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Superior Court of California,
County of Orange
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Clerk of the Superior Court
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6 Attorneys for Plaintiffs

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ORANGE, COMPLEX CIVIL CENTER

11 J. CHRISTIAN CONRAD, MENDY LYNN
12 CONRAD, individually and on behalf of all
13 others similarly situated,

14 Plaintiff,

15 vs.

16 BLUE CROSS OF CALIFORNIA, dba
17 ANTHEM BLUE CROSS, and DOES 1 through
18 20, Inclusive,

19 Defendants.

30-2014-00734564-CU-IC-CXC

Case No. Judge Kim G. Dunning

CLASS ACTION COMPLAINT

Individual Claims

1. Breach of Implied Covenant of Good Faith and Fair Dealing - Bad Faith

Class Action Claims

2. Violation of Business and Professions Code Section 17200
3. Declaratory Relief

DEMAND FOR JURY TRIAL

22 Plaintiffs J. CHRISTIAN CONRAD and MENDY LYNN CONRAD, herein allege as
23 follows:

JURISDICTION

24
25 1. Plaintiffs J. CHRISTIAN CONRAD (hereinafter "Named Plaintiff" or individually
26 "Plaintiff J. CONRAD"), and Plaintiff MENDY LYNN CONRAD (hereinafter "Named Plaintiff"
27 or individually "Plaintiff M. CONRAD") together with others similarly situated, brings this action
28 against Defendant BLUE CROSS OF CALIFORNIA dba ANTHEM BLUE CROSS (hereinafter

1.

CLASS ACTION COMPLAINT

1 “ANTHEM”), for offering and issuing members Preferred Provider Plans (“PPO”), when in fact
2 either no such plan existed or ANTHEM never intended to maintain said PPO plan, instead
3 transferring members into less beneficial Exclusive Provider Organization (“EPO”) plans.
4 Members chose PPO plans, among other reasons, due to their extensive network of covered
5 providers. However, when members obtained covered treatment from a covered network provider,
6 they later found out their plans were actually EPO plans, and as such, due to the EPO plan’s very
7 limited network of covered providers (and more importantly, no coverage at all for out-of-network
8 providers), the treatment obtained by the members was denied by ANTHEM on the grounds that
9 the physician was out-of-network. Members are now personally responsible for any treatment
10 received that would have been covered by the member’s PPO plan, but not covered by the EPO
11 plan. Named Plaintiffs reserve the right to name additional class representatives as may be
12 necessary.

13 2. This Court is the proper Court, and this action is properly filed in the County of
14 Orange because the obligations and the liability of Defendant arose therein and because said
15 Defendant maintains offices and locations and transacts business within the County of Orange.

16 3. At all relevant times alleged herein, Named Plaintiffs were informed and believed
17 that the named Defendant is, and at all times relevant hereto was, a California business entity
18 registered to conduct business under and by virtue of the laws of the State of California, and/or that
19 Does 1-20 are, and at all times relevant hereto were, officers, directors, employees, agents or
20 shareholders of Defendant who was acting on behalf of Defendant in the establishment of, or
21 ratification of, the aforementioned policies and practices. Named Plaintiffs are further informed and
22 believe, and thereupon allege, that Defendant is authorized to conduct business in the State of
23 California and does conduct business in the State of California; specifically conducting business in
24 the County of Orange, State of California.

25 4. Plaintiff J. CONRAD is now, and at all relevant times was, a resident of Orange
26 County, State of California.

27 5. Plaintiff M. CONRAD is now, and at all relevant times was, a resident of Orange
28 County, State of California.

1 **GENERAL ALLEGATIONS**

2 6. Named Plaintiffs do not know the true names of Defendants named herein as Does 1
3 through 20, inclusive, and therefore, sues them by those fictitious names. Named Plaintiffs are
4 informed and believe that Doe Defendants are individuals or business entities. Named Plaintiffs
5 allege that each of the fictitiously named Defendants sued herein is legally responsible in some
6 manner for the events and happenings referred to herein, and will ask leave of this Court to amend
7 this Complaint to insert their true names and capacities when the same have become known to
8 them.

9 7. Named Plaintiffs are informed and believe that each and every act and/or omission
10 alleged herein was performed by, and/or attributable to, all Defendants, each acting as agents
11 and/or employees, and/or under the direction and control of each of the other Defendants, and that
12 said acts and failures to act were within the course and scope of said agency, employment and/or
13 direction and control.

14 **FACTUAL ALLEGATIONS**

15 8. In or about October, 2013, Named Plaintiffs received notice of cancellation of their
16 existing PPO health insurance plan.

17 9. In or about November, 2013, pursuant to the Affordable Care Act (ACA) and the
18 open enrollment period between October 1, 2013 and March 31, 2014, Plaintiff J. CONRAD chose
19 a PPO Plan offered by ANTHEM that was similar to the plan that was previously cancelled. The
20 ANTHEM PPO Plan was purchased via credit card by Plaintiff J. CONRAD, on behalf of himself
21 and M. CONRAD.

22 10. In December, 2013, J. CONRAD and M. CONRAD received their insurance ID
23 cards in the mail. Both cards accurately reflected the policy that was purchased, to wit, PPO Plan
24 040, Anthem Core Direct Access caan.

25 11. During January, 2014 and February, 2014, both J. CONRAD and M. CONRAD had
26 various medical procedures, and they submitted their insurance cards to their respective physicians,
27 who confirmed that particular ANTHEM PPO plan was accepted by the physician and that the
28 CONRADS would therefore be covered for their respective medical procedures.

1 12. In March, 2014, Named Plaintiffs received an Explanation of Benefits (EOB) in the
2 mail, stating that the medical procedures they underwent the previous months were being denied.
3 J. CONRAD contacted the physician's office where the procedures were performed, and the
4 physician's office reconfirmed that they were accepted and covered physicians in the CONRAD'S'
5 ANTHEM PPO Plan, and that the EOB was a mistake.

6 13. In April, 2014, Named Plaintiffs unexpectedly received a second set of insurance ID
7 cards in the mail. The second set of cards reflected an EPO instead of a PPO.

8 14. Immediately thereafter, Plaintiff J. CONRAD called ANTHEM to inform them of
9 the mistake with regards to the EOB described in Paragraph 12, as well as to inform ANTHEM that
10 they mistakenly sent new ID cards for a policy that CONRAD did not want or purchase. During
11 this conversation, the ANTHEM representative stated that "Thousands of PPO cards had been sent
12 out and ANTHEM had to change them when they later decided not to offer the PPO policies in
13 Orange County." During that same conversation, the ANTHEM representative also attempted to
14 convince J. CONRAD that he and M. CONRAD had actually purchased EPO policies. J.
15 CONRAD informed the representative that was not the case because J. CONRAD had carefully
16 perused the website to be certain that he purchased a PPO policy with as close to the same benefits
17 as the PPO policy he had previously purchased for himself and M. CONRAD. When J. CONRAD
18 demanded the ANTHEM representative move himself and M. CONRAD to the policies they had
19 purchased, J. CONRAD was told they were "stuck" because of the Federal Rules regarding open
20 enrollment. J. CONRAD was then told he no recourse except to file a grievance. J. CONRAD
21 asked how to do that, and the ANTHEM representative said ANTHEM could send J. CONRAD the
22 paperwork or he could file online. J. CONRAD initially asked for the paperwork, but after waiting
23 several weeks it never came. On or about June 12, 2014, J. CONRAD filed an online grievance
24 which stated he would be contacted within 5 days. On July 14, 2014, ANTHEM responded to the
25 grievance, denying the grievance.

26 15. In May, 2014, Named Plaintiffs were contacted by their respective physicians, as
27 said physicians were now looking to the Named Plaintiffs personally to pay for the medical
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1 procedures performed in January and February. As a result, Named Plaintiffs are now exposed to
2 thousands of dollars in medical bills as a result of ANTHEM'S denial of coverage.

3 16. In June, 2014, due to ANTHEM'S conduct as described herein, Named Plaintiffs
4 tried to simply get new PPO coverage from a different health insurance company. However, due to
5 the regulations attendant to the ACA, Named Plaintiffs cannot purchase new health insurance until
6 the next open enrollment period, which does not begin until November 15, 2014.

7 **CLASS ACTION DESIGNATION**

8 17. The class which Plaintiffs seek to represent will be defined as:

9 **Class Definition:**

10 All California residents who enrolled in an individual ANTHEM health service plan
11 between October 1, 2013 and March 31, 2014, who acquired coverage under a PPO plan which
12 was misrepresented as an EPO plan, and whose claims for coverage for treatment from health
13 providers who were in-network pursuant to the PPO plan originally purchased were denied
14 coverage as being out-of-network providers under the misrepresented EPO plan, at any time from
15 October 1, 2013 through the final termination of this action (hereinafter "the Class Period").

16 18. Named Plaintiffs reserve the right under California Rule of Court, Rule 3.765(b) to
17 amend or modify the class description with greater specificity, by further division into subclasses
18 or by limitation to particular issues.

19 19. This action is appropriately suited for a Class Action because:

20 (A) The proposed class is a significant number. The proposed class is comprised of
21 several thousand ANTHEM members throughout the State of California. As such, individual
22 claims and joinder are simply impracticable. Named Plaintiffs are informed and believe that the
23 proposed class would exceed one thousand members, the true number which could be ascertained
24 from ANTHEM'S records. The proposed class is limited to members who resided in California
25 when they contracted with ANTHEM for health service plans. The proposed class does not include
26 any members whose coverage is subject to the provisions of the Employee Retirement Income
27 Security Act ("ERISA") or the Federal Employees Health Benefit Act;

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1 (B) This action involves questions of law and fact that are common to the potential class
2 because the action focuses on Defendant's systematic course of unlawful business practices and
3 policies, as applied uniformly and commonly to all of its members in the State of California. These
4 unlawful business practices and policies include violations of the California Business and
5 Professions Code which prohibits unfair business practices arising from such violations. These
6 common questions of law and fact include, without limitation, the following:

7 (i) Whether Defendant sold health service plans to members that were misrepresented as
8 PPO plans and were actually less inclusive EPO plans;

9 (ii) Whether members' claims for coverage for treatment from health providers who were
10 in-network pursuant to the PPO plan originally purchased were denied coverage as being
11 out-of-network providers under the misrepresented EPO plan.

12 These questions involve company-wide business practices which the Class of Plaintiffs are
13 informed and believe were systematically applied, thereby making individual claims virtually
14 identical;

15 (C) The claims of the Named Plaintiffs are typical of the class because Defendant
16 subjected its members to identical violations of California law, to wit, misrepresenting its EPO
17 policies as PPO policies and thereafter denying coverage of incurred medical expenses for
18 treatment from health providers who were in-network pursuant to the PPO plan originally
19 purchased but were denied coverage as being out-of-network providers under the misrepresented
20 EPO plan;

21 (D) The Named Plaintiffs are able to fairly and adequately protect the interests of all
22 members of the class because it is in their respective best interests to prosecute the claims alleged
23 herein to obtain full reimbursement for the unlawfully denied medical benefits;

24 (E) A Class Action is superior to other available means for the fair and efficient
25 adjudication of this controversy since individual joinder of all members of the class is
26 impracticable. Class Action treatment will permit a large number of similarly situated persons to
27 prosecute their common claims in a single forum simultaneously, efficiently, and without the
28 unnecessary duplication of effort and expense that numerous individual actions would engender.

1 Furthermore, because the damages suffered by each individual member of the class may be
2 relatively small, the expense and burden of individual litigation would make it difficult for
3 individual members of the class to redress the wrongs done to them, while an important public
4 interest will be served by addressing the matter as a Class Action. The cost to the court system of
5 adjudication of such individualized litigation would be substantial. Individualized litigation would
6 also present the potential for inconsistent or contradictory judgments.

7 (F) Named Plaintiffs are unaware of any difficulties that are likely to be encountered in
8 the management of this action that would preclude its maintenance as a Class Action.

9 20. Named Plaintiffs have retained counsel who is experienced in complex litigation
10 and class litigation, and who will adequately prosecute this action.

11 **FIRST CAUSE OF ACTION**

12 **Breach of the Implied Covenant of Good Faith and Fair Dealing - Bad Faith**

13 (Brought by Plaintiffs J. Christian Conrad and Mendy Lynn Conrad
14 individually against Defendant and Does 1 through 20, Inclusive)

15 21. Named Plaintiffs hereby reallege and incorporate by reference as though set forth
16 fully herein, the allegations contained in Paragraphs 1 through 20.

17 22. Named Plaintiffs specifically contracted with ANTHEM to receive insurance benefits
18 pursuant to the terms set forth in a PPO Plan 040. In consideration for Named Plaintiffs' payment
19 of premiums for said PPO Plan, ANTHEM was obligated to provide insurance benefits attendant to
20 said PPO Plan, to wit, providing coverage for medical treatment received by Named Plaintiffs with
21 physicians covered by said PPO Plan.

22 23. ANTHEM misrepresented to the Named Plaintiffs that the Plans they purchased
23 were PPO Plans, when really they were less inclusive EPO Plans. These less inclusive EPO Plans
24 had a significantly smaller network of coverage physicians. Named Plaintiffs relied on
25 ANTHEM'S misrepresentations that the plans they were purchasing were PPO Plans and
26 subsequently sought treatment from physicians who were covered under their respective PPO
27 Plans.

1 24. The physicians that the Named Plaintiffs sought for medical treatment accepted
2 each of the Named Plaintiffs' respective PPO Plans and performed the medical treatment for which
3 each Named Plaintiff sought. Thereafter, ANTHEM denied coverage for said medical treatment
4 stating that the Named Plaintiffs did not have PPO Plans, but instead had EPO Plans, and the
5 physicians who performed the medical treatment were out-of-network providers pursuant to the
6 EPO Plans and thus the members were not covered.

7 25. ANTHEM'S denial of properly contracted insurance benefits was a breach of
8 ANTHEM'S duty of good faith and fair dealing owed to the Named Plaintiffs and was done in bad
9 faith.

10 26. As a proximate cause of ANTHEM's conduct described herein, Named Plaintiffs
11 have suffered and will continue to suffer, damages under the plan they contracted for, including,
12 but not limited to, failure to pay insurance benefits, consequential damages, attorneys' fees, costs,
13 and interest in an amount to be established at trial.

14 27. The actions of ANTHEM were outrageous, despicable, and intentional, and
15 Defendant, and each of them, was and is guilty of oppression, malice, and fraud in taking those
16 actions. In addition, the Defendant's actions were taken with a willful and conscious disregard for
17 the rights of Named Plaintiffs, and were vile, base, contemptible, miserable, wretched, and
18 loathsome. Accordingly, an award of exemplary damages against the Defendant is sought and
19 should be made in an amount designed to punish the Defendant and deter them from future similar
20 conduct toward others, which amount is not yet ascertained, but which will be proved at trial.

21 28. The deceitful actions of ANTHEM as described herein were undertaken by
22 ANTHEM'S officers and/or managing agents, identified as DOES 1 through 20, whose duties
23 caused them to be directly responsible for members' signing up for PPO Plans, management of said
24 PPO Plans, switching said plans to EPO Plans, underwriting, and denial of benefits. As such, the
25 herein described conduct of ANTHEM'S officers and/or managing agents were undertaken of
26 behalf of the corporate defendant ANTHEM. ANTHEM encouraged, acknowledged, authorized
27 and ratified said conduct of its officers and/or managing agents, whose identities are currently
28 unknown to Named Plaintiffs and are therefore identified as DOES 1 through 20.

1 **SECOND CAUSE OF ACTION**

2 **Violation of Business & Professions Code Section 17200**

3 (Brought by Plaintiffs J. Christian Conrad and Mendy Lynn Conrad
4 individually and in their Representative Capacities on behalf of others similarly
5 situated, against Defendant and Does 1 through 20, Inclusive)

6 29. Named Plaintiffs hereby reallege and incorporate by reference as though set forth
7 fully herein, the allegations contained in Paragraphs 1 through 28. This cause of action is pled on
8 behalf of the Named Plaintiffs individually and the Class of Plaintiffs against Defendant and DOES
9 1-20.

10 30. California Business & Professions Code Section 17200 prohibits acts of unfair
11 competition, which is defined in pertinent part as an unfair or fraudulent business act or practice
12 and unfair, deceptive, untrue or misleading advertising.

13 31. Named Plaintiffs and the proposed class purchased their plans from ANTHEM
14 during California's exchange during the 6-month open enrollment period between October 1, 2013
15 and March 31, 2014 (C.F.R. §155.410). The ACA preserves state laws that offer additional
16 consumer protections, such as several California statutes. All California laws that impose stricter
17 requirements on health service plan insurers, such as ANTHEM, than those imposed by the ACA
18 are not superseded by the ACA. Consequently, ANTHEM'S health service plans are subject to the
19 stricter requirements of California Health and Safety Code Sections 1340 through 1399.99, known
20 as the Knox-Keene Act.

21 32. It was California's intent in adopting the Knox-Keene Act to require ANTHEM and
22 other health service providers to adhere to the California Health and Safety Code. California
23 Health and Safety Code §1342, states:

24 It is the intent and purpose of the Legislature to promote the
25 delivery and the quality of health and medical care to the people of the
26 State of California who enroll in, or subscribe for the services rendered by,
27 a health care service plan or specialized health care service plan by
28 accomplishing all of the following:

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(a) Ensuring the continued role of the professional as the determiner of the patient's health needs which fosters the traditional relationship of trust and confidence between the patient and the professional.

(b) Ensuring that subscribers and enrollees are educated and informed of the benefits and services available in order to enable a rational consumer choice in the marketplace.

(c) Prosecuting malefactors who make fraudulent solicitations or who use deceptive methods, misrepresentations, or practices which are inimical to the general purpose of enabling a rational choice for the consumer public.

(d) Helping to ensure the best possible health care for the public at the lowest possible cost by transferring the financial risk of health care from patients to providers.

(e) Promoting effective representation of the interests of subscribers and enrollees.

(f) Ensuring the financial stability thereof by means of proper regulatory procedures.

(g) Ensuring that subscribers and enrollees receive available and accessible health and medical services rendered in a manner providing continuity of care.

(h) Ensuring that subscribers and enrollees have their grievances expeditiously and thoroughly reviewed by the department.

33. California Health and Safety Code §1360(a), states:

No plan, solicitor, solicitor firm, or representative shall use or permit the use of any advertising or solicitation which is untrue or misleading, or any form of evidence of coverage which is deceptive. For purposes of this article:

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(1) A written or printed statement or item of information shall be deemed untrue if it does not conform to fact in any respect which is, or may be significant to an enrollee or subscriber, or potential enrollee or subscriber in a plan.

(2) A written or printed statement or item of information shall be deemed misleading whether or not it may be literally true, if, in the total context in which the statement is made or such item of information is communicated, such statement or item of information may be understood by a person not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage, or the absence of any exclusion, limitation, or disadvantage of possible significance to an enrollee, or potential enrollee or subscriber, in a plan, and such is not the case.

(3) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole and with consideration given to typography and format, as well as language, shall be such as to cause a reasonable person, not possessing special knowledge of plans, and evidence of coverage therefor to expect benefits, service charges, or other advantages which the evidence of coverage does not provide or which the plan issuing such coverage or evidence of coverage does not regularly make available to enrollees or subscribers covered under such evidence of coverage.

34. ANTHEM violated and continues to violate all of the Health and Safety Code sections cited herein by selling health service plans to members that were misrepresented as PPO plans but were actually less inclusive EPO plans; attempting and continuing to attempt to convince members that they never even bought a PPO plan in the first place, but had actually had an EPO plan from the outset, and denying and continuing to deny legitimate health claims of members for

1 treatment from health providers who were in-network pursuant to the PPO plan originally
2 purchased but were out-of-network providers under the misrepresented EPO plan.

3 35. The violations of the foregoing statutes and regulations, and/or maintenance of the
4 unlawful business practices by Defendant as described in this Complaint, constitute unfair and
5 unlawful business practices under Business and Professions Code §17200, et seq.

6 36. The identified violations of the Knox-Keene Act and California's Health and Safety
7 Code constitute business practices because they were done repeatedly over a significant period of
8 time, and in a systematic manner to the detriment of the Class of Plaintiffs.

9 37. As a result of Defendant's continuing violations as described above, the issuance of
10 a temporary and permanent injunction is mandated. Therefore, the Class of Plaintiffs seek an
11 injunction ordering Defendant to cease and desist engaging in the unfair business practices
12 described in this Complaint. Such an injunction is appropriate to remedy the wrongful conduct
13 alleged.

14 38. As a further remedy authorized by California Business & Professions Code §17203,
15 because Defendant wrongfully obtained a competitive advantage by engaging in these unlawful
16 and unfair business practices, and continues to do so, the monies unlawfully obtained by such
17 means should be restored to the parties from whom these monies were taken (i.e., Named Plaintiffs
18 and Proposed Class).

19 39. By way of an injunctive order, Defendant should be ordered to: identify, locate and
20 notify all ANTHEM members as described in Paragraph 17 (Class of Plaintiffs) that certain monies
21 may be due and owing to them; calculate the amount of restitution owed by performing an
22 adequate accounting to ascertain the monies due and owed to said members; pay restitution, with
23 interest, penalties, and attorney fees and costs, accordingly and; comply with any other order or
24 judgment which the Court deems necessary to prevent the use of any practice by Defendant
25 constituting unfair business practices or to restore to any person in interest any money or property
26 which was acquired by means of such a practice, including but not limited to the appointment of a
27 receiver, pursuant to California Business & Professions Code §17203.

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4. For such other and further relief as the Court deems just and proper.

ON THE SECOND CAUSE OF ACTION

6. For disgorgement of all unjust enrichment and/or profits obtained by Defendant; and

7. For injunctive relief including, but not limited to, ordering the continuing unlawful business acts to cease, and ordering that Defendant identify, locate and notify the Class of Plaintiffs that certain monies may be due and owing to them; that Defendant calculate the amount of restitution owed by performing an adequate accounting to ascertain the monies due and owed to said Class of Plaintiffs; and that Defendant pay restitution, together with interest and attorneys' fees, costs and penalties, accordingly as allowed by Business and Professions Code §17203;

8. For attorneys' fees pursuant to California Code of Civil Procedure §1021.5; and

9. For such other and further relief as the Court deems just and proper.

ON THE THIRD CAUSE OF ACTION

10. For declaratory relief;

11. For attorneys' fees pursuant to California Code of Civil Procedure §1021.5; and

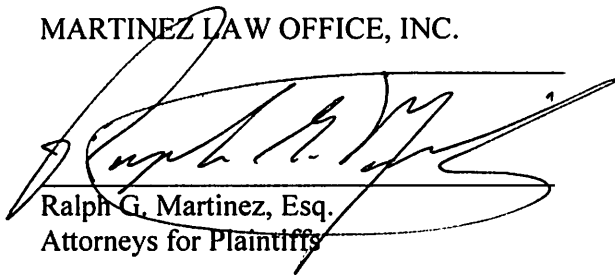
12. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

By way of this pleading, Named Plaintiffs, J. CONRAD and M. CONRAD, hereby give notice of their demand for a jury trial on all issues so triable.

Dated: July 17, 2014

MARTINEZ LAW OFFICE, INC.



Ralph G. Martinez, Esq.
Attorneys for Plaintiffs