me another list, I guess it
10:05AM 20 was about a month ago. Aetna has endeavored to pay all of
21 those awards as well. And so as I stand here, I am not aware,
22 Your Honor, of any other unpaid awards.

23 But Aetna is not flouting the system, Judge. The
24 payers are getting sued by this particular plaintiff for this
10:06AM 25 issue -- and no one else, by the way -- because there are

1 problems with the process in and of itself. The federal
2 government, including the Department of Health and Human
3 Services, have gone on record trying to explain the influx of
4 these hundreds of thousands of dispute resolution claims that
10:06AM 5 have been made and there is a backlog and there are problems in
6 the system, no less caused by the providers who have inundated
7 the system with claims. There's an administrative process to
8 address these issues. There are provisions and portals to file
9 complaints about the status of claims, which the providers can
10:06AM 10 take advantage of.

11 So this is not Aetna, Your Honor, forcing the
12 courts to decide these issues; and plaintiff has no right to be
13 here, which I will, of course, get to in Aetna's motion to
14 dismiss. But these are problems not caused by Aetna flouting
10:07AM 15 the system or any other payer for that matter. There are
16 problems in the system in and of itself with respect to the
17 backlog that the federal government has gone on record
18 complaining about in terms of the providers' actions.

19 So I just want to set the record straight,
10:07AM 20 Your Honor. Aetna is paying those awards. We are not getting
21 time after a demand to even investigate and pay. We just get
22 these IDR numbers and we have to go review to try to connect
23 the reviews to the IDR process.

24 So, again, there is no need to be here,
10:07AM 25 Your Honor. The process in terms of paying the awards is

1 working. Aetna is responding when we get information about an
2 award; and we are paying those awards, Your Honor.

3 And for reasons that I can get into with respect
4 to Aetna's motion to dismiss, there are no additional remedies
10:07AM 5 such as attorneys' fees or penalties or interest that Congress
6 has provided for under the NSA or otherwise. The process is to
7 make the demand to the insurance company to pay the award; and
8 the insurance companies are paying them with adequate notice
9 and time, Your Honor.

10:08AM 10 THE COURT: Very well. Any input as to the motion to
11 stay?

12 MS. STRAHAN: Your Honor, we believe that -- well, the
13 motion to stay should be granted, Your Honor, because the most
14 important thing in determining within your discretion,
10:08AM 15 Your Honor, as to whether discovery should be stayed pending a
16 motion to dismiss is the strength of the party's motion and
17 whether standing is implicated in particular, Your Honor; and
18 that is exactly the issue here.

19 I think it is well documented that these
10:08AM 20 plaintiffs have filed numerous lawsuits against all the
21 different payers -- these particular plaintiffs, which are
22 fueled by private equity in particular to take on the industry.
23 And their ability to file these cases and just get discovery to
24 try to basically harass the payers, Your Honor, should not
10:09AM 25 be -- should not be entertained.

1 These are groundless claims, there is no private
2 right of action under the NSA or ERISA and the claims that they
3 asserted for prompt pay penalties under state law are
4 completely groundless. They have no applicability to the NSA
5 process.

10:09AM

6 So, Your Honor, the strength of Aetna's motion on
7 claims that have been paid, Your Honor, there is no even
8 discovery that should be necessary because the claims have been
9 paid. There shouldn't be --

10:09AM

10 THE COURT: What discovery is outstanding that you've
11 received at this point?

12 MS. STRAHAN: Well, Your Honor, they've sent requests
13 for production and interrogatories and they have also said in
14 their joint discovery case management plan that they want to
15 take a corporate representative deposition and additional fact
16 witnesses as may be necessary as discovery progresses.

10:09AM

17 Your Honor, there is no need for all of that cost
18 and expense to Aetna or the other payers on claims that cannot
19 survive a motion to dismiss.

10:10AM

20 THE COURT: Well, that's a prejudgment of your motion.
21 More importantly in regards to staying discovery, what is your
22 justification other than your position that you believe that
23 your motion has merit?

24 MS. STRAHAN: Well, Your Honor, in addition to that, in
25 terms of the specific requests, they are asking for things that

10:10AM

1 are completely irrelevant to any claims. They want to take
2 depositions on claims where the issues are moot. Aetna has
3 made these claims, Your Honor; so it's an unnecessary expense
4 and burden on the parties. And frankly, from my view of the
5 world, just a way to run up legal fees for the plaintiffs.

6 I don't see the need for any discovery at all,
7 Your Honor, even on the merits of this case. These awards have
8 been paid, and the claimant -- plaintiff has not added any
9 additional claims to this lawsuit, nor could they because Aetna
10 has paid them as it receives demands to do so.

11 THE COURT: Very well. Thank you.

12 MR. SCHRAMEK: Your Honor, may I --

13 THE COURT: No.

14 Counsel for defense?

15 MR. SMITH: Good morning, Your Honor. Ruel Smith for
16 Cigna Health and Life Insurance Company.

17 With regard to where we are, this is, as
18 plaintiffs' counsel said, one of the recovery suits, not one of
19 the invalidation suits. And the fact that they're bringing
20 them from both ends, we think, is highly relevant. In
21 situations where it suits the plaintiff, they pursue an
22 enforcement of an award in federal court while disclaiming the
23 mechanism that would allow that if it were allowed, which is
24 the Federal Arbitration Act.

25 And over in the other family of cases, they seek

1 to attack the process itself, carried out probably by all of
2 the same federally contracted arbitrators as the awards that
3 they're now trying to attach additional penalties to here.

4 But that's what this case is about is attempting
10:12AM 5 to graft penalties on to the NSA and that IDRE process for
6 which there are no penalties. I think, you know, all we have
7 at issue remaining in Cigna's case, a small subset of the
8 originally filed claims. Like Aetna, we received an initial
9 list of claims. There were 165 of those. Cigna was already in
10:12AM 10 the process of paying some and stepped up efforts to pay the
11 remainder.

12 Complicating that, as Aetna's counsel alluded to,
13 is the fact that typically we receive that information from the
14 plaintiff in the form of only a dispute number; and what Cigna
10:13AM 15 has found is that often it can't locate the dispute number.

16 Problems in the process, as Aetna's counsel
17 mentioned, include the fact that these federal contractors
18 don't always get the award to the right entity. Sometimes the
19 award concerns a member of a different plan than the plan that
10:13AM 20 is brought to the IDR table as it were.

21 And what Cigna has done is Cigna has paid 132 of
22 the initial 165 and then the second tranche of claims, the 104
23 claims that were an additional exhibit to their amended
24 complaint, Cigna has paid 66 of those.

10:13AM 25 The remainder fall into the buckets of either

1 can't identify that IDR award or can't verify that it dealt
2 with a Cigna member or otherwise lack information.

3 So similar to Aetna, it's not a situation where
4 Cigna flouts or disclaims its responsibility to pay awards
10:14AM 5 under the IDR process. It is a situation where it is paying
6 them while working through challenges in the system and will
7 eventually pay or verify that that the remainder are not
8 payable.

9 What that doesn't do, what the NSA doesn't do is
10:14AM 10 permit the plaintiffs, the air ambulance companies, to
11 bootstrap every sort of punitive measure there is against a
12 payer under any body of law into this case.

13 But that is where we stand with a few claims
14 remaining that the parties have exchanged information about and
10:14AM 15 we anticipate paying all of them. So it is not a situation --
16 we anticipate all that are due to be paid to be paid. So it is
17 not a situation where --

18 (Brief pause in the proceedings.)

19 THE COURT: You may continue.

10:15AM 20 MR. SMITH: And as we argue in our motion we'll present
21 in greater detail, we do acknowledge there is a path to relief,
22 but it's not this one.

23 And for those reasons, Your Honor, we'll
24 ultimately be asking you that the complaint be dismissed.

10:15AM 25 THE COURT: And I have no issue with ultimately taking

1 up the motion to dismiss. There are very complicated, complex
2 legal issues that are associated with that particular motion.
3 I think it's fully briefed now, and we're wading through the
4 issues raised in the motion to dismiss.

10:16AM 5 Subject to that, there has been a motion to stay
6 discovery as well. I've heard from counsel. Now I'll give you
7 the opportunity to weigh in as well.

8 MR. SMITH: Well, Your Honor, the federal courts, the
9 cases tend to -- you mentioned that in some ways they asked you
10:16AM 10 to prejudge the motion. There are cases that say that's sort
11 of what you do in this situation. When asked to exercise your
12 discretion about staying discovery pending a dispositive
13 motion, a preliminary peek is sometimes the answer.

14 And I think with the number of challenges that
10:16AM 15 have been presented here from lack of subject matter
16 jurisdiction, from mislaid venue, from failure to state a cause
17 of action, from reliance on statutes that provide no right of
18 action, you have enough in front of you for the preliminary
19 peek to suggest that perhaps the parties should not expend the
10:17AM 20 energies on discovery until that is fully heard.

21 THE COURT: What discovery is outstanding to your
22 client that you seek to stay?

23 MR. SMITH: Your Honor, it is the same as to Aetna.

24 THE COURT: Interrogatories, requests for production
10:17AM 25 and requests for a corporate representative deposition?

1 MR. SMITH: That's correct, Your Honor.

2 THE COURT: Very well. Anything else, sir?

3 MR. SMITH: No, Your Honor.

4 THE COURT: Very well.

10:17AM 5 Anything else from the defense before I hear from
6 the plaintiffs again?

7 MS. STRAHAN: No, Your Honor.

8 THE COURT: Very well. Counselor?

9 MR. SCHRAMEK: Your Honor, I want the record to be very
10:17AM 10 clear as to the discovery that we have sent to both Cigna and
11 Aetna. I've sent two document requests. One of them I say:
12 Produce to me the health plan that is applicable to the
13 transport.

14 The second is I said: With respect to that
10:18AM 15 health plan, give me your contract with that health plan for
16 what services you are providing. Why am I asking that?
17 Because they're taking the position I don't have an ERISA claim
18 because the NSA is separate from the health plans.

19 Your Honor, I don't think that's true; and I'm
10:18AM 20 fully aware of administrators like Cigna and BlueCross that
21 have amended their contracts to say we're going to do the NSA
22 process for you because it's now a benefit under ERISA.

23 Two document requests, one interrogatory.

24 The interrogatory says for each of the disputes,
10:18AM 25 right, let me know if it's a self-funded plan under ERISA or if

1 it's fully insured. That's the discovery they want stayed. I
2 have not issued a deposition notice for a corporate rep. I
3 have told them depending on how they answer these questions
4 maybe there would be an issue to follow up. In a discovery
5 plan, you put everything that's potentially needed.

6 But I haven't asked for a corporate rep. I said,
7 "Let me see the health plan. Let me see your contract for
8 administration and tell me whether it's fully insured or
9 whether it's self-insured."

10:19AM 10 That's it. That's what they want to stay today.
11 Why do I need that? Because with that information, Your Honor,
12 we may be done. I can probably move for summary judgment just
13 with that basic information.

14 Why? There is no defense to not paying the award
10:19AM 15 in 30 days. The statute is crystal clear. You have 30 days.
16 And all these things they've been telling you about the
17 problems with the process, that's to get to an award. That has
18 nothing to do -- once an award is issued, then they have
19 30 days to pay it.

10:19AM 20 They each have a single e-mail address at which
21 every award goes. Every award at issue went to the right
22 e-mail address. It went to them. They had 30 days to pay it
23 and they're getting up here and they're acting like it's an NSA
24 problem, that it's an IDR problem.

10:19AM 25 No. What they're doing internally and why

1 they're not paying these awards has nothing to do with the
2 federal program or the process to get to the award. In fact,
3 they're benefitting from that delay and that backlog they
4 talked about. I should have three times the number of awards
10:20AM 5 that I'm up here enforcing. They're holding millions of
6 dollars of my clients' money because we filed a challenge and
7 it's just sitting there, no decision being made, backlog in the
8 process. They are completely benefitting from that and now,
9 you know, the rubber meets the road when I actually get an
10:20AM 10 award and they're still not paying me.

11 There's no defense. I don't need to take a
12 deposition on their defenses of why they didn't pay it. Strict
13 liability.

14 THE COURT: Are you seeking any other discovery other
10:20AM 15 than the requests for production and interrogatories you have
16 just outlined to me?

17 MR. SCHRAMEK: Not at this time. And, again, I don't
18 think I need any more. The interrogatory -- if they come back
19 and go: We don't know if it's a fully insured plan or not,
10:20AM 20 well, I might have to follow up. But if they'll just give me
21 those pieces of information, Your Honor, I'll stipulate I won't
22 ask for anything more until you make your decisions on the
23 motion to dismiss.

24 THE COURT: Very well.

10:20AM 25 MS. STRAHAN: Your Honor, may I be heard briefly?

1 THE COURT: Briefly.

2 MS. STRAHAN: Thank you, Your Honor.

3 Your Honor, I just want to emphasize that with
4 respect to those interrogatories and requests for production,
5 we're talking about requests on 51 for Aetna -- 51 different
6 awards. So it's not just one question as to one plan.

7 Number 2, one of those requests for production
8 asks for Aetna's contracts with the self-funded health plans.
9 Those are completely irrelevant to anything, Your Honor; and
10 it's also confidential and proprietary information about
11 another party, i.e., the health plan and it's not needed on the
12 claims, Your Honor.

13 THE COURT: I'm prepared to take up in the event that
14 those objections are raised in response to discovery requests,
15 to rule on the objections if necessary. So that's a separate
16 question at this stage regarding the motion to stay.

17 So thank you, Counsel.

18 MS. STRAHAN: All right. Thank you, Your Honor.

19 THE COURT: All right. In regards to the motion to
20 stay, that motion is denied.

21 In regards to the discovery that has been
22 propounded, counsel, you're hereby ordered to answer and/or
23 file the necessary -- your objections that you believe that
24 have merit and to the extent that you need a ruling on those
25 objections, we can come back and do that via telephone

1 conference, but that's a separate issue as opposed to going
2 forward.

3 Counsel, has stipulated that he will propound no
4 additional discovery, including written discovery or
10:22AM 5 depositions. So what we're only dealing with is the discovery
6 for documents and the interrogatory that is outstanding.

7 In regards to a motion to dismiss, the Court will
8 take that under advisement. It may be, and we're digging into
9 it right now, that that might require separate specific
10:22AM 10 argument after I have formulated some questions to some of the
11 complex legal issues that are presented to the Court.

12 When that occurs, depending on the significance
13 of those questions, my law clerk may reach out with "Could you
14 answer these questions for the Court" or it may be if I think
10:23AM 15 it's more complicated, and often it is, I'll bring you back in
16 for oral argument on the motion to dismiss and afford you the
17 opportunity to argue your respective positions.

18 I suspect that that's going to take place over
19 the next several weeks. I may have a trial coming up so that
10:23AM 20 may delay things a bit; but at least in regards to the
21 discovery if, in fact, objections are filed and rulings are
22 needed on those objections, I can take that up pretty quickly
23 via a telephone conference.

24 Counsel for the plaintiff, anything else?

10:23AM 25 MR. SCHRAMEK: Your Honor, I did have with me, in the

1 event you wanted to have argument today, there was one decision
2 that was issued recently from a district court in New Jersey,
3 the *GPS v. BlueCross* case. It was issued after briefing was
4 closed in this proceeding.

10:24AM 5 And in that case, the district judge enforced the
6 awards. And the way I read it, he enforced it under the NSA
7 even though he did reference the Federal Arbitration Act.

8 So that might be an issue that the parties
9 dispute, but I do think the Court should be aware of this
10:24AM 10 decision in making its decision.

11 THE COURT: I'm sure my able law clerk will find that
12 decision as well. So again, if I need additional argument,
13 I'll afford you the opportunity.

14 Thank you, Counsel.

10:24AM 15 Anything else from the defense?

16 MS. STRAHAN: No, Your Honor. Thank you.

17 THE COURT: Counsel?

18 MR. SMITH: Your Honor, I rise only to request a little
19 clarification. And perhaps this is a preview of an objection
10:24AM 20 that might be filed; but as far as responding to the discovery,
21 is there a deadline on that?

22 THE COURT: The Federal Rules of Civil Procedure govern
23 your deadlines on that.

24 MR. SMITH: Understood.

10:24AM 25 THE COURT: I'm not giving you any additional

1 deadlines. Of course, if counsel, based upon the ruling I
2 provided today, said, "Okay. The judge has now denied the
3 motion to stay. When can you get that," I would assume that
4 would be a conversation among learned counsel and you can work
10:25AM 5 that out.

6 MR. SMITH: So guess I wondered would it be appropriate
7 to infer that the deadlines in the civil procedure rules would
8 run as if the discovery were issued today?

9 THE COURT: Well, no. You did have the benefit --
10:25AM 10 filing a motion to stay discovery does not, in fact, stay your
11 deadlines until you get a ruling of the Court.

12 I would assume counsel, now having heard my
13 ruling on the motion to stay, will afford you some leeway to
14 get that out now that he's heard that that discovery is going
10:25AM 15 to be forthcoming or an objection forthcoming to say: Okay.
16 Now we know that you have to do this. What's a reasonable time
17 for you to do this?

18 The two of you -- the three of you can talk and
19 get that worked out.

10:26AM 20 MR. SMITH: Thank you, Your Honor.

21 THE COURT: Very well. I wanted to alert the parties
22 to -- specifically the defense.

23 I've received an invitation to swear in the new
24 attorneys here in the Houston office for Norton Rose Fulbright,
10:26AM 25 which I've agreed to do next month. For those of you who have

1 done your research on me, you know that I'm an old Fulbright
2 lawyer right of law school. So over the course of my tenure as
3 a judge, I've been invited back every two or three years to
4 swear in their new attorneys.

10:26AM 5 And so I guess my name came up this time around
6 so I'm going to be swearing in their new attorneys. I'm just
7 alerting you to that. Again, that's the Houston office.

8 It doesn't present any conflict or problem, but I
9 just wanted to alert you to that in case someone posts on
10:26AM 10 LinkedIn and I'm sitting there swearing in a new attorney from
11 Norton Rose and you see me in their office. I didn't want it
12 to come as a surprise to you.

13 Any objection to that, counsel?

14 MS. STRAHAN: No. Thank you, Your Honor.

10:27AM 15 THE COURT: Any objection?

16 MR. FERACHI: Not for Cigna.

17 MR. SMITH: No.

18 THE COURT: All right. Counsel, thank you for your
19 attention this morning.

10:27AM 20 Counsel, did you fly in for this?

21 MR. SMITH: Yes, Your Honor.

22 MR. LEHNER: Yes, Your Honor.

23 THE COURT: Well, I do afford you the opportunity to
24 participate in low-hanging issues via telephone. Obviously
10:27AM 25 things were a little bit more meaty. It's always nice to have

1 you here in the courtroom; but if it works for you and your
2 client that you want to call in on -- if we're just doing some
3 scheduling, telephone conference on objections or something
4 like that, you're free to, again, call in as opposed to jumping
5 on the plane and visiting.

10:27AM

6 But with that said, safe travel home, gentlemen.

7 MR. SMITH: Thank you.

8 MR. LEHNER: Thank you, Your Honor.

9 THE COURT: Thank you, Counsel. We're adjourned.

10:27AM

10 You're excused.

11 THE LAW CLERK: All rise.

12 (The proceedings were adjourned.)

13 * * * *

14 REPORTER'S CERTIFICATE

15 I, Lanie M. Smith, CSR, RMR, CRR, Official
16 Court Reporter, United States District Court, Southern District
17 of Texas, do hereby certify that the foregoing is a true and
18 correct transcript, to the best of my ability and
understanding, from the record of the proceedings in the
above-entitled and numbered matter.

19 /s/ Lanie M. Smith
20 Official Court Reporter
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