

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

ESTER & ADAM JONES

§
§
§
§
§

v.

NO. 1:11-CV-266

AETNA LIFE INSURANCE COMPANY

ORDER ADOPTING MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

The court referred this matter to the Honorable Earl S. Hines, United States magistrate judge, for all pretrial matters pursuant to a Referral Order entered on May 26, 2011. On August 9, 2011, this case was reassigned to United States Magistrate Judge Zack Hawthorn. The court has considered and received the report (Docket No. 29) of the magistrate judge, who recommends that the court grant the Defendant’s “Motion to Dismiss” (Docket No. 5). No objections to the report and recommendation have been filed. The court’s independent review confirms that the magistrate judge’s analysis is correct.

The report and recommendation (Docket No. 29) of the magistrate judge is **ADOPTED**, the Defendant’s “Motion to Dismiss” is **GRANTED**, and the Plaintiffs’ claims for violation of the Texas Insurance Code, breach of the duty of good faith and fair dealing, and fraud are **DISMISSED** with prejudice. The Plaintiffs have **thirty (30) days** from the date of this order to file an amended complaint that states a viable claim under ERISA § 502. The parties are further **ORDERED** to submit a proposed amended scheduling order within **ten (10) days** from the date of this order.

So **ORDERED** and **SIGNED** this **8** day of **January, 2012**.



Ron Clark, United States District Judge