

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

JUDGE PETER J. WALSH

824 MARKET STREET  
WILMINGTON, DE 19801  
(302) 252-2925

August 3, 2004

David M. Fournier  
Henry J. DeWerth-Jaffe  
Pepper Hamilton LLP  
1201 Market Street  
Suite 1600  
P.O. Box 1709  
Wilmington, DE 19899-1709

Robert S. Hertzberg  
Pepper Hamilton LLP  
100 Renaissance Center  
36<sup>th</sup> Floor  
Detroit, Michigan 48243-1157

Attorneys for Plaintiff

Matthew W. Levin  
Mark I. Duedall  
Alston & Bird LLP  
One Atlantic Center  
1201 West Peachtree Street  
Atlanta, Georgia 30309-3424

Theodore J. Tacconelli  
Ferry, Joseph & Pearce, P.A.  
824 Market Street, Suite 904  
P.O. Box 1351  
Wilmington, DE 19899

Attorneys for CIGNA Healthcare  
Of Georgia, Inc. and CIGNA  
Healthcare of Texas, Inc.

**Re: Joseph A. Pardo, Trustee of FPA Creditor Trust and the Plan  
Administrator for APF Co, Inc., et al. v. CIGNA Healthcare of  
Georgia, Inc. and CIGNA Healthcare of Texas, Inc.  
Adv. Proc. No. 00-850**

Dear Counsel:

This is with respect to Plaintiff's motion to amend responses (Doc. # 46), Defendants' response thereto (Doc. # 48), Defendants' motion for summary judgment or dismissal (Doc. # 49), Plaintiff's response to the motion for summary judgment or dismissal (Doc. # 54) and Defendants' response to Plaintiff's motion for relief under Rule 7056(f) (Doc. # 56).

Given the paramount interest in resolving disputes on the merits, I will grant Plaintiff's motion to amend its responses. Since Defendants' motion for summary judgment is dependent on the "deemed admissions", I will deny Defendants' motion for summary judgment or dismissal.

While it seems clear that Plaintiff's counsel is not without fault in the failure of this proceeding to reach a reasonably timely conclusion, I am not convinced that Rule 16(f) sanctions are appropriate at this time. Consequently, I will deny Defendants' request for alternative relief.

It appears to me that this adversary proceeding is gathering dust. Consequently, rather than leave the parties to agreeing on their own to a further scheduling stipulation, I am requesting that counsel communicate with my scheduling clerk to schedule a brief status conference, at which time we can hammer out a scheduling order, any subsequent breach of which will result in appropriate sanctions. We should be able to complete such a scheduling conference in 10 to 15 minutes so that despite my busy schedule you should be able to obtain a date some time in September.

At the scheduling conference, I will also explore whether this proceeding is appropriate for referral to mediation.

Very truly yours,

A handwritten signature in black ink, appearing to read "P.J. Walsh", written in a cursive style.

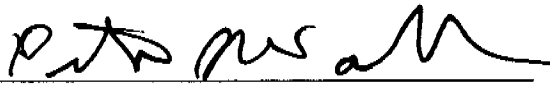
Peter J. Walsh

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
APF Co., et. al., ) Case No. 98-1596 (PJW)  
) Jointly Administered  
Debtors. )  
\_\_\_\_\_)  
)  
JOSEPH A. PARDO, Trustee of )  
FPA Creditor Trust and the )  
PLAN ADMINISTRATOR for APF Co., )  
Inc., et al., )  
)  
Plaintiffs, )  
)  
v. ) Adv. Proc. No. 00-850  
)  
CIGNA Healthcare of Georgia, )  
Inc. and CIGNA Healthcare of )  
Texas, Inc., )  
)  
Defendants. )

ORDER

For the reasons stated in the Court's letter ruling of this date, Plaintiff's motion to amend responses (Doc. # 46) is **GRANTED** and Defendants' motion for summary judgment or dismissal (Doc. #49) is **DENIED**.

  
\_\_\_\_\_  
Peter J. Walsh  
United States Bankruptcy Judge

Dated: August 3, 2004