

O. Appeal Item Number Eighteen (14)

The apparently retaliatory surveillance activities conducted by Cigna's agent XXXX Inc. constitute perhaps the most egregious breach of fiduciary duty in this case. The surveillance records demonstrate that XXXX, Inc. unlawfully invaded the constitutionally-protected privacy rights of Mr. XXXX, his pregnant wife and his infant daughter, resulting in extreme emotional distress.

It cannot be mere coincidence that Cigna's decision to order a surveillance operation to be conducted on Mr. XXXX in early January, 2006 at the same time that Cigna's denial of Mr. XXXX's waiver of premium ("WOP") benefits had been overturned, amidst much acrimony, as admittedly "premature." As has been illustrated throughout this appeal, Cigna claim managers resent their decisions being questioned and they certainly view with disfavor claimants who point out their misconduct to Cigna executives, including Mr. Mark Marsters, Vice President Cigna Group Disability. When Mr. XXXX lodged a complaint with Mr. Marsters regarding the unjustifiable denial of Mr. XXXX's WOP benefits and the actions and conduct of Sr. Claim Manager Natalie Fulton regarding same, the case was termed as "Sr. Officer Complaint" case and turned over to Cigna compliance officer, Ms. Brenda Warren. It strains logic to deduce that it is pure coincidence that the timing of Mr. XXXX's complaint, the reversal of the frivolous denial of his WOP benefits and Cigna's decision to conduct surveillance all simply happened to coincide. Rather, the surveillance seems to have been ordered in retaliation for Mr. XXXX's making the Senior Officer Complaint.

The claim file produced is devoid of a single document, or notation in the Azena system, indicating who ordered the surveillance (Marsters or Fulton?), why it was ordered and what instructions were given to the surveillance company. It also does not contain an agreement or contract with the company Cigna sent to videotape Mr. XXXX's residence, his pregnant wife and his two year old child. The video tape, which Ms. Warren belatedly produced more than a month and a half after she claimed to have produced "Mr. XXXX's entire claim file" in connection with this appeal, is quite disturbing. On several occasions, the surveillance team inexplicably videotaped close up shots of Mr. XXXX's pregnant wife and two year old daughter immediately outside the Reilly home from a 125 yard distance with zoom lens video camera, when Mr. XXXX was nowhere in sight. The surveillance team also chose to zoom in from a distance into a large picture window of Mr. XXXX's home. This type of invasion of privacy is not warranted in any case, much less in an eleven year old ERISA disability claim simply because a claimant lodges a Sr. Officer Complaint

The specious and probably illegal conduct waged against the XXXX family does not end there. Before Cigna finally agreed to admit to ordering surveillance, a number of strange, unexplained events occurred giving rise to a great deal of stress for Mr. and Mrs. XXXX, their unborn child and infant daughter. Indeed, in early January, the XXXX's began to experience an unusually high volume of telephone calls. Mrs. XXXX, who was eight (8) months pregnant, was able to answer one of the many phone calls made to their private residence, as opposed to most instances where the caller had simply hung up.