

December 15, 2003

## IN DOCTORS' NATIONAL HMO SUITS, AETNA AND CIGNA DECIDE TO SETTLE

**Case:** In re: Managed Care Litigation: Shane et al. v. Aetna Inc. and Cigna Corp., U.S. District Court, Miami

**Case No.:** 00-mdl-1334

**Plaintiff attorneys:** Harley S. Tropin, a partner at Kozyak Tropin & Throckmorton, Miami; Aaron Podhurst, a partner at Podhurst Orseck Josefsberg Eaton Meadow Olin & Perwin, Miami; James B. Tilghman Jr., a partner at Stewart Tilghman Fox & Bianchi; Edith Kallas, a partner at Milberg Weiss Bershad Hynes & Lerach, New York City; Archie C. Lamb, Law Offices of Archie C. Lamb, North Birmingham, Al.; Joe R. Whatley Jr., a partner at Whatley Drake, Birmingham; Nicholas B. Roth, a partner at Eyster Key Tubb Weaver & Roth, Decatur, Ala.

**Defense attorneys for Aetna:** Hilarie Bass and Mark P. Schnapp, partners at Greenberg Traurig, Miami; Miguel A. Estrada and Richard J. Doren, partners at Gibson Dunn and Crutcher, Washington, D.C.; Lewis K. Kaden, a partner at Davis Polk & Wardwell, New York City.

**Defense attorneys for Cigna:** Martin L. Steinberg, a partner at Hunton & Williams, Miami; John G. Harkins Jr., a partner at Harkins Cunningham, Philadelphia.

**Judge:** Federico A. Moreno

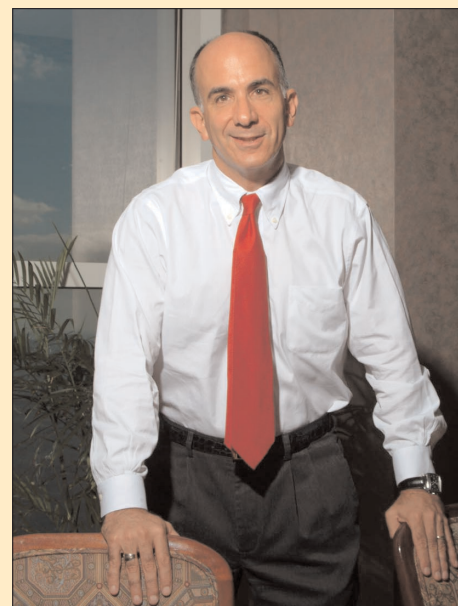
**Details:** This national class action involving more than 700,000 physicians began with dozens of lawsuits filed by individual doctors against multiple insurance companies in courts around the country during the late 1990s. The Judicial Panel on Multidistrict Litigation consolidated the cases in Miami in April 2000. Four months later, a lead case emerged when nine doctors, led by Louisville gynecologist Dr. Charles

Shane, filed an amended complaint seeking class action treatment of their claims for damages and injunctive relief under the federal Racketeer Influenced and Corrupt Organizations statute. Specific acts of alleged wrongdoing included mail, wire fraud and conspiracy.

**Plaintiffs' case:** The doctors claimed that for more than a decade, under the banner of cost containment, Middletown, Conn.-based Aetna, Philadelphia-based Cigna and other managed care companies conspired to cheat them out of billions of dollars by denying or manipulating claims to wrongly reduce or delay payments. To pull it off, court papers alleged, the defendants "developed and deployed" various automated claims processing schemes such as "downcoding," a practice that allegedly excluded routinely some covered patient services from payment.

**Key ruling:** In September 2002, Judge Moreno granted class certification to the doctors, finding that many physician claims had common threads sufficient to be adjudicated best through consolidation into a single massive case. Moreno's order is on appeal before the 11th U.S. Circuit Court of Appeals, but in the meantime Aetna and Cigna decided to settle.

**Settlements:** Aetna's deal, finalized by Judge Moreno on Oct. 26, is estimated to be worth more than \$470 million to doctors over five years. That includes about \$300 million in value from improvements in the processing of future claims agreed to by Aetna, \$100 million in cash, \$20 million to fund a private foundation to address health care issues and \$50 million in legal fees. Cigna's deal, not yet final, is hazier. Harley Tropin has said it is worth between \$500 million and \$700 million, depending on the implementation of changes to Cigna's future payment prac-



Harley S. Tropin was part of a legal team that represented more than 700,000 physicians.

tices. Cigna has valued the settlement package at in excess of \$400 million, including a minimum guaranteed payment to doctors of \$85 million, \$15 million for the new foundation. Cigna also agreed to pay up to \$55 million in legal fees. A final hearing on whether the Cigna settlement should be approved is set for Dec. 18, 2003.

**Still to be tried:** The remaining class-certified defendants are scheduled for trial in June 2004. Those companies are Humana Health Plan, PacifiCare Health Systems, Prudential Insurance Company of America, United HealthCare, WellPoint Health Networks, and Foundation Health Systems. Two other managed care providers, Anthem and Coventry Health Care, weren't named as defendants until after the class was certified.

— Dan Christensen