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KCC CLASS ACTION SERVICES, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

KCC CLASS ACTION SERVICES, LLC,

Plaintiff,

v.

AETNA INC.,

Defendant.

Case No. 2:18-cv-1018

COMPLAINT

(1) **Breach of Contract and the Implied Covenant of Good Faith and Fair Dealing**;

(2) **Negligence/Failure to Warn;**

(3) **Quantum Meruit/Goods and Services Rendered;**

(4) **Declaratory Judgment**

Jury Trial Demanded

KCC CLASS ACTION SERVICES, LLC ("KCC" or "Plaintiff"), by and through its undersigned attorneys, brings this action against defendant AETNA INC. ("Aetna" or "Defendant") for: (1) breach of contract and the implied covenant of good faith and fair dealing; (2) negligence/failure to warn; (3) quantum meruit/goods and services rendered; and (4) declaratory judgment (two counts). In

support of its Complaint, KCC states as follows:

NATURE OF THE ACTION

1. This is a case about the negligence, carelessness, and recklessness of Aetna and its agent and Business Associate, Gibson, Dunn & Crutcher LLP ("Gibson"), and their failure to adequately safeguard the protected health information ("PHI") of thousands of Aetna insureds.

2. In 1996, Congress recognized the importance of protecting the privacy of all individually identifiable health information when it enacted the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 300gg, 29 U.S.C. § 1181, *et seq.*, and 42 U.S.C. § 1320d, *et seq.*, and its associated regulations, 45 C.F.R. § 160, 162 and 164 ("HIPAA"), which established a federal floor of safeguards to protect the confidentiality of medical information.

3. Founded in 1853, Aetna is one of the country's largest and oldest health insurers. Aetna's mission is to "build a healthier world — one person, one community at a time." According to Aetna's website, Aetna reported earnings of approximately $63.2 billion in revenue in 2016. In December 2017, Aetna announced that CVS Health had agreed to purchase Aetna for $69 billion.

4. Aetna's privacy policy claims Aetna "will safeguard member [PHI] from impermissible and unauthorized use and disclosure in accordance with federal and state law, the Company's Code of Conduct, and industry standards."

5. Gibson is a global law firm comprised of over 1,200 lawyers in 20 offices worldwide. Gibson markets itself as a sophisticated law firm with experience in health law and data privacy, among other things.

6. Contrary to representations Aetna and Gibson have made about their commitment to and expertise in health care privacy matters, Aetna and Gibson caused the disclosure of the HIV/AIDS status and HIV/AIDS drug prevention use of thousands of Aetna's insureds throughout the country.

7. Indeed, KCC has learned from public documents that Aetna has been sued in no fewer than ten lawsuits arising from this disclosure and has agreed to pay over $17 million to resolve two of those lawsuits. Public documents also reveal that Aetna has agreed to pay over $1.1 million in penalties to the State of New York to resolve an investigation initiated by the New York Attorney General.

8. Instead of accepting responsibility for this unfortunate incident, Aetna has demanded that KCC indemnify and reimburse Aetna **for any and all** losses arising from the incident.

9. KCC is a settlement administrator that administers class action claims of all types. Aetna, through Business Associate Gibson, engaged KCC to mail notices relating to a settlement agreement and administer claims through that agreement.

10. Aetna, through its agent and Business Associate Gibson, is a party to a contract governing the services KCC was to provide and did provide related to the mailing of the notices.

11. Aetna, as a Covered Entity under HIPAA, and Aetna's Business Associate, Gibson, had a duty under HIPAA to institute appropriate protective measures to maintain the safety and security of the PHI at issue in the mailing of the notices.

12. In violation of this duty, Aetna and Gibson failed to institute appropriate protective measures to maintain the safety and security of the PHI at issue in the mailing of the notices. And Aetna and Gibson failed to inform or warn KCC that they had failed to institute appropriate protective measures to ensure the safety and security of the PHI of the Aetna insureds.

13. In the absence of appropriate protective measures and without warning KCC that such measures had not been implemented, Aetna and Gibson provided

the PHI of the Aetna insureds to KCC without the insureds' consent, in violation of HIPAA.

14. Moreover, in further violation of HIPAA, Aetna and Gibson provided KCC with far more PHI of Aetna insureds than was minimally necessary for KCC to perform its job function.

15. Without Aetna and Gibson having provided the PHI of the Aetna insureds, KCC would have had no direct access to or control over the PHI, which at all times was provided by Aetna and Gibson.

16. In connection with the engagement, KCC sent all draft notices to Gibson for approval, and upon receiving such approval, KCC mailed the notices. KCC did not mail any notices that did not receive the prior express approval of Gibson and/or Aetna.

17. In late July 2017, thousands of notices were sent on Aetna's behalf to Aetna insureds in envelopes with a glassine window that exposed the insureds' HIV/AIDS status and/or taking of HIV/AIDS preventative drugs.

18. Aetna and Gibson knew that windowed envelopes were being used in the mailings in question. KCC provided samples of the letters to Aetna and Gibson, and those letters demonstrated that windowed envelopes would be used. Aetna and Gibson approved the form and content of the letters before they were transmitted.

19. KCC now brings this action for breach of contract and the implied covenant of good faith and fair dealing, negligence/failure to warn, quantum meruit/goods and services rendered, and declaratory relief arising from Aetna's and Gibson's wrongful acts and carelessness.

THE PARTIES

20. KCC is a Delaware limited liability company with its principal place of business in San Rafael, California. KCC's sole member is Kurtzman Carson

Consultants, Inc., a Delaware corporation with its principal place of business in El Segundo, California.

21. Aetna is a Pennsylvania corporation with its principal place of business in Connecticut.

JURISDICTION AND VENUE

22. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the parties are citizens of different states and the amount in controversy exceeds $75,000, exclusive of interest and costs.

23. The Court has personal jurisdiction over Aetna because Aetna has purposefully availed itself of the privilege of conducting business in California insofar as Aetna currently maintains systematic and continuous business contacts with this State and Aetna expressly agreed in the contract at issue that the contract would be construed in accordance with the laws of the State of California. Furthermore, the claims at issue in this case arose out of a contract offered, entered into, and to be performed (at least in part) in California, and Aetna engaged in sufficient contacts with California (including litigation and settlement of an earlier related putative class action in California and the direction of resulting mailings into California) to give rise to these claims in California in such a way as to establish specific jurisdiction and satisfy the Due Process Clause.

24. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) and (2) because Aetna engaged in business in this District; has an office or agency in this District; committed tortious acts within this District; breached a contract in this District by failing to perform acts required by the contract to be performed in this District; litigated and settled a related putative class action in this District that led to this lawsuit; and/or is engaged in substantial and not isolated activity in this District.

FACTUAL BACKGROUND

Aetna's Public Commitment to Protect the Privacy of Its Insureds

25. Aetna is a Covered Entity within the meaning of HIPAA and is thus required to comply with the HIPAA federal standards that govern the privacy of individually identifiable health information, or PHI.

26. Indeed, on Aetna's publicly accessible Web site, Aetna acknowledges, among other things, that HIPAA (in addition to other federal and state privacy laws) requires health care companies like Aetna to keep patient information confidential. *See Privacy FAQs*, Aetna, https://www.aetna.com/faqs-health-insurance/about-us-privacy-faqs.html (last visited January 29, 2018). According to Aetna's Web site, confidential patient information would include "[a]nything your doctors, nurses, and others put in your medical record." *Id.* The Web site claims that an Aetna member could "[d]ecide if you want to give your permission before your information can be used or shared for certain purposes," as well as "[g]et a report on when and why your information was shared for certain purposes." *Id.*

27. Acknowledging its responsibility to protect the privacy of its insureds, according to Aetna's Web site, Aetna has the responsibility to:

- Put safeguards in place to protect your information;
- Limit the use and disclosure of your information to the minimum needed to accomplish our goals;
- Enter into agreements with our contractors and others to make sure they use and disclose your information properly and safeguard it appropriately;
- Have procedures in place to limit who can see your information; and
- Hold training programs for employees to learn how to protect your information.[1]

[1] *See* https://www.aetna.com/faqs-health-insurance/about-us-privacy-faqs.html (last visited January 29, 2018).

28. Aetna also claims that it has "extensive operational and technical protections in place" to protect its members' PHI and that it is "continually improving and updating as part of [Aetna's] existing commitment to information privacy and compliance with legislation such as HIPAA and state privacy laws."[2]

29. Aetna's own policy, "Use and Disclosure of Member Protected Health Information ('PHI')," claims that Aetna "will safeguard member PHI from impermissible and unauthorized use and disclosure in accordance with federal and state law, the Company's Code of Conduct, and industry standards."

Aetna's History of Failing to Protect the Privacy of Its Insureds

30. Notwithstanding Aetna's recognition of its obligation as a Covered Entity to comply with HIPAA and protect the privacy of its insureds, Aetna consistently fails to adequately safeguard the personal information and PHI of its insureds.

31. In 2010, Aetna reported a data breach to the Office of Civil Rights for the U.S. Department of Health and Human Services, which enforces HIPAA. Aetna reported that the personal information of approximately 2,300 individuals had been exposed because of a server breach.

32. In approximately November 2014, Aetna announced a policy change that barred its health insurance enrollees diagnosed with HIV/AIDS or taking HIV/AIDS preventative medications from filling their prescriptions at their local brick and mortar pharmacy. Instead, these enrollees were required to obtain their medications by mail order. (The change in policy is referred to herein as "The Program.")

33. Mail order delivery of medications often required refrigerated containers to be delivered to a person's home or office, thus potentially disclosing the enrollee's medical condition to third parties. The Program raised serious

[2] *See Personal Health Record (PHR) FAQs*, Aetna. https://www.aetna.com/faqs-health-insurance/personal-health-record-faqs.html (last visited January 29, 2018).

privacy implications because of the social stigma that could be associated with the disease.

34. In December 2014, a class action lawsuit was filed against Aetna alleging that The Program put patients' health and privacy at risk. *See DOE v. Aetna*, Case No. 14-cv-02986 (S.D. Ca.) (the "*Doe* Litigation").

35. In December 2015, another class action lawsuit was filed against one of Aetna's subsidiaries, Coventry Health Care, Inc., also alleging that The Program put patients' health and privacy at risk. *See DOE v. Coventry Health Plans*, No. 15-cv-62685 (S.D. Fla.) (the "*Coventry* Litigation").

36. On July 8, 2016, the U.S. District Court for the Southern District of California entered a Qualified Protective Order governing, among other things, the confidential treatment and protection of PHI exchanged by the parties in connection with the *Doe* Litigation. *See Doe* Litigation, D.E. 62.

37. On June 17, 2016, the U.S. District Court for the Southern District of Florida entered a Qualified Protective Order governing, among other things, the confidential treatment and protection of PHI exchanged by the parties in connection with the *Coventry* Litigation. *See Coventry* Litigation, D.E. 71.

38. Approximately two years later, the *Doe* Litigation and the *Coventry* Litigation were resolved. On or about February 27, 2017, the plaintiffs in the *Doe* Litigation and *Coventry* Litigation executed a settlement agreement with Aetna (the "*Doe/Coventry* Settlement Agreement").

39. In the *Doe/Coventry* Settlement Agreement, Aetna agreed to, among other things: (1) send a notice to all affected consumers enrolled in Aetna plans advising them of their right to obtain HIV/AIDS medications from a community pharmacy of their choice, where privacy would be protected (the "Notice" or "Notices"); and (2) send a separate notice offering certain individuals the right to receive compensation for incurred out of pocket losses.

40. The *Doe/Coventry* Settlement Agreement specifically places the responsibility for sending the Notice on Aetna.

41. On March 3, 2017, the parties in the *Coventry* Litigation filed a Stipulation of Voluntary Dismissal, thereby terminating the *Coventry* Litigation and the Qualified Protective Order governing PHI disclosed in connection with the *Coventry* Litigation.

42. On March 3, 2017, the parties in the *Doe* Litigation filed a Stipulation of Voluntary Dismissal. On March 6, 2017, the U.S. District Court for the Southern District of California entered an Order dismissing the *Doe* Litigation and terminating the Qualified Protective Order governing PHI disclosed in connection with the *Doe* Litigation.

After Allowing the Qualified Protective Orders to Terminate, Aetna Engages KCC to Send the Notice to Aetna Insureds Taking HIV/AIDS Medications.

43. Under HIPAA, a "Business Associate" is a person or entity that performs functions or activities on behalf of, or provides services to, a Covered Entity that involve access by the Business Associate to PHI. The HIPAA rules require that Covered Entities (such as Aetna) enter into contracts with their Business Associates (such as Gibson) to ensure that the Business Associates will appropriately safeguard PHI.

44. Gibson was Aetna's Business Associate for purposes of HIPAA and performed services on Aetna's behalf.

45. One of Aetna's primary lawyers in the *Doe*/*Coventry* litigation and settlement process, Heather Richardson, is a partner at Gibson's Los Angeles office who specializes in health care, insurance, and class action matters and has a Masters of Public Health with a specialization in health services.

46. In April or May 2017, Aetna, through its counsel and Business Associate Gibson, engaged KCC to process and carry out the Notices contemplated by the *Doe/Coventry* Settlement Agreement.

47. On or about May 23, 2017, KCC issued a proposal in connection with Aetna's request that KCC administer the mailing of the Notices (the "Proposal") (A copy of the Proposal is attached hereto as Exhibit A.)

48. The Proposal provided that KCC would print and mail the Notices and the claims forms as set forth in the *Doe/Coventry* Settlement Agreement. (*See generally* Proposal.)

49. The Proposal was addressed to both Gibson and counsel for the plaintiffs in the *Doe* Litigation and *Coventry* Litigation, Whatley Kallas ("Whatley"). While the Proposal contained a signature line for Whatley, Whatley never signed the Proposal. But by proceeding with the engagement without contesting or negotiating any changes to the terms and conditions of that proposal, Aetna, Gibson and Whatley agreed to and accepted the Proposal.

50. In connection with the engagement, KCC communicated almost exclusively with Aetna's counsel, Gibson, and Whatley.

51. The Proposal attached and referenced KCC's standard Terms and Conditions (the "KCC Agreement"), which provided that KCC would provide services to "Client" as defined in the May 23, 2017 proposal. (A copy of the KCC Agreement is attached hereto as Exhibit B.)

52. The KCC Agreement provides, "KCC agrees to provide the services set forth in the Proposal attached hereto (the 'Services')." (KCC Agreement § 1.) The KCC Agreement also provides that "KCC will often take direction from Client's representatives, employees, agents and/or professionals (collectively, the 'Client Parties') with respect to the Services. **The parties agree that KCC may rely upon, and Client agrees to be bound by, any direction, advice or**

information provided by the Client Parties to the same extent as if provided by the Client." (*Id.*) (Emphasis added.)

53. The KCC Agreement contains the following indemnification provision:

> Client shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance of Services. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party.

(KCC Agreement § 8.)

54. The KCC Agreement also provides:

> Except as provided herein, KCC's liability to Client or any person making a claim through or under Client or in connection with Services for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC's liability for any Losses, whether direct or indirect, arising out of the Services exceed the total amount billed to Client and actually paid to KCC for the Services. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the Services. Except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including but not limited to, any implied or express warranty of merchantability, fitness or inadequacy for a particular purpose or use, quality, productiveness or capacity. The provisions of this Section 8 shall survive termination of Services.

(*Id.*).

Aetna's and Gibson's Carelessness Results in the Disclosure of the Fact That Aetna Insureds Across the Country Were Taking HIV/AIDS Medications.

55. Notwithstanding that Aetna's counsel Gibson touts itself as an expert in the field of data privacy and Aetna's own privacy policy claims that Aetna "will safeguard member PHI from impermissible and unauthorized use and disclosure in accordance with federal and state law," Aetna and Gibson transferred Aetna's insureds' PHI to KCC in a reckless, careless, and negligent fashion that resulted in the public disclosure of the fact that thousands of Aetna insureds were taking HIV/AIDS medications.

56. In late July 2017, thousands of Notices were sent on Aetna's behalf to Aetna insureds who had submitted claims for HIV/AIDS medications, in envelopes with a glassine window that exposed the insureds' HIV/AIDS status or the fact that the insureds were taking HIV/AIDS preventative medications.

57. Aetna and Gibson knew that windowed envelopes were being used in the mailings in question. KCC provided samples of the letters to Aetna and Gibson, and those letters demonstrated that windowed envelopes would be used. Aetna and Gibson approved the form and content of the letters before they were transmitted.

58. Aetna's approval of the letters and the windowed envelopes is consistent with the reckless, careless, and negligent conduct of Aetna and its counsel throughout the engagement.

59. Aetna and Gibson failed to implement appropriate protective measures to ensure the protection and confidentiality of the Aetna patient information at issue in the Notices. Aetna and Gibson failed to inform KCC that Aetna and Gibson had not implemented appropriate protective measures to ensure the protection and confidentiality of the Aetna patient information that was the subject of the Notices.

60. Aetna and Gibson allowed the Qualified Protective Orders in the *Doe* Litigation and *Coventry* Litigation to terminate on March 3 and 6, 2017.

61. Aetna — as a party in the *Doe* Litigation and *Coventry* Litigation — knew that the Qualified Protective Orders in the *Doe* Litigation and *Coventry* Litigation had terminated upon dismissal of the cases.

62. Gibson — as counsel of record for Aetna in the *Doe* Litigation and *Coventry* Litigation — knew that the Qualified Protective Orders in the *Doe* Litigation and *Coventry* Litigation had terminated upon dismissal of the cases.

63. Notwithstanding this direct knowledge that **no** Qualified Protective Order was in place, Aetna and Gibson failed to inform KCC of this fact before providing insured PHI to KCC. And Aetna and Gibson failed to implement any protective measures similar to a Qualified Protective Order before providing the PHI to KCC.

64. In the absence of any such protective measures (a Qualified Protective Order or legally similar agreement to protect the PHI), Aetna and Gibson provided PHI to KCC without the consent of all insureds whose PHI was at issue, in violation of HIPAA.

65. On May 24, the day after KCC sent the Proposal to Aetna's counsel, Gibson, Gibson partner Richardson emailed a data set of Aetna insured PHI to KCC. The information shared by Richardson with KCC included the following data types: MEMBER_ID, DISP_DT, NDC_CD, PRODUCT_NM, DISP_YRMO, CUST_SEGMENT_DESC, SCRIPTS, PAY_ALLOW_AMT, PAY_PAID_AMT, SRV_COPAY_AMT, MEMBER_COPAY, APP_TO_PER_DED_AMT, MEM_NM, ADDRESS1, ADDRESS2, CITY, STATE, and ZIP_CD.

66. In further violation of HIPAA, Aetna and Gibson sent KCC far more information than was minimally necessary to perform its job function, *i.e.*, mail notices to a list of people.

67. Moreover, some of the insured information was **not** encrypted, notwithstanding the fact that Aetna and Gibson have the technical expertise to

encrypt such information. Information specific to Coventry insureds was not password protected, nor was it sent via a secure file transfer protocol. Instead, Gibson simply emailed Coventry insured information in an unsecured fashion from Gibson to KCC.

68. Aetna, as a Covered Entity under HIPAA, knew or should have known that sending the Aetna insured data to KCC in an unsecure and reckless fashion compromised the privacy and confidentiality of Aetna's insureds.

69. Aetna's Business Associate, Gibson, knew or should have known better and had a duty under HIPAA to know that overdisclosing the PHI of Aetna insureds and sending the Coventry patient data to KCC in an unsecure and reckless fashion compromised the privacy and confidentiality of Aetna's and Coventry's insureds.

70. In fact, the legal journal *Law360* recently named Gibson a "Privacy Practice Group of the Year." *See* January 30, 2018 article, "Privacy Group of the Year: Gibson," *Law360*, attached hereto as Exhibit C.) Given that plaudit, Gibson presumably had the knowledge base to understand that without a Qualified Protective Order, Gibson and Aetna should not have shared PHI with KCC. Moreover, they should have known that even if there had been a Qualified Protective Order, they should have shared only the data minimally necessary to perform the notice function and should have password-protected and encrypted every email transmission containing PHI.

71. Instead, Aetna and Gibson shared insured PHI without password protection or encryption, shared far more data than was necessary to perform the notice function, and never warned or notified KCC that the insured information Aetna and Gibson provided to KCC to effectuate the mailings was being provided by Aetna and Gibson in violation of their Covered Entity and Business Associate obligations under HIPAA.

72. Between May 23 and approximately July 20, 2017, KCC worked with Whatley and Aetna counsel Gibson to prepare the Notices and other mailings. Both Gibson and Whatley provided feedback and approval on the language in the Notices, but only Aetna and Gibson provided PHI and insureds' contact information to KCC.

73. Additionally, when Whatley made suggestions to the "Frequently Asked Questions" to be included in the Notices, Aetna rejected the suggestions and Gibson provided the final versions that were ultimately mailed by KCC.

74. At no time before providing the PHI to KCC did Gibson or Aetna ask KCC whether it might be willing to sign a Business Associate Agreement relating to the treatment and/or protection of PHI.

75. In fact, only after this incident became public did Gibson ask KCC to sign a Qualified Protective Order (at which time it was too late because the Qualified Protective Orders had already expired in the two underlying class actions that had been settled privately without court approval) or to sign a Business Associate Agreement.

76. At no time before provision of the PHI to KCC did Gibson or Aetna request that KCC enact protective measures to safeguard the PHI of the Aetna/Coventry insureds.

Multiple Lawsuits and Governmental Investigations Result From Aetna's Carelessness and Aetna Attempts to Settle.

77. From July 30, 3017 to the present, no fewer than ten lawsuits have been filed against Aetna based upon the disclosure of the HIV/AIDS status of the Aetna insureds, as follows:

- *Andrew Beckett v. Aetna, Inc.* et al., Case No. 2:17-cv-03864 (E.D. Pa.) (the "*Beckett* Litigation");
- *S.A. v. Aetna, Inc.*, Case No. BC674088 (Cal. Sup. Ct. L.A. Cty., Aug. 28, 2017), *removed to* U.S. District Court for the Central District of

California, Case No. 17-cv-7264, *transferred to* U.S. District Court for the Eastern District of Pennsylvania, related to Case No. 2:17-cv-03864 ("*SA* Litigation")'

- *R.H. v. Aetna Health, Inc., et al.*, Case No. 2:17-cv-04566-MMB (E.D. Pa.) (the "*R.H.* Litigation");
- *Doe v. Aetna, Inc. et al.*, Case No. 3:17-cv-01947 (C.D. Cal.) (the "*Doe 1* Litigation");
- *Doe v. Aetna, Inc.*, Case No. 3:17-cv-5191 (N.D. Cal.) (the "*Doe 2* Litigation");
- *Doe v. Aetna, Inc. et al.*, Case No. 3:17-cv-1751 (D. Conn.) (the "Connecticut Litigation"); and
- *Doe v. Aetna, et al.*, Case No. 4:17-cv-929 (W.D. Missouri) (the "Missouri Litigation");
- *D.L. v. Aetna, Inc. et al.*, Case No. 2:17-cv-8478 (C.D. Cal.);
- *Doe v. Aetna, et al.*, Case No. 17-cv-7167 (N.D. Cal.); and
- *Smith v. Aetna, Inc. et al.*, Case No. 2:17-cv-12668 (D. N.J.).

78. Moreover, the Office of Civil Rights of the Department of Health and Human Services, which enforces HIPAA, has opened investigations related to the incident, and various state attorneys general have opened investigations of Aetna.

79. For instance, the New York Attorney General commenced an investigation pursuant to New York Executive Law Section 63(12) into "certain privacy breaches by Aetna, Inc. ('Aetna') through its mailing of material which improperly disclosed member Protected Health Information." (The "NY AG Action.")

80. In December 2017, Aetna reached a tentative settlement agreement in the *Beckett* Litigation and *S.A.* Litigation. Aetna agreed to resolve these lawsuits, as well as the *Doe 1*, *Doe 2*, *R.H.* and Connecticut Litigation, by paying a total of $17.16 million to the plaintiffs and providing certain non-monetary relief, including

implementing a "best practices" policy for use of PHI in litigation (the "*Beckett* Settlement"). *See* Beckett Settlement, attached as Exhibit D, at ¶¶ 4.1, 5.)

81. KCC was not named as a party in the *Beckett* Litigation and did not participate in any of the settlement discussions giving rise to the *Beckett* Settlement.

82. On or about January 19, 2018, Aetna reached a settlement of the NY AG Action with the New York Attorney General (the "NY AG Settlement"). (A copy of the January 19, 2018 NY AG Settlement is attached hereto as Exhibit E.) In the NY AG Settlement, Aetna agreed to pay a penalty to the State of New York totaling $1.15 million. (Ex. E ¶ 31.)

83. Aetna also agreed to modify its "Standard Operating Procedures for Print/Mailing Quality-Prevention of PHI/unwanted disclosures" and "Use of Protected Health Information in Litigation — Best Practices Policy" (the "Standard Operating Procedures"). (*Id.* ¶ 22.)

84. Aetna also agreed to provide the New York Attorney General with copies of audit and compliance reports and submit to monitoring by an independent consultant for a period of two years. (*Id.* ¶¶ 29, 30.)

85. Aetna's agreement to modify its Standard Operating Procedures and subject itself to audit and compliance reporting with respect to prevention of unwanted disclosures of PHI and use of PHI in litigation demonstrates that the procedures Aetna had in place that it used in directing KCC to mail the Notices were inadequate.

86. Additionally, had Aetna implemented the new procedures earlier, this incident almost certainly would have never occurred.

87. For instance, Aetna has agreed to implement production attestations, procedures for making sure information is not inadvertently disclosed through an envelope window, training on print mailing procedures, process and control audits,

and other new practices and procedures, any of which could have and should have been implemented before this incident occurred. (*Id.* at ¶ 22).

Aetna's Additional , Repeated Failures to Protect the Privacy of Its Insureds

88. The NY AG Settlement acknowledged additional failures by Aetna to adequately protect the privacy of its insureds.

89. In September 2017, Aetna identified 163 members residing in New York to receive educational materials based on their Atrial Fibrillation ("AFib") diagnosis. On September 25, 2017, Aetna sent each of these members a mailing containing such educational materials. (NY AG Settlement ¶ 16.)

90. Displayed on each envelope was the logo "IMPACT-AFIB," which could have been interpreted as indicating that the recipient member had an AFib diagnosis. Aetna reported this incident to the OCR. (*Id.* ¶ 17.)

91. KCC was not involved in the AFib mailing.

92. Within 24 months of both of these incidents, Aetna reported **three** other breaches of unsecured health information to the Department of Health & Human Services ("HHS"). In total, these incidents reported by Aetna affected over 25,000 individuals. (*Id*. ¶ 18.)

93. For example, in April 2017, Aetna reported a data breach that exposed the PHI, including names, identification numbers, member numbers, provider information, claim payment amounts, dates of service, procedure codes, and service codes of thousands of its insureds. (*See* "Aetna Error Sees PHI of 5,000 Individuals Exposed Online, HIPAA JOURNAL June 27, 2017, attached as Exhibit F.)

94. KCC was not involved in any of the additional three incidents reported to HHS.

95. In addition, in December 2016, Aetna Signature Administrators ("ASA") reported another incident that exposed the Social Security numbers of over 18,000 insureds. In this incident, an ASA employee mailed a CD containing

sensitive health plan members' information to another ASA employee and the CD was lost. (*See* "Lost CD Contained Social Security Numbers of 18,854 Health Plan Members," HIPAA JOURNAL, December 8, 2016, attached as Exhibit G.)

96. The CD contained birth dates, Social Security numbers, and in some instances, names and addresses of Aetna insureds. (*Id.*)

97. KCC was not involved in the above incident, either.

Aetna Demands Contribution and/or Indemnification From KCC.

98. Notwithstanding the New York Attorney General's recognition that Aetna failed to maintain adequate measures to protect any of the PHI that Aetna and Gibson provided to KCC, Aetna has demanded contribution and/or indemnification from KCC.

99. On October 11, 2017, Aetna, through its counsel, sent KCC's counsel a letter demanding KCC to indemnify Aetna from and against "Losses" caused by or relating in any way to the "Incident."

100. On October 17, 2017, KCC's counsel responded to Aetna's October 11 letter stating that KCC is **not at fault** or responsible for any "Losses" defined in the October 11 letter. KCC's counsel explained in detail why Aetna as a Covered Entity under HIPAA and Gibson as Aetna's BAA — not KCC — repeatedly failed to carry out their responsibility to maintain the privacy and security of the PHI of Aetna insureds.

101. For example:

- Aetna, through its counsel Gibson, provided Aetna insured PHI to KCC without ensuring that a Qualified Protective Order was in place to govern transfer and handing of the PHI. Unbeknownst to KCC, Aetna had allowed the two Qualified Protective Orders in the two underlying putative class actions to expire. Because the Qualified Protective Orders had expired, Aetna and Gibson should have never provided the PHI to KCC in the first place without additional protective measures (for which Aetna and Gibson were responsible).

- In the absence of such protective measures, Aetna and Gibson provided PHI to KCC without the consent of all insureds whose PHI was at issue, in violation of HIPAA.

- In addition to failing to implement appropriate protective measures, Aetna and Gibson provided KCC far more PHI than was minimally necessary for KCC to perform its job function, further evidencing Aetna's and Gibson's insensitivity to HIPAA throughout the process.

- Aetna and Gibson provided KCC PHI that was not encrypted in transmission, when the capabilities to encrypt were available to them, further demonstrating a lack of observation of the obligations to protect PHI under HIPAA.

- Aetna and Gibson knew that windowed envelopes were being used for all the mailings in question. KCC provided samples of the letters to Aetna and Gibson, and those letters demonstrated that windowed envelopes would be used. Aetna and Gibson approved the form and content of the letters before they were transmitted

- Neither Aetna nor Gibson ever expressed any concern to KCC about the privacy and security of the PHI in the letters or addressed special handling and mailing protocols.

102. In the October 17, 2017 letter, KCC declined Aetna's demand for contribution and/or indemnification of the "Losses" defined in the October 11, 2017 letter.

103. In the October 17, 2017 letter, KCC demanded pursuant to Section 8 of the KCC Agreement that Aetna hold harmless, defend, and indemnify KCC and any of its affiliates against any claims, fees, expenses, losses, damages, restitution, fines, penalties, injunctions, and/or any other relief, censure, or voluntary measures arising out of or related to this matter, any related regulatory proceedings, and/or any private litigation.

104. On January 8, 2018, the plaintiffs in the putative class action in the Missouri Litigation filed a motion for leave to file an Amended Complaint. In the proposed Amended Complaint, the plaintiffs specifically name KCC as a defendant.

In the proposed Amended Complaint, the plaintiffs seek liquidated damages, exemplary damages, attorneys' fees and court costs against KCC.

105. On October 23, 2017, Aetna's counsel rejected KCC's indemnity demand.

106. Three months later, Aetna entered into the *Beckett* Settlement and the NY AG Settlement.

107. On January 19, 2018, Aetna, through its counsel, sent KCC's counsel another letter requesting indemnification, reimbursement and/or contribution from KCC.

FIRST CAUSE OF ACTION
(Breach of Contract and the Implied Covenant of Good Faith and Fair Dealing)

108. KCC incorporates Paragraphs 1 through 107 by reference as if fully set forth herein.

109. Aetna, through its agent and Business Associate Gibson, entered into a valid and legally enforceable Agreement with KCC.

110. The KCC Agreement and the indemnification provisions therein are valid and enforceable.

111. In exchange for its commitment to indemnify and hold KCC harmless for any Losses (as defined in the KCC Agreement), Aetna received adequate and sufficient consideration, including the Services provided by KCC in printing and mailing the Notices and administering the settlement claims provided for in the *Doe/Coventry* Settlement Agreement.

112. Aetna has breached the KCC Agreement by refusing to indemnify KCC and by making a demand that KCC indemnify Aetna for losses relating to the July and August 2017 mailings.

113. The foregoing breaches and continuing breaches have directly and proximately caused and will continue to cause KCC damages, including, but not

limited to, KCC's cost of defending the Missouri Litigation and defending against Aetna's spurious demand for indemnification. Aetna has committed an egregious breach of the implied covenant of good faith and fair dealing attendant to any contract through Aetna's attempt to improperly shift to KCC penalties imposed on Aetna.

SECOND CAUSE OF ACTION
Negligence/Failure to Warn
(in the alternative to the First Cause of Action)

114. KCC incorporates Paragraphs 1 through 107 by reference as if fully set forth herein.

115. Aetna, as a Covered Entity under HIPAA, owed a duty to provide KCC with PHI of the Aetna insureds who were to receive the Notices in a secure fashion with sufficient protective measures to maintain the security and privacy of the PHI of Aetna's insureds.

116. Aetna owed a duty to KCC because harm was foreseeable to KCC resulting from Aetna's and Gibson's mishandling of the PHI and failure to properly monitor the mailing.

117. Aetna also owed a duty to KCC because it was certain KCC would suffer, and KCC did in fact suffer and will continue to suffer, monetary and reputational injury insofar as KCC was not compensated for its Services, Aetna has improperly shifted blame to KCC, KCC was named in the proposed Amended Complaint in the Missouri Litigation, and KCC's name has appeared in negative media coverage about the Aetna mailing.

118. Aetna also owed a duty to KCC because there is a close connection between Aetna's conduct and KCC's injury insofar as KCC would not have been injured but for Aetna's mishandling of the PHI and violations of HIPAA.

119. Additionally, Aetna owed a duty to KCC because the moral blame attached to Aetna's malfeasance is high.

120. Aetna also owes a duty to KCC because there is a strong public policy in preventing Aetna from behaving in such a reckless, careless and negligent fashion and further preventing Aetna from shifting blame to others not responsible and offsetting penalties paid (including but not limited to the penalties paid pursuant to the NY AG Settlement).

121. Aetna further owes a duty to KCC because the burden on Aetna is minimal and the consequences in the community are positive as a result of imposing a duty on Aetna under these circumstances. Indeed, HIPAA already imposes a duty on Aetna to institute appropriate protective measures to maintain the safety and security of PHI.

122. Aetna also owes a duty to KCC because, upon information and belief, there is insurance available for this risk. Aetna, which reported revenues in excess of $63 billion in 2017 and recently announced its sale to CVS for $69 billion, can afford any damages awarded by the trier of fact.

123. Aetna, as a Covered Entity under HIPAA, knew or reasonably should have known that sending Aetna insureds' PHI to KCC without consent from the Aetna insureds and without instituting appropriate protective measures were violations of HIPAA.

124. Aetna and Gibson knew that all of the recipients of the Notices had been diagnosed with HIV and/or AIDS or were taking medicine to help prevent HIV and/or AIDS.

125. Gibson and Aetna approved the form of the notices that KCC prepared at Gibson's and Aetna's direction, including the use of the windowed envelopes that exposed the HIV/AIDS drug information of the Aetna insureds.

126. Aetna knew or reasonably should have known that transmitting the PHI of the Aetna insureds — including their HIV/AIDS medication consumption — would cause harm to KCC if the PHI was disclosed publicly.

127. Through the NY AG Settlement, by agreeing to modify its "Standard Operating Procedures for Print/Mailing Quality-Prevention of PHI/unwanted disclosures" and "Use of Protected Health Information in Litigation — Best Practices Policy," Aetna recognizes that **Aetna's** procedures for printing and mailing PHI and using PHI in litigation were deficient and substandard.

128. Indeed, Aetna and Gibson failed to warn KCC of at least the following:

- That the Qualified Protective Orders in the *Doe* Litigation and *Coventry* Litigation had expired on March 3 and March 6, 2017;
- That Aetna and Gibson had failed to enact appropriate protective measures to ensure that the safety and security of the PHI that was the subject of the mailings would be maintained;
- That in the absence of such protective measures, Aetna and Gibson provided PHI to KCC without the consent of all of the insureds whose PHI was at issue;
- That Aetna and Gibson had provided KCC far more PHI than was minimally necessary for KCC to perform its job function;
- That KCC should independently take any protective measures to ensure that the safety and security of the PHI of the insureds at issue would be maintained.

129. Aetna's misconduct is an instance of misfeasance because Aetna created the risk by, *inter alia*, allowing the Qualified Protective Orders in the *Doe* Litigation and *Coventry* Litigation to expire, failing to enact appropriate protective measures in place of the Qualified Protective Orders, and failing to warn KCC that appropriate protective measures were not in place.

130. Aetna's breaches of its duty to warn and duty of due care directly and proximately caused and will continue to cause KCC damages in an amount to be proven at trial and, including, but not limited, KCC's cost of defending the

Missouri Litigation, responding to governmental investigations and inquiries, and defending against Aetna's demand for indemnification.

131. Aetna's conduct, in disregard of the rights of KCC, is part of an overall scheme and conspiracy, has been deliberate, willful, oppressive and malicious, is a clear effort by Aetna to avoid or offset any financial penalties or repercussions arising out of Aetna's and Gibson's violations of HIPAA and entitles KCC to exemplary damages pursuant to Section 3294(a) of the California Civil Code.

THIRD CAUSE OF ACTION
(Quantum Meruit/Goods and Services Rendered)
(In the Alternative to Count I)

132. KCC incorporates Paragraphs 1 through 107 by reference as if fully set forth herein.

133. Aetna and its agent, Gibson, requested that KCC provide services for the benefit of Aetna relating to the Notices.

134. Aetna agreed to pay KCC for the above services.

135. KCC provided the services to Aetna as requested by Aetna.

136. Aetna has failed to compensate KCC for the services it provided in connection with formatting and mailing the Notices.

FOURTH CAUSE OF ACTION
(Declaratory Judgment pursuant to 28 U.S.C. § 2201(a))

137. KCC incorporates Paragraphs 1 through 107 by reference as if fully set forth herein.

138. KCC has a tangible legal interest in the prompt resolution of this matter because it has incurred and continues to incur significant fees relating to its defense of Aetna's demand for indemnification, defense in the Missouri Litigation, and other claims and investigations.

139. The indemnification provision in the KCC Agreement is a valid and enforceable contract that requires Aetna to indemnify and hold KCC harmless for

any Losses (as defined in the KCC Agreement) relating to the July and August 2017 mailing that resulted in exposing the HIV/AIDS status of the Aetna insureds.

140. Aetna, through its agent Gibson, is a party to the KCC Agreement, and KCC took direction from and relied upon Gibson as a Client Party.

141. Aetna has rejected KCC's request for indemnity pursuant to the KCC Agreement and has demanded that KCC indemnify and/or contribute to Aetna's "Losses" as specified in the October 11, 2017 letter.

142. These circumstances present an actual and justiciable controversy between the parties that is not advisory, moot or premature. An immediate and definitive determination of the application and enforceability of the indemnification provision in the KCC Agreement is necessary to resolve the controversy and, thereby, clarify and settle the legal relations between the parties and afford relief from the uncertainty that has arisen from the controversy.

WHEREFORE, KCC respectfully requests the Court to enter judgment in its favor on Count IV pursuant to Federal Rule of Civil Procedure 57, 28 U.S.C. § 2201(a), and award the following relief:

(i) a declaratory judgment that the indemnification provision in the KCC Agreement is valid and enforceable;

(ii) a declaratory judgment that Aetna is a party to the KCC Agreement;

(iii) a declaratory judgment that KCC performed its obligations under the KCC Agreement;

(iv) a declaratory judgment that Aetna is obligated to indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents harmless from and against any and all losses, claims, damages, judgments and expenses (including reasonable counsel fees and expenses) resulting from, arising out of or related to KCC's performance of Services relating to the mailing of the Notices pursuant to the *Doe/Coventry* Settlement Agreement.

(v) costs and expenses incurred in pursuing this action, including reasonable attorneys' fees to the extent permitted by law; and

(vi) such other relief as the Court deems just and proper.

FIFTH CAUSE OF ACTION
(Declaratory Judgment Pursuant to 28 U.S.C. § 2201(a))

143. KCC incorporates Paragraphs 1 through 107 by reference as if fully set forth herein.

144. KCC has a tangible legal interest in the prompt resolution of this matter because it has incurred and continues to incur significant fees relating to its defense of Aetna's demand for indemnification, defense in the Missouri Litigation, and other claims and investigations.

145. The indemnification provision in the KCC Agreement is a valid and enforceable contract that requires Aetna to indemnify and hold KCC harmless for any Losses (as defined in the KCC Agreement) relating to the July and August 2017 mailing that resulted in exposing the HIV/AIDS status of the Aetna insureds.

146. Aetna, through its agent Gibson, is a party to the KCC Agreement, and KCC took direction from and relied upon Aetna as a Client Party.

147. Aetna has rejected KCC's request for indemnity pursuant to the KCC Agreement and has demanded that KCC indemnify and/or contribute to Aetna's "Losses" as specified in the October 11, 2017 letter.

148. Instead, Aetna demanded that KCC indemnify, reimburse and/or contribute to Aetna relating to, among other things, the $17.16 million payment Aetna is obligated to make in connection with the *Beckett* Settlement, the $1,150,000 penalty Aetna is obligated to make in connection with the NY AG Settlement, and potential damages, penalties and fees relating to the remaining putative class actions and "open investigations" Aetna's counsel referred to in the January 19, 2018 letter.

149. These circumstances present an actual and justiciable controversy between the parties that is not advisory, moot or premature. An immediate and definitive determination of the application and enforceability of the indemnification provision in the KCC Agreement is necessary to resolve the controversy and, thereby, clarify and settle the legal relations between the parties and afford relief from the uncertainty that has arisen from the controversy.

WHEREFORE, KCC respectfully requests the Court to enter judgment in its favor on Count V pursuant to Federal Rule of Civil Procedure 57, 28 U.S.C. § 2201(a), and award the following relief:

(vii) a declaratory judgment that KCC has no obligation to provide indemnity, contribution and/or reimbursement to Aetna under any circumstances;

(viii) costs and expenses incurred in pursuing this action, including reasonable attorneys' fees to the extent permitted by law; and

(ix) such other relief as the Court deems just and proper.

PRAYER FOR RELIEF

(All Claims)

WHEREFORE, KCC respectfully requests the Court to enter judgment in its favor on all Causes of Action and award KCC the following relief:

A. Compensatory, consequential, incidental, punitive and/or special damages, in an amount to be determined at trial and in an amount sufficient to have a deterrent effect on Aetna;

B. Exemplary damages pursuant to Section 3294(a) of the California Civil Code;

C. Pre-judgment and post-judgment interest;

D. Costs of suit incurred herein, including reasonable attorneys' fees and expenses;

E. Declaratory judgments as set forth above; and

F. Such other and further relief as the Court deems just and proper.

KCC hereby demands a trial by jury.

Dated: February 6, 2018

KCC CLASS ACTION SERVICES, LLC

By:/s/ Christopher R. Ramos
Christopher R. Ramos

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EXHIBIT A

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May 23, 2017

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Re: *Doe, et al. v. Aetna, Inc., et al.*
Class Action Settlement Administration Services Estimate - Revised

Dear Counselors,

We appreciate the opportunity to submit this revised proposal and cost estimate for class action administration services pertaining to *Doe, et al. v. Aetna, Inc., et al.*

For the purposes of this proposal, we applied the following assumptions with respect to KCC's duties:

- Print and mail a 1-page Notice of Change in Business Practices to 20,000 class members;
- Print and mail a 1-page Notice and a 3-page Claim Form to the following:
  - 48 class members that are in the Aetna insured group,
  - 84 class members that are in the Coventry insured group of 2011-2015, and
  - 1,700 class members that are in the Coventry insured specialty group;
- Conduct address searches for any Notices returned as undeliverable and re-mail to any new found address; and
- Process all claims received and issue checks to class members who submit an approved claim, as appropriate.

With experience administering more than 6,000 settlements, KCC provides high-quality and cost-effective class action administration services including pre-settlement consulting, settlement funds escrow, class member data management, legal notification, call center support, claims administration as well as disbursement and tax reporting services. We are a knowledgeable partner who proactively works with you throughout the settlement administration process and are well-positioned to handle your matter immediately.

Our domestic infrastructure, the largest in the industry, includes a 1,200-seat call center and document production capabilities that handle hundreds of millions of documents annually. Last year, our disbursement services team distributed $500 billion to payees in the form of 29 million checks and 11 million electronic transfers.

Please contact me with any questions regarding the enclosed case assumptions and cost estimate. We will hold this proposal and estimate open for ninety days from the date of this letter. Thank you for your time and consideration.

Sincerely,

Patrick Ivie
Senior EVP, Class Action Services
KCC LLC
Tel: (310) 776-7385
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KCC

COST SUMMARY & SCOPE OF SERVICES

Description	Estimated Cost
Class Member Data Management	$3,750
Legal Notification	$14,730
Claims Administration	$14,905
Disbursement & Tax Reporting	$7,490
Sub-Total Administration Costs	**$40,875**
Plus Estimated Postage	$9,871
Total Estimated Cost	**$50,746**

The estimated total cost of the settlement administration as described, including approximately $9,871 in postage, is $50,746. The final cost of the administration depends primarily on, among other variables, the total number of claims processed.

CLASS MEMBER DATA MANAGEMENT

Data and Forms Management
We will process class member data and pre-assign a unique sequential control number to each class member that will be used throughout the administration process. Prior to mailing, the addresses will be updated using the National Change of Address System ("NCOA") to increase mail deliverability and accuracy. Our estimate assumes that the class member data will be delivered in one electronic file in a complete and accurate form.

We will format all relevant documents and will send all document proofs to you for approval prior to printing.

We will store all paper and electronic documentation received throughout the duration of the case. Upon the conclusion of the case, and absent any court orders or client requests pertaining to retention specifications, we will return or dispose of the physical materials within ninety (90) days. Any returned undeliverable mail will be disposed of within 2 days of receipt, absent any court orders or client requests pertaining to retention specifications. The storage of returned undeliverable mail will be billed as incurred.

LEGAL NOTIFICATION

Print and Mail Notice Packet
We will send a 1-page Notice of Change in Business Practices to 20,000 class members.

Additionally we will send a 1-page Notice and a 3-page Claim in a #10 envelope to the following:

- 48 class members that are in the Aetna insured group,
- 84 class members that are in the Coventry insured group of 2011-2015, and
- 1,700 class members that are in the Coventry insured specialty group.

The notice packets will be mailed to class members via First Class U.S. mail. All notice packets returned by the postal service with a forwarding address will be re-mailed to the new address and the class member list will be updated accordingly.

Address Searches and Re-mails
We will track all returned undeliverable mail and conduct address searches using credit bureau information for all returned mail that does not have a forwarding address. We will re-mail to the class members for whom we locate updated address information.

CLAIMS ADMINISTRATION

We will ensure that all settlement agreement requirements have been satisfied and approve or deny individual class claims. After processing, we will provide the appropriate parties with the approved claimants list, including the distribution calculations for each claim. Claimants with rejected claims will be sent a Notice of Rejected Claim.

We have estimated a claims filing rate of 10%, of which 5% will be deficient.

DISBURSEMENT AND TAX REPORTING

Disbursement
We will obtain a Taxpayer ID number for the settlement fund and open the settlement fund bank account. We will make distributions to the claimants, attorneys and named plaintiffs, as applicable, in accordance with the terms of the settlement agreement. Our disbursement services include:

- An 8 ½" x 11" sheet with the check printed on safety paper on the bottom one-third and a transmittal letter printed on the top two-thirds;
- Through the Positive Pay system, we will regularly monitor the account for potential fraud;
- Daily updates of the check register to respond to claimant requests for misplaced checks and daily account reconciliation; and
- Processing stop payment/re-issue requests, tracking and re-mailing undeliverable checks.

Tax Reporting
All required taxes will be paid from the settlement fund, and we will work with a CPA firm to file all necessary tax returns.

KCC

Administration Services Estimate
Doe, et al. v. Aetna, Inc., et al.
May 23, 2017

Patrick Ivie; pivie@kccllc.com; 310.776.7385

Key Assumptions Used in Estimate Preparation		
Size of Class:	20,000	class members
# of Class Members to Receive Notice of Change in Business Practice:	20,000	class members
# of Class Members in the Aetna Insured Group:	48	class members
# of Class Members in the Coventry Insured Group of 2011-2015:	84	class members
# of Class Members in the Coventry Insured Speciality Group:	1,700	class members
Case Duration:	12	months
# of Electronic, Finalized Data Files Provided (Excel, Access, etc.):	1	file(s)
CAFA Notice Required?	No	
Claims Processing:	Yes	
Address Searches:	Yes	
% of returned notices to be forwarded:	1%	
% of returned undeliverable notices:	10%	
% of successful address searches:	60%	
Media Campaign Required:	No	
English Only:	Yes	
# of Email Campaigns:	N/A	
Reminder Mailing:	No	
Duration of Claims Filing Period:	8	weeks
Business Reply Mail ("BRM" or "pre-paid" postage):	No	
% of class members that will file a claim:	10%	
% of claims to file for reimbursement (submit proof):	25%	
% of deficient claims filed by postal mail:	5%	
Type of Telephone Support:	None	
Type of Website Support:	None	

SUMMARY OF COSTS	
Estimated Claims Filing Rate:	10%
Estimated # of Claims Filed:	2,000
Notice Procedures	**$18,480**
Claims Administration	**$14,905**
Disbursements & Tax Reporting	**$7,490**
Sub-Total Administration Costs	**$40,875**
Plus Estimated Postage*	**$9,871**
Total Estimated Cost**	**$50,746**

BLENDED HOURLY RATE	RATE PER UNIT	
KCC Blended Hourly Rate	**$100.00**	**/hour**

- For purposes of this estimate, KCC has applied and will bill at a blended hourly rate of $100 per hour to all hours estimated pursuant to the scope of work outlined above. For any work outside of this defined scope, we will apply and bill our Standard Hourly Rates, which are specified below.

NOTICE PROCEDURES	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Data and Forms Set-up					
- Intake and Process Data, Set up Case Management System		20 hrs	$100.00	$2,000	
- Format Document(s)		15 hrs	$100.00	$1,500	
- NCOA Updates		20,000 units		$250	
Sub-total of Data and Forms Set-up					**$3,750**
Print/Mail Notice of Change in Business Practices					
- 1-page Notice of Change in Business Practices, #10 Envelope		20,000 units	$0.25	$5,000	
- Print Production Management		10 hrs	$100.00	$1,000	
- Forwarding of Returned Mail with USPS Forwarding Addresses	1%	200 units	$1.00	$200	
- Data Entry for Re-mails to New Addresses		200 units	$0.50	$100	
- Returned Undeliverable Mail	10%	2,000 units			
- Handling of Returned Undeliverable Mail		4 hrs	$100.00	$400	
Sub-total of Print/Mail Notice of Change in Business Practices					**$6,700**
Print/Mail Notice Packet - Aetna Insured Group					
- 1-page Notice, 3-page Claim Form, #10 Window Envelope		48 units	$3.10	$149	
- Print Production Management		5 hrs	$100.00	$500	
- Forwarding of Returned Mail with USPS Forwarding Addresses	1%	1 units	$3.85	$4	
- Data Entry for Re-mails to New Addresses		1 units	$0.50	$1	
- Returned Undeliverable Mail	10%	5 units			
- Handling of Returned Undeliverable Mail		1 hrs	$100.00	$100	
Sub-total of Print/Mail Notice Packet - Aetna Insured Group					**$753**
Print/Mail Notice Packet - Coventry Insured Group of 2011-2015					
- 1-page Notice, 3-page Claim Form, #10 Window Envelope		84 units	$3.10	$260	
- Print Production Management		5 hrs	$100.00	$500	
- Forwarding of Returned Mail with USPS Forwarding Addresses	1%	1 units	$3.85	$4	
- Data Entry for Re-mails to New Addresses		1 units	$0.50	$1	
- Returned Undeliverable Mail	10%	8 units			
- Handling of Returned Undeliverable Mail		1 hrs	$100.00	$100	
Sub-total of Print/Mail Notice Packet - Coventry Insured Group of 2011-2015					**$865**

KCC

Administration Services Estimate
Doe, et al. v. Aetna, Inc., et al.
May 23, 2017

Patrick Ivie; pivie@kccllc.com; 310.776.7385

Print/Mail Notice Packet - Coventry Insured Specialty Group					
- 1-page Notice, 3-page Claim Form, #10 Window Envelope		1,700 units	$1.20	$2,040	
- Print Production Management		5 hrs	$100.00	$500	
- Forwarding of Returned Mail with USPS Forwarding Addresses	1%	17 units	$3.85	$65	
- Data Entry for Re-mails to New Addresses		17 units	$0.50	$9	
- Returned Undeliverable Mail	10%	170 units			
- Handling of Returned Undeliverable Mail		1 hrs	$100.00	$100	
Sub-total of Print/Mail Notice Packet - Coventry Insured Specialty Group					**$2,714**
Address Searches/Re-mails					
- Number of Address Searches Performed		183 units	$1.50	$275	
- Number of New Addresses Found	60%	110 units			
- Re-mails to Found Addresses		110 units	$3.85	$424	
- Staff Time for Address Searches/Re-mails		3 hrs	$100.00	$300	
Sub-total of Address Searches/Re-mails					**$998**
Case Management		27 hrs	$100.00	$2,700	
Sub-total of Case Management					**$2,700**
SUB-TOTAL OF NOTICE PROCEDURES					**$18,480**

CLAIMS ADMINISTRATION	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Estimated # of Claims	**10%**	**2,000 claims**			
Process Claims Filed by Postal Mail	100%	2,000 claims			
- Staff Hours Processing Claims		35 hrs	$100.00	$3,500	
- Data Entry & Claim Scoring Set-up				$895	
- Open/Image/Data Enter Forms		2,000 claims	$1.85	$3,700	
Reimbursement Claims Filed	25%	500 units			
- Staff Hours Reviewing Documentation		45 hrs	$100.00	$4,500	
Deficient Claims filed by Postal Mail	5%	100 units			
- Print/Mail Deficiency Letters		100 units	$1.25	$125	
- Staff Hours Processing Deficiencies		10 hrs	$100.00	$1,000	
- Open/Image/Data Enter Forms		100 units	$1.85	$185	
Status Reports		10 hrs	$100.00	$1,000	
SUB-TOTAL OF CLAIMS ADMINISTRATION					**$14,905**

DISBURSEMENTS & TAX REPORTING	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Funds Management, Obtain Tax ID		10 hrs	$100.00	$1,000	
Distribution Calculations & Prep		15 hrs	$100.00	$1,500	
Print/Mail Checks		2,000 cks	$0.50	$1,000	
Distribution Management		10 hrs	$100.00	$1,000	
Returned Undeliverable Checks	1%	20 units			
- Handling of Returned Undeliverable Mail		4 hrs	$100.00	$400	
Reissue Checks	1%	20 cks	$4.50	$90	
Post-Distribution Follow-up & Reports		15 hrs	$100.00	$1,500	
Settlement Fund Tax Returns (annual)		1 yrs	$1,000.00	$1,000	
SUB-TOTAL OF DISBURSEMENTS & TAX REPORTING					**$7,490**
SUB-TOTAL ADMINISTRATION COSTS					**$40,875**
Plus Estimated Postage*					**$9,871**
TOTAL ESTIMATED COST**					**$50,746**

STANDARD HOURLY RATES	RATE PER UNIT
KCC Standard Hourly Rates	
- **Principal**	**$290.00 /hour**
- **Director**	**$235.00 /hour**
- **Sr. Manager**	**$185.00 /hour**
- **Manager**	**$160.00 /hour**
- **Supervisor**	**$120.00 /hour**
- **Staff**	**$60.00 - $85.00 /hour**

KCC

Administration Services Estimate
Doe, et al. v. Aetna, Inc., et al.
May 23, 2017

Patrick Ivie; pivie@kccllc.com; 310.776.7385

OTHER SERVICES AND OUT-OF-POCKET EXPENSES	RATE PER UNIT
Other Services and Ad Hoc Reporting, as needed or requested	(standard hourly rates)
Other Charges and Out-of-Pocket Costs* **	(actual)

* Estimated Postage and Handling.
** Does not include applicable taxes or escheatment services.
*** Includes, but is not limited to long distance calls, overnight shipping, photocopies, storage, PO Box rentals, broker fees, etc.

This Class Action Administration Services Estimate and the attached Cost Summary & Scope of Services (together, the "Proposal") are valid for ninety days from 5/23/2017. After such period, KCC reserves the right to amend the Proposal (including, without limitation, by increasing fees and costs) or to withdraw the Proposal in its sole discretion.

All services to be provided to the undersigned (the "Client") and all fees and costs set forth in the Proposal are subject to the terms, specifications, assumptions and conditions set forth in the Proposal and the attached Terms and Conditions (the "Terms of Service"). The estimated fees and charges in the Proposal are based on certain information provided to KCC as well as significant assumptions. Accordingly, this estimate is not intended to limit KCC's actual fees and charges, which may be less or more than estimated due to the scope of actual services or changes to the underlying facts or assumptions.

KCC Class Actions Services, LLC

BY: DATE:

TITLE:

Whatley Kallas

BY: DATE:

TITLE:

KCC

TERMS AND CONDITIONS

All services to be provided by KCC Class Action Services, LLC (together with its affiliates, "KCC"), including services provided to Client as set forth in the attached Proposal, are subject to the following Terms and Conditions:

1. SERVICES. KCC agrees to provide the services set forth in the Proposal attached hereto (the "Services"). Capitalized terms not otherwise defined herein have the meanings given to such terms in the Proposal. KCC will often take direction from Client's representatives, employees, agents and/or professionals (collectively, the "Client Parties") with respect to the Services. The parties agree that KCC may rely upon, and Client agrees to be bound by, any direction, advice or information provided by the Client Parties to the same extent as if provided by Client. Client agrees and understands that KCC shall not provide Client or any other party with any legal advice.

2. PRICES, CHARGES AND PAYMENT. KCC agrees to charge and Client agrees to pay, subject to the terms herein, KCC for its fees and charges as set forth in the Proposal. Client acknowledges that any estimate in the Proposal is based on information provided by Client to KCC and actual fees and charges may vary depending on the circumstances and length of the case. Notwithstanding the foregoing, where total charges are expected to exceed $10,000 in any single month, KCC may require advance payment from Client due and payable upon demand and prior to the performance of services. KCC's prices are inclusive of commission and other charges and are generally adjusted periodically to reflect changes in the business and economic environment. KCC reserves the right to reasonably increase its prices, charges and rates annually. If any such increase exceeds 10%, KCC will give thirty (30) days written notice to Client. Client agrees to pay the reasonable out of pocket expenses incurred by KCC in connection with Services, including, but not limited to, transportation, lodging, and meals.

KCC agrees to submit its invoices to Client and Client agrees that the amount invoiced is due and payable upon receipt. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Client further agrees to pay a late charge (the "Finance Charge"), calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, Client shall give written notice to KCC within twenty (20) days of receipt of the invoice by Client. Client agrees the Finance Charge is applicable to instances where KCC agreed to provide certain pre-settlement work while deferring the billing of said work until the settlement phase.

3. FURTHER ASSURANCES. Client agrees that it will use its best efforts to include provisions reasonably acceptable to KCC in any relevant court order, settlement agreement or similar document that provide for the payment of KCC's fees and expenses hereunder. No agreement to which KCC is not a party shall reduce or limit the full and prompt payment of KCC's fees and expenses as set forth herein and in the Proposal.

4. RIGHTS OF OWNERSHIP. The parties understand that the software programs and other materials furnished by KCC to Client and/or developed during the course of the performance of Services are the sole property of KCC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. Client agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished to Client. Fees and expenses paid by Client do not vest in Client any rights in such property, it being understood that such property is only being made available for Client's use during and in connection with the Services provided by KCC.

5. CONFIDENTIALITY. Each of KCC and Client, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the Services; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information. These provisions shall survive termination of Services.

6. BANK ACCOUNTS. At Client's request, KCC shall be authorized to establish accounts with financial institutions as agent for Client or as otherwise agreed by the parties. All Client accounts established by KCC shall be deposit accounts of commercial banks with capital exceeding $1 billion and an S&P rating of "A" or higher (each, an "Approved Bank"). In some cases, KCC may derive financial benefits from financial institutions resulting from settlement funds and other moneys on deposit or invested with them including, for example, discounts provided on certain banking services and service fees. The amounts held pursuant to these Terms and Conditions are at the sole risk of Client and, without limiting the generality of the foregoing, KCC shall have no responsibility or liability for any diminution of the fund that may result from any deposit made with an Approved Bank including any losses resulting from a default by the Approved Bank or other credit losses. It is acknowledged and agreed that KCC will have acted prudently in depositing the fund at any Approved Bank, and KCC is not required to make any further inquiries in respect of any such bank.

7. TERMINATION. The Services may be terminated by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of KCC that causes serious and material harm to Client, (ii) the failure of Client to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services where KCC reasonably believes it will not be paid. Termination of Services shall not relieve Client of its obligations to pay all fees and expenses incurred prior to such termination.

In the event that the Services are terminated, regardless of the reason for such termination, KCC shall reasonably coordinate with Client to maintain an orderly transfer of data, programs, storage media or other materials furnished by Client to KCC or received by KCC in connection with the Services. Client agrees to pay for such services in accordance with KCC's then existing prices for such services.

8. LIMITATIONS OF LIABILITY AND INDEMNIFICATION. Client shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance of Services. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. Client shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that Client becomes aware of with respect to the Services provided by KCC.

Except as provided herein, KCC's liability to Client or any person making a claim through or under Client or in connection with Services for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC's liability for any Losses, whether direct or indirect, arising out of the Services exceed the total amount billed to Client and actually paid to KCC for the Services. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the Services. Except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity. The provisions of this Section 8 shall survive termination of Services.

9. FORCE MAJEURE. Whenever performance hereunder is materially prevented or impacted by reason of any act of God, strike, lock-out or other industrial or transportation disturbance, fire, lack of materials, law, regulation or ordinance, war or war condition, or by reason of any other matter beyond the performing party's reasonable control, then such performance shall be excused and shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

10. INDEPENDENT CONTRACTORS. KCC is and shall be an independent contractor of Client and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of the Services or these Terms and Conditions.

11. NOTICES. All notices and requests hereunder shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth in the Proposal or to such other address as the party to receive the notice or request so designates by written notice to the other.

12. APPLICABLE LAW. These Terms and Conditions will be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law principles.

13. ENTIRE AGREEMENT; MODIFICATIONS; SEVERABILITY; BINDING EFFECT. These Terms and Conditions, together with the Proposal delivered pursuant hereto, constitutes the entire agreement and understanding of the parties in respect of the subject matter hereof and supersede all prior understandings, agreements or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof. If any provision herein shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. These Terms and Conditions may be modified only by a written instrument duly executed by the parties. All of the terms, agreements, covenants, representations, warranties and conditions of these Terms and Conditions are binding upon, and inure to the benefit of and are enforceable by, the parties and their respective successors and permitted assigns.

EXHIBIT B

KCC

TERMS AND CONDITIONS

All services to be provided by KCC Class Action Services, LLC (together with its affiliates, "KCC"), including services provided to Client as set forth in the attached Proposal, are subject to the following Terms and Conditions:

1. SERVICES. KCC agrees to provide the services set forth in the Proposal attached hereto (the "Services"). Capitalized terms not otherwise defined herein have the meanings given to such terms in the Proposal. KCC will often take direction from Client's representatives, employees, agents and/or professionals (collectively, the "Client Parties") with respect to the Services. The parties agree that KCC may rely upon, and Client agrees to be bound by, any direction, advice or information provided by the Client Parties to the same extent as if provided by Client. Client agrees and understands that KCC shall not provide Client or any other party with any legal advice.

2. PRICES, CHARGES AND PAYMENT. KCC agrees to charge and Client agrees to pay, subject to the terms herein, KCC for its fees and charges as set forth in the Proposal. Client acknowledges that any estimate in the Proposal is based on information provided by Client to KCC and actual fees and charges may vary depending on the circumstances and length of the case. Notwithstanding the foregoing, where total charges are expected to exceed $10,000 in any single month, KCC may require advance payment from Client due and payable upon demand and prior to the performance of services. KCC's prices are inclusive of commission and other charges and are generally adjusted periodically to reflect changes in the business and economic environment. KCC reserves the right to reasonably increase its prices, charges and rates annually. If any such increase exceeds 10%, KCC will give thirty (30) days written notice to Client. Client agrees to pay the reasonable out of pocket expenses incurred by KCC in connection with Services, including, but not limited to, transportation, lodging, and meals.

KCC agrees to submit its invoices to Client and Client agrees that the amount invoiced is due and payable upon receipt. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Client further agrees to pay a late charge (the "Finance Charge"), calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, Client shall give written notice to KCC within twenty (20) days of receipt of the invoice by Client. Client agrees the Finance Charge is applicable to instances where KCC agreed to provide certain pre-settlement work while deferring the billing of said work until the settlement phase.

3. FURTHER ASSURANCES. Client agrees that it will use its best efforts to include provisions reasonably acceptable to KCC in any relevant court order, settlement agreement or similar document that provide for the payment of KCC's fees and expenses hereunder. No agreement to which KCC is not a party shall reduce or limit the full and prompt payment of KCC's fees and expenses as set forth herein and in the Proposal.

4. RIGHTS OF OWNERSHIP. The parties understand that the software programs and other materials furnished by KCC to Client and/or developed during the course of the performance of Services are the sole property of KCC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. Client agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished to Client. Fees and expenses paid by Client do not vest in Client any rights in such property, it being understood that such property is only being made available for Client's use during and in connection with the Services provided by KCC.

5. CONFIDENTIALITY. Each of KCC and Client, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the Services; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information. These provisions shall survive termination of Services.

6. BANK ACCOUNTS. At Client's request, KCC shall be authorized to establish accounts with financial institutions as agent for Client or as otherwise agreed by the parties. All Client accounts established by KCC shall be deposit accounts of commercial banks with capital exceeding $1 billion and an S&P rating of "A" or higher (each, an "Approved Bank"). In some cases, KCC may derive financial benefits from financial institutions resulting from settlement funds and other moneys on deposit or invested with them including, for example, discounts provided on certain banking services and service fees. The amounts held pursuant to these Terms and Conditions are at the sole risk of Client and, without limiting the generality of the foregoing, KCC shall have no responsibility or liability for any diminution of the fund that may result from any deposit made with an Approved Bank including any losses resulting from a default by the Approved Bank or other credit losses. It is acknowledged and agreed that KCC will have acted prudently in depositing the fund at any Approved Bank, and KCC is not required to make any further inquiries in respect of any such bank.

7. TERMINATION. The Services may be terminated by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of KCC that causes serious and material harm to Client, (ii) the failure of Client to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services where KCC reasonably believes it will not be paid. Termination of Services shall not relieve Client of its obligations to pay all fees and expenses incurred prior to such termination.

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8. LIMITATIONS OF LIABILITY AND INDEMNIFICATION. Client shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance of Services. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. Client shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that Client becomes aware of with respect to the Services provided by KCC.

Except as provided herein, KCC's liability to Client or any person making a claim through or under Client or in connection with Services for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC's liability for any Losses, whether direct or indirect, arising out of the Services exceed the total amount billed to Client and actually paid to KCC for the Services. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the Services. Except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity. The provisions of this Section 8 shall survive termination of Services.

9. FORCE MAJEURE. Whenever performance hereunder is materially prevented or impacted by reason of any act of God, strike, lock-out or other industrial or transportation disturbance, fire, lack of materials, law, regulation or ordinance, war or war condition, or by reason of any other matter beyond the performing party's reasonable control, then such performance shall be excused and shall be deemed suspended during the continuation of such prevention and for a reasonable time thereafter.

10. INDEPENDENT CONTRACTORS. KCC is and shall be an independent contractor of Client and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of the Services or these Terms and Conditions.

11. NOTICES. All notices and requests hereunder shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth in the Proposal or to such other address as the party to receive the notice or request so designates by written notice to the other.

12. APPLICABLE LAW. These Terms and Conditions will be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law principles.

13. ENTIRE AGREEMENT; MODIFICATIONS; SEVERABILITY; BINDING EFFECT. These Terms and Conditions, together with the Proposal delivered pursuant hereto, constitutes the entire agreement and understanding of the parties in respect of the subject matter hereof and supersede all prior understandings, agreements or representations by or among the parties, written or oral, to the extent they relate in any way to the subject matter hereof. If any provision herein shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. These Terms and Conditions may be modified only by a written instrument duly executed by the parties. All of the terms, agreements, covenants, representations, warranties and conditions of these Terms and Conditions are binding upon, and inure to the benefit of and are enforceable by, the parties and their respective successors and permitted assigns.

EXHIBIT C

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Privacy Group of the Year: Gibson Dunn

By **Ben Kochman**

Law360, New York (January 30, 2018, 4:35 PM EST) -- The privacy team at Gibson Dunn & Crutcher LLP swatted away a massive data breach suit against a government background check contractor while helping longtime clients Uber and Facebook fend off data security disputes, remaining a go-to firm for tech giants in behind-the-scenes cybersecurity matters and landing it a spot on Law360's **Practice Groups of the Year**.

A deep bench of former cybercrime prosecutors — including former CIA General Counsel Caroline Krass, who joined the firm in January 2017 — does much of its work out of the public eye, including recent confidential matters after news erupted of potential Russian meddling in the U.S. presidential election.

In court, Gibson Dunn attorneys scored big for the U.S. Office of Personnel Management and contractor KeyPoint Government Solutions in September, when a D.C. federal judge **nixed multidistrict litigation** brought in the wake of a data breach that compromised personal data belonging to 21.5 million current, former and prospective government employees, ruling that the theft of data alone was not enough to establish standing.

Members of the firm's privacy, cybersecurity and consumer protection practice also convinced a California federal judge in November to **toss a suit** against ride-hailing app Uber for its 2014 data breach on similar grounds, guided social network MySpace through government inquiries into 360 million user records offered for sale in a hacker forum, and helped Facebook avoid paying consumer cash damages in a **settlement resolving claims** over the firm's data collection on private messages.

Companies handling troves of consumer data turn to Gibson Dunn for guidance because of its depth of experience and flexibility in crafting legal strategies tailored to each business, said group practice head Alex Southwell.

"One of the hallmarks of the group is that we approach problems really creatively," Southwell said. "It's not a cookie-cutter approach. We think about things with the client's

perspective to come up with business-oriented solutions."

The team's eclectic array of cybersecurity cases includes its representation of Toyota in a suit claiming the carmaker violated consumer protection laws because its vehicles' electronic systems are vulnerable to hacking. Gibson Dunn attorneys went before the Ninth Circuit in November to urge the panel to affirm a district court's **dismissal of the case** in November 2016 on the grounds that the speculative risk of being hacked in the future couldn't be considered an "injury in fact."

"These cases are fascinating because the court challenges marry up issues concerning cutting-edge technology but also bedrock constitutional doctrine like Article III standing," said Mike Wong, a Gibson Dunn partner leading Uber's defense of litigation over its 2014 data breach. "For someone like me, who fancies himself a little bit of a constitutional geek and a bit of a tech geek, it's pretty interesting."

The group added to its already deep roster of high-ranking former prosecutors in 2017 by nabbing Krass, who has already completed a cybersecurity government compliance review for a major U.S. energy company, as well as Ben Wagner, the Obama-appointed former U.S. attorney in the Eastern District in California from November 2009 until April 2016.

Gibson Dunn in October also added Kristin Linsley, a former Munger Tolles & Olson LLP partner whose litigation practice includes representing and counseling clients on internet privacy and data protection matters. Linsley is helping lead the firm's response, on behalf of travel company Expedia, to a wave of state and local laws across the country seeking to regulate short-term rental websites such as Expedia's HomeAway.com and VRBO.com.

The **Expedia cases** involve a wide range of complex issues, from consumer privacy under the Stored Communications Act to the protections of the Fourth Amendment for electronic communications and state preemption of local laws.

Southwell said one of the team's greatest accomplishments in the past year came on the amicus front, in which the firm helped convince the U.S. Department of Justice to restrict the use of secrecy orders preventing internet providers from telling customers when law enforcement has issued a warrant for their user data.

Gibson Dunn represented a group of 18 constitutional and criminal procedure law professors who filed an amicus brief in support of Microsoft's constitutional challenge to the gag orders on the grounds that they violated the Electronic Communication Privacy Act. The case was resolved in October, after the Justice Department **agreed to a policy change** restricting the use of such orders, marking a major shift in how authorities conduct digital searches and seizures.

"To participate in a changing of the regime there is a significant role for us, and one that I'm proud to be a part of," Southwell said.

--Additional reporting by Allison Grande, Kat Sieniuc and Christopher Crosby. Editing by Catherine Sum.

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Andrew Beckett, Arizona Doe, California Doe, S.A., Colorado Doe, Connecticut Doe, DC Doe, Florida Doe, Georgia Doe, Illinois Doe, Indiana Doe, Kansas Doe, Maine Doe, Maryland Doe, Minnesota Doe, Mississippi Doe, Missouri Doe, Nevada Doe, NewHampshire Doe, NewJersey Doe, NewMexico Doe, NewYork Doe1, NewYork Doe2, NewYork Doe3, NewYork Doe4, NorthCarolina Doe, Ohio Doe, Oklahoma Doe, SouthCarolina Doe, Tennessee Doe, Texas Doe, Virginia Doe, Washington Doe, John Doe, Jane Doe2, John Doe1, John Doe2, individually and on behalf of all others similarly situated, Plaintiffs, v. Aetna, Inc., Aetna Life Insurance Company, and Aetna Specialty Pharmacy, LLC, Defendants.	Case No. 2:17-CV-3864-JS

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement Agreement") is made and entered into by Plaintiffs Andrew Beckett, Arizona Doe, California Doe, S.A., Colorado Doe, Connecticut Doe, DC Doe, Florida Doe, Georgia Doe, Illinois Doe, Indiana Doe, Kansas Doe, Maine Doe, Maryland Doe, Minnesota Doe, Mississippi Doe, Missouri Doe, Nevada Doe, NewHampshire Doe, NewJersey Doe, NewMexico Doe, NewYork Doe1, NewYork Doe2, NewYork Doe3, NewYork Doe4, NorthCarolina Doe, Ohio Doe, Oklahoma Doe, SouthCarolina Doe, Tennessee Doe, Texas Doe, Virginia Doe, Washington Doe, John Doe, Jane Doe2, John Doe1, and John Doe2 (collectively, "Plaintiffs"), individually and on behalf of the Settlement Class defined below, and Defendants Aetna, Inc., Aetna Life Insurance Company, and Aetna Specialty Pharmacy, LLC (collectively, "Aetna"). Plaintiffs and Aetna are collectively referred to herein as the "Parties."

RECITALS

A. On August 28, 2017, Plaintiff Andrew Beckett filed the original Complaint in the above-captioned matter ("Complaint"), captioned *Beckett v. Aetna, Inc., et al.*, No. 2:17-cv-03864-JS (E.D. Pa.) ("*Beckett*"), represented by Berger & Montague, P.C. ("Berger & Montague"), as well as the AIDS Law Project of Pennsylvania ("AIDS Law Project") and the

Legal Action Center ("LAC"), two nonprofit legal organizations whose mission is to represent and advocate for clients who are living with HIV and AIDS. Berger & Montague, AIDS Law Project and LAC are collectively referred to herein as "Co-Lead Class Counsel."

B. Plaintiff Beckett alleged in his Complaint that Beckett's and Settlement Class Members' Protected Health Information and Confidential HIV-related Information as defined below was disclosed improperly by Aetna and/or Aetna-related or affiliated entities, or on their behalf, to third parties, including, without limitation, Aetna's legal counsel and a settlement administrator, and through a subsequent mailing of written notices that were required to be sent as part of a settlement of legal claims that had been filed against certain Aetna-related entities or affiliates in *Doe v. Aetna, Inc.*, No. 14-cv-2986 (S.D. Cal.) and *Doe v. Coventry Health Care, Inc.*, No. 15-cv-62685 (S.D. Fla.) (collectively, the "*Doe* lawsuits"). The Complaint further alleged that Aetna was responsible for all financial harm and non-financial harm caused by the disclosure under various theories of liability including negligence, negligence *per se*, invasion of privacy, unjust enrichment, and violations of Pennsylvania's Confidentiality of HIV-Related Information Act, 35 P.S. § 7601 and Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-201-1 –201-9.3.

C. Co-Lead Class Counsel and Aetna began discussions soon after the filing of the Complaint to address the possible risk of immediate harm to potentially affected individuals and their families, and in light of the allegations, negotiated and implemented a program to address any potential immediate needs of Settlement Class Members (the "Immediate Relief Program"). This Immediate Relief Program provided (without requiring any legal release of claims by any Aetna member, and without any admission by Aetna and regardless of fault or wrongdoing): (1) up to three counseling sessions, with an opportunity to request additional sessions, for Settlement Class Members and their families, paid in full by Aetna upon proof by the claimant of need and potential causal relationship to the Incident defined below; and (2) cash reimbursements by Aetna for verifiable emergency out-of-pocket costs claimed to have been incurred by Settlement Class Members as a result of the Incident defined below. This Immediate Relief Program was first publicized on September 28, 2017 and has been in place since then. The Parties have agreed that the Immediate Relief Program will remain in place until the Effective Date of this Settlement.

D. On August 28, 2017, *S.A. v. Aetna, Inc.*, No. BC674088 (Cal. Super. Ct. L.A. Cty., Aug. 28, 2017) ("*S.A.*") was filed in Los Angeles County Superior Court, and was the first lawsuit filed in California and the second lawsuit filed overall regarding the Incident defined below after *Beckett*, which was filed earlier the same day. Aetna subsequently removed *S.A.* to the United States District Court for the Central District of California, and on October 4, 2017, pursuant to the parties' stipulation, the Central District of California transferred *S.A.* to the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1404(a), and it was thereafter consolidated with *Beckett* for all purposes pursuant to Rule 42(a) of the Federal Rules of Civil Procedure. Counsel for S.A. also participated with Co-Lead Class Counsel in the ADR process and mediation that led to this Settlement Agreement.

E. On October 7, 2017 and October 25, 2017, Co-Lead Class Counsel and Counsel for S.A., on behalf of their clients and the putative class, and Aetna and its counsel,

participated in two in-person full-day mediation sessions to determine whether the claims arising from the Incident defined below could be resolved. They appeared before an experienced mediator, Retired U.S. Magistrate Judge Diane Welsh, who previously served for eleven years as a Magistrate Judge in the United States District Court for the Eastern District of Pennsylvania ("Judge Welsh"). Prior to and during the mediation process overseen by Judge Welsh, Aetna produced documents and information requested by Co-Lead Class Counsel to ensure that any potential settlement would be informed by relevant discovery and based on an adequate factual record. In addition, Co-Lead Class Counsel continued to conduct their own independent factual and legal investigation of the case.

F. Aetna's production of documents and information to Co-Lead Class Counsel for purposes of the mediation included, for example: (1) documents regarding the underlying litigation and settlement that led to the Incident defined below; (2) documents and data identifying the size and geographic location of all Settlement Class Members; (3) documents evidencing Aetna's policies and procedures regarding printing/mailing Protected Health Information as defined below; (4) documents regarding the Incident defined below; (5) communications between Aetna and governmental regulators regarding the Incident defined below; (6) documents sufficient to identify relevant parties who were involved in and affected by the Incident defined below; and (7) documents evidencing the timeline on which the Incident defined below occurred.

G. Following the mediation sessions that took place on October 7, 2017 and October 25, 2017, Plaintiffs Beckett and S.A., through their counsel, and Aetna, through its counsel, continued to engage in arm's-length settlement negotiations under the direction and supervision of Judge Welsh regarding the terms and conditions of this Settlement Agreement. On January 16, 2018, the Parties finalized and executed this Settlement Agreement.

H. On December 5, 2017, Plaintiffs filed an Amended Class Action Complaint ("Amended Complaint") in *Beckett* alleging numerous causes of action by 37 named plaintiffs who reside in 28 different states plus the District of Columbia, represented by Co-Lead Class Counsel.

I. Aetna does not admit that it is liable to Plaintiffs and the Settlement Class for the claims, damages, financial harm, non-financial harm, causes of action, costs, expenses, and attorneys' fees asserted in the Amended Complaint and/or related in any way to the Incident, as defined below, denies all allegations by Plaintiffs and further states that it would assert substantial legal and factual defenses against Plaintiffs' claims if they were litigated to conclusion. Nonetheless, Aetna has concluded, in light of the costs, risks and burden of litigation, that this Settlement Agreement is appropriate. Aetna agrees that this Settlement Agreement is a fair, reasonable and adequate resolution of all Released Claims against all Released Parties. Aetna reached this conclusion after considering the factual and legal issues relating to the litigation, the substantial benefits of this Settlement Agreement, the expense that would be necessary to defend the claims asserted by Plaintiffs and the Settlement Class Members through trial and any appeals that might be taken, the benefits of resolving protracted and complex litigation, Aetna's continuing rights of contribution, subrogation, contractual or equitable indemnity, and/or reimbursement against persons or entities not parties to this

Settlement Agreement, and the desire of Aetna to conduct its business unhampered by the costs, distraction and risks of continued litigation over the Released Claims.

J. Plaintiffs, through their undersigned counsel, represent that they have made a thorough and independent investigation of the facts and law relating to the allegations in the Amended Complaint, which includes, without limitation: (1) interviews by Co-Lead Class Counsel of over 260 Settlement Class Members who contacted Co-Lead Class Counsel after the filing of the Complaint in *Beckett*; (2) the review and analysis by Co-Lead Class Counsel of the documents, data and information produced by Aetna as part of the mediation process; and (3) extensive factual investigation and legal research by Co-Lead Class Counsel with respect to the asserted claims and defenses. After careful consideration, Plaintiffs and their undersigned counsel represent that they have concluded that it is in the best interests of the Settlement Class to settle the Released Claims against the Released Parties for the consideration set forth in this Settlement Agreement, and this Settlement Agreement is the result of arm's-length negotiations including the mediation process overseen by Judge Welsh. As a result of this process, Plaintiffs represent that they have considered, among other things: (1) the complexity, expense and likely duration of the litigation if it was litigated through trial and appeals; (2) the stage of the litigation and amount of fact gathering completed; (3) Aetna's factual and legal arguments and defenses and the potential for Aetna to prevail on the merits with respect to class certification, liability and/or damages; and (4) the range of possible recovery, and have determined that the proposed resolution of Plaintiffs' individual and class action claims as set forth in this Settlement Agreement is fair, reasonable and adequate, and in the best interests of Plaintiffs and the Settlement Class.

K. The Parties desire to settle, compromise and resolve fully all Released Claims, and to seek the Court's review and approval of the Settlement Agreement, which is required pursuant to Rule 23 of the Federal Rules of Civil Procedure;

NOW, THEREFORE, the foregoing recitals are expressly incorporated into this Settlement Agreement, and in consideration of the agreements set forth in this Settlement Agreement, this individual and class action litigation shall be settled and compromised under the following terms and conditions as set forth in detail below.

SECTION 1
DEFINITIONS

1.1 The following terms used in this Settlement Agreement shall have the meanings ascribed to them below for purposes of this Settlement Agreement:

A. "Aetna" means Defendants Aetna Inc., Aetna Life Insurance Company and Aetna Specialty Pharmacy, LLC.

B. "Aetna Released Parties" means Aetna, individually and collectively, and each of their respective successors, assigns, past, present, and future parents, subsidiaries, sister companies, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions and groups, directors, officers, shareholders, employees, agents, representatives, insurers, servants, partners, administrators and subcontractors. In no event, however, shall the

terms "Aetna" or "Aetna Released Parties" be construed to include Kurtzman Carson Consultants LLC ("KCC"), the KCC Released Parties, Gibson, Dunn & Crutcher LLP ("GDC"), the GDC Released Parties, Whatley Drake & Kallas ("WDK"), the WDK Released Parties, Consumer Watchdog ("CW"), or the CW Released Parties, each of which is defined below.

C. "Amended Complaint" means Plaintiffs' Amended Class Action Complaint filed in *Beckett* on December 5, 2017.

D. "Base Payment" means the automatic net payments to Settlement Class Members as set forth in Exhibits A and C attached hereto. All Settlement Class Members shall automatically receive the applicable Base Payment amount without submitting a Claim Form. All Base Payments shall be drawn from the Net Settlement Fund.

E. "Benefit Notice" means the notice that was sent by a settlement administrator to certain Settlement Class Members to inform Aetna members of their ability to fill prescriptions for HIV medications through mail order or retail pharmacy, as part of a settlement of legal claims that had been filed against certain Aetna-related entities or affiliates in *Doe v. Aetna, Inc.*, No. 14-cv-2986 (S.D. Cal.).

F. "CAFA Notice" means the notice to be sent by Aetna to appropriate federal and state officials pursuant to the requirements of the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b) ("CAFA"), within ten (10) business days after the submission of this Settlement Agreement to the Court. A copy of the served CAFA Notice shall be provided to Co-Lead Class Counsel.

G. "Claimant" means a Settlement Class Member who submits a Claim Form.

H. "Claimant Award" means the amount of money that is paid by the Settlement Administrator out of the available Net Settlement Fund to each Claimant who submits a valid and timely Claim Form.

I. "Claim Form" means the Claim Form attached as Exhibit A hereto that only Settlement Class Members who were sent the Benefit Notice may use to request a Claimant Award.

J. "Claim Package" means the Claim Form and any required documentation as requested by the Claim Form.

K. "Claim Period" shall mean the time period of 120 days after the date that notice of this Settlement is issued by the Settlement Administrator to submit a Claim Form.

L. "Class Representatives" or "Plaintiffs" mean Andrew Beckett, Arizona Doe, California Doe, S.A., Colorado Doe, Connecticut Doe, DC Doe, Florida Doe, Georgia Doe, Illinois Doe, Indiana Doe, Kansas Doe, Maine Doe, Maryland Doe, Minnesota Doe, Mississippi Doe, Missouri Doe, Nevada Doe, NewHampshire Doe, NewJersey Doe, NewMexico Doe, NewYork Doe1, NewYork Doe2, NewYork Doe3, NewYork Doe4, NorthCarolina Doe, Ohio

Doe, Oklahoma Doe, SouthCarolina Doe, Tennessee Doe, Texas Doe, Virginia Doe, Washington Doe, John Doe, Jane Doe2, John Doe1, and John Doe2.

M. "Co-Lead Class Counsel" means Shanon Carson, E. Michelle Drake and Sarah R. Schalman-Bergen of Berger & Montague; Ronda B. Goldfein of AIDS Law Project; and Sally Friedman of LAC, and "Counsel for S.A." means Torin A. Dorros of Dorros Law.

N. "Complaint" means the original Complaint filed by Plaintiff Andrew Beckett on August 28, 2017 in *Beckett v. Aetna, Inc., et al.*, No. 2:17-cv-03864-JS (E.D. Pa.).

O. "Confidential HIV-related information" means any information which concerns whether an individual has been the subject of an HIV-related test, has HIV, HIV-related illness or AIDS; or any information which identifies or reasonably could identify an individual as having one or more conditions, including information pertaining to the individual's contacts as defined in Pennsylvania's Confidentiality of HIV-Related Information Act, 35 P.S. § 7601. This definition is without waiver or admission of any interpretation of applicable federal or state law.

P. "Counsel for Aetna" means Matthew P. Kanny and Donna L. Wilson of Manatt, Phelps & Phillips, LLP, and Frederick P. Santarelli of Elliott Greenleaf, P.C.

Q. "Court" means the United States District Court for the Eastern District of Pennsylvania.

R. "CW" means Consumer Watchdog, one of the law firms that represented the plaintiffs in the *Doe* lawsuits.

S. "CW Released Parties" means CW and each of its respective successors, assigns, past, present, and future parents, subsidiaries, sister companies, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions and groups, directors, officers, shareholders, employees, agents, representatives, insurers, servants, partners, administrators and subcontractors.

T. "Effective Date" means (i) the day following the expiration of the deadline for appealing the entry by the Court of the Final Approval Order and Judgment approving the Settlement Agreement, if no appeal is filed; or (ii) if an appeal of the Final Approval Order and Judgment is filed, the date upon which all appellate courts with jurisdiction affirm such Final Approval Order and Judgment, or deny any such appeal or petition for certiorari, such that no future appeal is possible.

U. "Final Approval Hearing" means the hearing scheduled by the Court to consider the fairness, reasonableness and adequacy of this Settlement Agreement under Rule 23 of the Federal Rules of Civil Procedure, and to determine whether a Final Approval Order and Judgment should be entered.

V. "Final Approval Date" means the date on which the Court enters the Final Approval Order and Judgment.

W. "Final Approval Order" means the Final Approval Order and Judgment entered by the Court.

X. "GDC" means Gibson, Dunn & Crutcher, LLP, which Plaintiffs allege in their Amended Complaint represented Aetna and certain Aetna-related entities or affiliates in the *Doe* lawsuits.

Y. "GDC Released Parties" means GDC and each of its respective successors, assigns, past, present, and future parents, subsidiaries, sister companies, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions and groups, directors, officers, shareholders, employees, agents, representatives, insurers, servants, partners, administrators and subcontractors.

Z. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936 (1996) (codified as amended in scattered sections of 42 U.S.C.) and the implementing regulations issued by the U.S. Department of Health and Human Services thereunder, and incorporates by reference the provisions of the Health Information Technology for Economic and Clinical Health Act (Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (2009)) pertaining to Protected Health Information.

AA. "KCC" means Kurtzman Carson Consultants LLC and/or its affiliates, which Plaintiffs allege in their Amended Complaint acted as the settlement administrator in the *Doe* lawsuits that mailed the notices as required by the settlement of the *Doe* lawsuits, including, without limitation, the Benefit Notice.

BB. "KCC Released Parties" means KCC, KCC Class Action Services, LLC, Computershare, Inc., Computershare Limited, Computershare Communications Services, and each of their respective successors, assigns, past, present and future parents, subsidiaries, sister companies, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions and groups, directors, officers, shareholders, employees, agents, representatives, insurers, servants, partners, administrators and subcontractors.

CC. "Incident" means the alleged improper disclosure of Plaintiffs' and the Settlement Class Members' Protected Health Information and/or Confidential HIV-Related Information by Aetna and/or Aetna-related or affiliated entities, or on their behalf, to third parties, including GDC and KCC, and/or in connection with the mailing of notices to Settlement Class Members as required by the settlement in the *Doe* lawsuits.

DD. "Net Settlement Fund" means the amount of money remaining in the Settlement Fund after it is reduced by the following amounts as approved by the Court in its Final Approval Order: (1) any service awards to the Class Representatives; (2) attorneys' fees and costs; and (3) fees and costs invoiced by the Settlement Administrator.

EE. "Notice of Deficiency" means any written notice that the Settlement Administrator sends to any Claimant who submits a Claim Form or Claim Package that contains a deficiency that needs to be cured as determined by the Settlement Administrator. A form of

Notice of Deficiency to be used by the Settlement Administrator is attached hereto as Exhibit B.

FF. "Notice of Settlement" means the Notice of Class Action Settlement in the form of Exhibit C attached hereto, to be approved by the Court in its Preliminary Approval Order, which is provided by the Settlement Administrator to the Settlement Class Members to provide notice of this Settlement.

GG. "Opt Outs" mean Settlement Class Members who timely and properly exercise their right to opt out and exclude themselves from the terms of this Settlement Agreement.

HH. "Preliminary Approval Order" means the Court's Order preliminarily approving the Settlement Agreement and preliminarily certifying the Settlement Class.

II. "Protected Health Information" or "PHI" means individually identifiable health information as defined in 45 C.F.R. § 160.103.

JJ. "Released Claims" means the claims released as set forth in Section 7 below.

KK. "Released Parties" means the Aetna Released Parties and any other person or entity that is potentially responsible for causing or in any way involved in the Incident, including, without limitation, the CW Released Parties, the GDC Released Parties, the KCC Released Parties, and the WDK Released Parties.

LL. "Settlement Administrator" means Angeion Group, LLC, who will be presented by Plaintiffs to the Court for approval in the Preliminary Approval Order to perform all responsibilities assigned to the Settlement Administrator in this Settlement Agreement.

MM. "Settlement Agreement" or "Settlement" means this Settlement Agreement and its Exhibits which are incorporated herein, including any subsequent amendments and subsequent exhibits that are agreed to by the Parties in writing and approved by the Court.

NN. "Settlement Payment" means the total payment that each Settlement Class Member is entitled to receive pursuant to the terms of this Agreement as determined by the Settlement Administrator.

OO. "Settlement Class" or "Settlement Class Members" means all persons whose Protected Health Information and/or Confidential HIV-related information was allegedly disclosed improperly by Aetna and/or Aetna-related or affiliated entities, or on their behalf, to third parties, including GDC and KCC, and/or to whom any written notice was mailed as required by the settlement of the *Doe* lawsuits.

PP. "Settlement Fund" means the non-reversionary cash amount of Seventeen Million, One Hundred and Sixty One Thousand, and Two Hundred Dollars ($17,161,200.00) which shall be the total amount from which the following will be paid: (1) all Settlement

Payments to Settlement Class Members; (2) all settlement administration fees and costs that are approved by the Court; (3) all attorneys' fees and costs that are approved by the Court; and (4) all service awards to the Class Representatives that are approved by the Court. The Settlement Fund does not include costs or expenses that are required to be paid by Aetna in connection with implementing the non-monetary relief set forth in Section 5 of this Settlement Agreement. Within five (5) business days after the Court's Preliminary Approval Order and receipt by Aetna of wiring instructions to a non-reversionary common fund escrow account at a bank selected by Co-Lead Class Counsel (which shall be established and maintained by the Settlement Administrator as a Qualified Settlement Fund for federal tax purposes pursuant to Treas. Reg. § 1.468B-1) and a W-9 from the Settlement Administrator, whichever is later, Aetna shall wire the Settlement Fund into such escrow account. The Settlement Administrator shall be responsible for all administrative, accounting and tax compliance activities in connection with the Qualified Settlement Fund, including any filings necessary to obtain Qualified Settlement Fund status pursuant to Treas. Reg. § 1.468B-1. Aetna shall provide to the Settlement Administrator any documentation necessary to facilitate obtaining Qualified Settlement Fund status.

QQ. "Settlement Website" means the website regarding this Settlement that will be established by the Settlement Administrator following issuance by the Court of its Preliminary Approval Order. The Settlement Website shall not reveal any PHI or Confidential HIV-related information belonging to any person to the public.

RR. "WDK" means Whatley Drake and Kallas, one of the law firms that represented plaintiffs in the *Doe* lawsuits.

SS. "WDK Released Parties" means WDK and its respective successors, assigns, past, present and future parents, subsidiaries, sister companies, joint venturers, partnerships, related companies, affiliates, unincorporated entities, divisions and groups, directors, officers, shareholders, employees, agents, representatives, insurers, servants, partners, administrators and subcontractors.

SECTION 2
BENEFITS FOR SETTLEMENT CLASS MEMBERS

2.1 Monetary Consideration. In consideration of the Releases set forth in Section 7 below, Aetna shall pay, as set forth in Paragraph 1.1(PP) and as further described in Section 4.1 below, the non-reversionary cash amount of $17,161,200.00 into the Settlement Fund, to be distributed as proposed by Plaintiffs and approved by the Court in its Final Approval Order.

2.2 Non-Monetary Consideration. In consideration of the Releases set forth in Section 7 below, Aetna agrees to take the actions set forth in Section 5 below.

SECTION 3
SETTLEMENT ADMINISTRATOR AND NOTICE TO SETTLEMENT CLASS MEMBERS

3.1 Appointment of Settlement Administrator and Protection of Class List

3.1.1 Plaintiffs' Motion for Preliminary Approval will recommend the appointment of Angeion Group, LLC by the Court to act as the Court-appointed independent Settlement Administrator and to implement all settlement administration tasks and duties set forth in this Settlement Agreement.

3.1.2 The Settlement Administrator shall perform all tasks and duties ascribed to it in this Settlement Agreement and as the Court may direct. The Settlement Administrator shall prepare and submit written status reports and declarations to Co-Lead Class Counsel and/or Counsel for Aetna at any time upon written request.

3.1.3 The term "Class List" means the list of names and contact information of the Settlement Class Members. After the Settlement Administrator is appointed by the Court and agrees to be bound by a Qualified Protective Order approved by the Court -- which may be contained in the Preliminary Approval Order -- and within ten (10) business days following the issuance of the Court's Preliminary Approval Order, which shall require Aetna to produce the Class List to the Settlement Administrator in this case solely for the purposes of administering this Settlement, Aetna will cause the Class List to be delivered to the Settlement Administrator in the manner directed by the Preliminary Approval Order.

3.1.4 At no time shall the Settlement Administrator share the Class List or any information contained on the Class List, or any PHI, or any Confidential HIV-related information, with the Court, Co-Lead Class Counsel, Counsel for any Plaintiff, Counsel for Aetna, or any other person or entity, without a Court Order or an HIV-specific authorization form that is signed by the Settlement Class Member whose information is to be disclosed (or by someone with legal authorization to sign on their behalf), except that the Settlement Administrator shall comply with any federal and state tax laws and required reporting and withholding with respect to this Settlement, and Aetna shall have no obligations relating to such matters.

3.2 Settlement Administrator Fees and Costs. The reasonable fees and costs of the Settlement Administrator incurred in administering this Settlement and that are approved by the Court in its Final Approval Order will be paid out of the Settlement Fund. The Settlement Administrator shall include a Declaration as part of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement that shall set forth an estimate and a "not to exceed" price for performing all tasks and duties regarding this Settlement. The Settlement Administrator's subsequent invoices shall be filed with and approved by the Court.

3.3 Settlement Website. Within twenty-one (21) days after the Preliminary Approval Order, the Settlement Administrator will cause to be established and maintained a public informational Settlement Website containing relevant information about the Settlement, including, without limitation, downloadable .pdf copies of the Amended Complaint, this Settlement Agreement and its Exhibits, the Notice of Settlement, the Claim Form, the Preliminary Approval Order, the Final Approval Order, and other case documents relevant to the Settlement, as well as a "Frequently Asked Questions" webpage. A draft of the Settlement Website shall be reviewed and approved by Co-Lead Class Counsel before it is made available to the public. The Settlement Website shall be owned and operated by the Settlement

Administrator. The Settlement Administrator will post relevant information about the Settlement on the Settlement Website, including, as it becomes available, information about deadlines and methods to participate, and Claim Package requirements. Claim Forms and Claim Packages may be submitted to the Settlement Administrator via the Settlement Website in a secure and private fashion that is HIPAA-compliant and using Share File, a HIPAA-compliant file transfer tool, or a suitable alternative.

3.4 Automated Telephone System. Within twenty-one (21) days after the Preliminary Approval Order, the Settlement Administrator will cause to be established and maintained an automated telephone system using a toll-free number to provide information about the Settlement to Settlement Class Members, utilizing an IVR script approved by Co-Lead Class Counsel. The automated telephone system shall be operated by the Settlement Administrator. The automated telephone system shall permit Settlement Class Members to request and obtain copies of the Settlement Agreement, Notice of Settlement and Claim Form, and shall also provide the opportunity for Settlement Class Members to speak with a live operator during business hours for further information.

3.5 De-identified Information. The Settlement Administrator shall develop a unique number identifier system so it can communicate with and about Settlement Class Members without including or identifying any PHI or Confidential HIV-related information or identifying their names, addresses or other identifying information belonging to any Settlement Class Member. All Parties and all Counsel shall cooperate in good faith to respect the privacy and confidentiality of all Settlement Class Members' PHI and Confidential HIV-related information.

3.6 Notice of Settlement to Settlement Class Members. As part of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement, Plaintiffs shall submit to the Court for its approval a declaration by the proposed Settlement Administrator that details the various methods that will be used to provide notice of the Settlement to the Settlement Class Members. The notice shall include sending the Notice of Class Action Settlement attached hereto as Exhibit C by U.S. first class mail to all Settlement Class Members using practices intended to maintain the confidentiality of Settlement Class Members' PHI and Confidential HIV-related information, including, without limitation:

(a) by using an opaque envelope of appropriate and sufficient stock and with no transparent window so as to obscure the contents of the envelope;

(b) by using a return address on the outside of the envelope with no identifying information other than a P.O. Box, City, State and Zip Code;

(c) by including a statement on the front of the envelope stating that it contains "Confidential Legal Information – To Be Opened Only By The Addressee";

(d) by using a protective cover page that folds around the Notice of Class Action Settlement and that identifies that the information being provided therein is confidential and solely for reading by the Settlement Class Member; and

(e) by using paper stock that will protect the confidentiality of the contents of the envelope from being read through the envelope.

3.7 Other Notice Requirements. Prior to mailing the Notice of Class Action Settlement, the Settlement Administrator shall process the information in the Class List through the U.S. Postal Service's National Change of Address database. The notice being provided to Settlement Class Members shall be designed to meet the requirements of Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure and shall include: (a) direct notice by U.S. first-class mail as set forth above; (b) notice through the Settlement Website and the automated telephone system as set forth above; (c) the issuance of press releases by both Aetna and Co-Lead Class Counsel on the day after the Motion for Preliminary Approval of Class Action Settlement is filed; and (d) an announcement to be included on the webpages dedicated to this litigation that are already maintained by each of Co-Lead Class Counsel.

3.8 Compliance with all Regulatory and Other Requirements. The Class List delivered by Aetna to the Settlement Administrator pursuant to Section 3.1.3 of this Settlement Agreement and as ordered by the Court and any completed Claim Forms, Claim Packages, or other information submitted by Claimants to the Settlement Administrator, will be recorded by the Settlement Administrator in a computerized database that will be securely and confidentially maintained by the Settlement Administrator in accordance with HIPAA and all other applicable federal, state and local laws, regulations and guidelines, including, without limitation, any laws concerning heightened privacy for HIV-related information. The Settlement Administrator must: (a) designate specifically-assigned employees to handle its administration of this Settlement; (b) train them concerning their legal duties and obligations arising out of this Settlement with respect to the information that they are provided; (c) ensure that all of the information it receives is used properly in accordance with HIPAA and all other applicable federal, state and local laws and solely for the purpose of administering this Settlement; and (d) ensure that an orderly system of data management and maintenance is adopted and implemented, and that the information is retained under responsible custody until the conclusion of this litigation, at which time all of the information and data shall be destroyed by the Settlement Administrator upon a written certification to be filed with the Court. The Settlement Administrator will keep the database in a form that grants access for settlement administration use only, and shall restrict access rights only to the least possible number of employees of the Settlement Administrator who are working directly on the administration of this Settlement. The Settlement Administrator shall notify the Court, Co-Lead Class Counsel, and Counsel for Aetna in writing if there is any breach of applicable privacy laws in any respect.

3.9 Access to the Class List and Related Information. Only the Settlement Administrator shall have access to the Class List, Claim Forms, Claim Packages, and other information submitted by Settlement Class Members. All information submitted by Settlement Class Members to the Settlement Administrator will be treated as highly confidential pursuant to the Court's Preliminary Approval Order and applicable protective orders, and the Settlement Administrator shall not share any such information with Co-Lead Class Counsel, Counsel for any Plaintiff, Aetna, Aetna's counsel, or any other person, except upon an Order of the Court or an HIV-specific authorization form that is signed by the Settlement Class Member whose information is to be disclosed (or by someone with legal authorization to sign on their behalf).

SECTION 4
MONETARY PAYMENTS FOR SETTLEMENT CLASS MEMBERS
AND DISTRIBUTION OF NET SETTLEMENT FUND

4.1 Monetary Consideration. As set forth above in Paragraph 1.1(PP) and Section 2.1, Aetna shall pay, without any contribution or consideration being provided from any non-parties to this Settlement Agreement, and specifically reserving all rights to seek contribution, subrogation, reimbursement, contractual or equitable indemnity and/or consideration against such non-parties, the non-reversionary cash amount of $17,161,200.00 into the Settlement Fund, to be distributed in accordance with the Court's Final Approval Order. This amount is intended to fully and completely compensate the Settlement Class Members for all Released Claims against all Released Parties, while at the same time preserving Aetna's and/or Aetna Released Parties' rights to pursue all claims, including for contribution, subrogation, reimbursement and/or contractual or equitable indemnity, against all non-parties to this Settlement Agreement, including the CW Released Parties, the GDC Released Parties, the KCC Released Parties, and the WDK Released Parties. The Parties agree that Aetna will provide the Settlement Administrator with an IRS Form 1099 for the lump sum payment made pursuant to this Settlement Agreement. Aetna makes no representation as to the tax treatment of any payment(s) made pursuant to this Settlement Agreement.

4.2 Allocation and Distribution of Net Settlement Fund. Aetna has not and will not play any role in the allocation and/or distribution of the Net Settlement Fund. The allocation and distribution of the Net Settlement Fund will be proposed by Plaintiffs for the Court's approval in the form set forth in Exhibit A (Claim Form), Exhibit C (Notice of Settlement), and Exhibit D (Claimant Payment Formula), and which shall be further described in Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

4.3 Mailing of Settlement Payments. The Settlement Administrator will mail by U.S. first class mail all Settlement Payments to Settlement Class Members no later than forty-five (45) days after the Effective Date.

4.4 Money Remaining In Net Settlement Fund After Processing of Claim Forms. If there is money remaining in the Net Settlement Fund after deducting the minimum Base Payments for all Settlement Class Members and all Claimant Awards, the remaining money shall be distributed *pro rata* to all Settlement Class Members who were sent the Benefit Notice, and shall have the effect of raising the Base Payment Amount for these individuals.

4.5 Review and Processing of Claim Forms and Claim Packages. Within thirty (30) days after receiving a Claim Form or Claim Package from a Claimant, the Settlement Administrator shall determine the sufficiency and completeness of the required contents. The Settlement Administrator shall reject a Claim Form or Claim Package if it does not include all required content, subject to the cure provisions set forth below.

4.6 Deficiencies and Cure. For any rejected Claim Forms or Claim Packages, the

Settlement Administrator shall send a Notice of Deficiency to the Settlement Class Member that contains a brief explanation of the deficiency(ies) at issue, and will, where necessary, request the additional information and/or documentation. The Notice of Deficiency will be sent no later than thirty (30) days from the date of receipt of the Claim Form or Claim Package by the Settlement Administrator. The Notice of Deficiency will provide that the deficiency must be cured within thirty (30) days from the date of mailing of the Notice of Deficiency. Any Claim Form or Claim Package that is not timely cured will be denied by the Settlement Administrator in writing. If the deficiency is later cured before such time as the Settlement Administrator determines and calculates all Claimant Awards, then the Settlement Administrator shall accept the cure.

4.7 Use of Settlement Fund Prior to the Effective Date. Prior to the Effective Date, the only monies that may be distributed from the Settlement Fund are the reasonable fees and costs of the Settlement Administrator as approved by the Court. If the Settlement does not become final and effective for any reason, then all monies in the Settlement Fund shall be returned to Aetna except for any amounts reasonably billed by the Settlement Administrator, which shall be Aetna's responsibility.

4.8 Check Cashing. All settlement checks to Settlement Class Members will remain negotiable for 180 days from the date they are issued, and shall be accompanied by the cover letter attached hereto as Exhibit E when they are mailed by the Settlement Administrator. They shall be mailed using the same protections and mailing procedures as set forth in Paragraph 3.6 above. At any point in the check-cashing period, the Settlement Administrator shall have the authority to stop payment on a lost check and issue a new check to an eligible Settlement Class Member upon reasonable request, and after the Settlement Class Member has executed and sent to the Settlement Administrator an affidavit or declaration of lost check.

4.9 Remaining Funds from Uncashed Checks. Thirty (30) days following the close of the 180 day check negotiation period, the Settlement Administrator shall distribute any remaining amounts in the Net Settlement Fund, which are anticipated to only be monies from uncashed checks, subject to the approval of the Court, to an appropriate *cy pres* recipient, the AIDS Coordinating Committee of the American Bar Association ("the Committee"). The Committee shall use an RFP process to redistribute any funds it receives to nonprofit public-interest law firms working on HIV-related privacy issues. Neither the AIDS Law Project of Pennsylvania nor the Legal Action Center will submit a funding request through this RFP process.

SECTION 5
NON-MONETARY RELIEF

5.1 Aetna agrees to take the following actions:

A. Develop and implement a "best practices" policy (the "Policy") for use of PHI in litigation, consistent with Exhibit F attached hereto, by no later than thirty (30) days after the Final Approval Order. Aetna may change the Policy in its discretion based on new legal or regulatory requirements and/or other factors that are designed to ensure or improve compliance with applicable privacy laws and regulations. For a period of five (5) years from the Effective Date, Aetna will provide any updates to the Policy pursuant to this Paragraph to Co-

Lead Class Counsel.

B. Communicate the Policy to Aetna in-house and outside counsel in all existing litigation matters, by no later than sixty (60) days after the Final Approval Order.

C. Implement procedures, by no later than sixty (60) days after the Final Approval Order, to ensure that the Policy is clearly communicated to in-house and outside counsel on all new litigation matters.

D. Provide training regarding the Policy and Aetna's requirements under HIPAA and applicable federal and state privacy laws as appropriate to all Aetna in-house counsel whose primary responsibility is to manage litigation involving Aetna, by no later than 120 days after the Final Approval Order. For a period of five (5) years from the Final Approval Order, Aetna agrees to engage in annual training of the Policy and Aetna's requirements under HIPAA and applicable federal and state privacy laws as appropriate to all Aetna in-house counsel whose primary responsibility is to manage litigation involving Aetna.

E. Conduct an audit of all outside counsel handling Aetna litigation matters to ensure that such counsel has executed an Aetna-approved Business Associates Agreement ("BAA") with Aetna, by no later than 120 days from Final Approval Order.

5.2 Aetna further agrees to maintain records sufficient to establish compliance with all of the above for a period of seven (7) years from the Final Approval Order. Any action by Aetna determined in good faith to be reasonably necessary to comply with any federal, state, or local law, enactment, regulation, or judicial ruling shall not constitute a breach of this Settlement Agreement. In the event that any obligation that Aetna has agreed to undertake becomes inconsistent with any future federal, state, or local law, enactment, regulation, or judicial ruling, then Aetna shall be released from performing such obligation after providing written notice to the Court and Co-Lead Class Counsel.

5.3 Aetna estimates that it will expend substantial additional resources in time and costs to implement all of the actions described in this Section, which amount shall not come out of or reduce the Settlement Fund, but is additional consideration that is being provided by Aetna to the Settlement Class pursuant to this Settlement Agreement.

5.4 The Parties agree that the failure by Aetna to comply with any terms set forth in Section 5 of this Agreement shall not be a cause to rescind the Agreement or affect the validity of the Released Claims, and that the remedy for failure to comply with the terms of Section 5 is specific performance.

SECTION 6
PRELIMINARY APPROVAL, FINAL APPROVAL, OPT-OUTS, AND OBJECTIONS

6.1 Filing of Motion for Preliminary Approval. As soon as this Settlement Agreement is executed, Co-Lead Class Counsel shall file a Motion for Preliminary Approval of Class Action Settlement, which shall include a copy of this Settlement Agreement and its Exhibits. The Motion shall request that the Court schedule a Final Approval Hearing approximately forty-five

(45) days after the conclusion of the Claim Period.

6.2 CAFA Notice. Aetna shall send an appropriate CAFA Notice within ten (10) business days after the submission of this Settlement Agreement to the Court.

6.3 Stay of Proceedings and Injunction. The Parties agree to jointly request that the Preliminary Approval Order stay *Beckett* and any consolidated and/or other proceedings arising from any of the same facts that are asserted in Plaintiffs' Amended Complaint during the pendency of the Court's approval process regarding this Settlement Agreement, and enjoin all Settlement Class Members during that time period from filing, commencing, prosecuting, intervening in, participating in and/or maintaining, as plaintiffs, claimants, or class members in any other lawsuit, in any jurisdiction (whether state, federal or otherwise), against the Released Parties based on, relating to, or arising out of the claims and causes of action, the Incident, or the facts and circumstances at issue in the Amended Complaint, except that any individuals may move the Court at any time for an Order that they are an "opt out" pursuant to Paragraph 6.6 below so that they can proceed on an individual basis with their own individual litigation. If a stay and/or injunction is not issued by the Court, and other class action proceedings are permitted to proceed, Co-Lead Class Counsel agrees to cooperate in good faith with Aetna in taking reasonable actions requested by Aetna to transfer or stay such proceedings during the pendency of the Court's approval process regarding this Settlement Agreement that are not inconsistent with Co-Lead Class Counsel's duties to the Settlement Class.

6.4 Stipulation to Certification of Settlement Class. The Parties stipulate and agree to certification of the Settlement Class as against Aetna pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure. The Parties agree that this stipulation is for settlement purposes only. The Parties do not waive or concede any position or arguments they have for or against certification of any class for any other purpose in any action or proceeding. The Parties agree that the Court's certification of the Settlement Class for purposes of this Settlement does not constitute an admission by Aetna that the claims of the Settlement Class would be appropriate for class treatment if the claims were contested in this or any other forum.

6.5 Tolling of Statutes of Limitation. Upon the date of this Settlement Agreement, the statutes of limitation applicable to any and all claims or causes of action that have been or could be asserted by or on behalf of any Plaintiffs or any Settlement Class Members against Aetna or any other potentially liable parties related to the Incident or the subject matter of the Settlement Agreement shall be tolled and stayed to the extent not already tolled by the initiation of this litigation or any related class action lawsuit. The limitations period will not begin to run again for any Settlement Class Member unless and until he or she is deemed to have opted out of the Settlement Class, or this Settlement Agreement is terminated by Aetna pursuant to Paragraph 6.6 below, in which event, to the extent not otherwise tolled, the limitations period for each Settlement Class Member as to whom the limitations period had not expired as of the date of this Settlement Agreement will extend for the number of days between the date of this Settlement Agreement and the date of the Order terminating the Settlement.

6.6 Opt Outs. The Notice of Settlement attached hereto as Exhibit C provides detailed instructions to Settlement Class Members regarding the procedures that must be followed to opt out of the Settlement Class pursuant to Rule 23(c)(2)(B)(v) of the Federal Rules

of Civil Procedure. To validly request exclusion from the Settlement Class, a Settlement Class Member must submit a written request to opt out to the Settlement Administrator stating "I wish to exclude myself from the Settlement Class in *Beckett v. Aetna, Inc., et al.*, No. 2:17-cv-03864-JS (E.D. Pa.) (or substantially similar clear and unambiguous language), no later than sixty (60) days after the Notice of Settlement is mailed to Settlement Class Members by the Settlement Administrator. That written request shall contain the Settlement Class Member's printed name, address, telephone number, email address, and date of birth. A written request for exclusion must contain the actual written signature of the Settlement Class Member seeking to exclude himself or herself from the Settlement Class and requests for exclusion cannot be made on a group or class basis. The Settlement Administrator will provide redacted and de-identified copies of all requests for exclusion to Co-Lead Class Counsel and Counsel for Aetna as they are received, and only redacted and de-identified copies shall be filed with the Court. All Settlement Class Members who do not timely and properly request exclusion from the Settlement Class will in all respects be bound by all terms of this Settlement Agreement and the Court's Final Approval Order, and upon the Effective Date, will be entitled to all benefits described in this Settlement Agreement. Settlement Class Members who opt out can withdraw their request for exclusion before the Final Approval Hearing by submitting a written request stating their desire to revoke their request for exclusion along with their written signature. If more than two percent (2%) of all Settlement Class Members submit timely and valid opt outs, then Aetna may in its sole discretion exercise its right to void this Settlement Agreement within fourteen (14) days of the sixty day deadline for opting out as set forth above. If Aetna chooses to void the Settlement, then this Settlement Agreement will be vacated, rescinded, cancelled, and annulled, and the Parties will return to the status quo ex ante, as if they had not entered into this Settlement.

6.7 Objections. Any Settlement Class Member who does not submit a written request for exclusion may present a written objection to the Settlement explaining why he or she believes that the Settlement Agreement should not be approved by the Court as fair, reasonable and adequate. A Settlement Class Member who wishes to object to any aspect of the Settlement must submit to the Settlement Administrator a written statement of the objection no later than sixty (60) days after the Notice of Settlement is mailed to Settlement Class Members. The written statement must include a detailed statement of the Settlement Class Member's objection(s), as well as the specific reasons, if any, for each such objection, including any evidence and legal authority that the Settlement Class Member wishes to bring to the Court's attention. That written statement shall contain the Settlement Class Member's printed name, address, telephone number, and date of birth, and any other supporting papers, materials, or briefs that the Settlement Class Member wishes the Court to consider when reviewing the objection. A written objection must contain the actual written signature of the Settlement Class Member making the objection. The Settlement Administrator shall provide Co-Lead Class Counsel and Counsel for Aetna with copies of any objections as they are received. The names of any objectors who affirmatively state in writing that they wish to use a pseudonym shall be held in strict confidence by Co-Lead Class Counsel and Counsel for Aetna and shall not be disclosed on the public record without the objector's written permission.

6.8 Representation and Depositions. A Settlement Class Member may object on his or her own behalf or through an attorney, however, even if represented, the Settlement Class Member must sign the objection and all attorneys who are involved in any way asserting

objections on behalf of a Settlement Class Member must file a notice of appearance with the Court at the time when the objection is submitted, or as the Court may otherwise direct. Co-Lead Class Counsel and Counsel for Aetna may take the deposition of any objector prior to the Final Approval Hearing in a location convenient for the objector.

6.9 Final Approval Hearing. A Settlement Class Member (or counsel representing him or her, if any) seeking to make an appearance at the Final Approval Hearing must file with the Court, by twenty-one (21) days prior to the Final Approval Hearing, a written notice of his or her intention to appear at the Final Approval Hearing, including a statement of any evidence or exhibits that will be presented.

6.10 Motion for Final Approval and Final Approval Order. No later than fourteen (14) days prior to the Final Approval Hearing or at such other time as ordered by the Court, Plaintiffs shall file a Motion for Final Approval of Class Action Settlement to request a Final Approval Order and Judgment from the Court, the approval and entry of which shall be a condition of this Settlement Agreement, that: (1) approves the Settlement Agreement in its entirety pursuant to Rule 23(e) of the Federal Rules of Civil Procedure as fair, reasonable and adequate; (2) confirms the final certification of the Settlement Class; (3) confirms the appointments of the Class Representatives and of Co-Lead Class Counsel; (4) finds that the Notice Plan satisfied the requirements set forth in Rule 23(c)(2)(B) of the Federal Rules of Civil Procedure; (5) permanently bars, enjoins and restrains the Releasors (and each of them) from commencing, filing, initiating, prosecuting, asserting, and/or maintaining any and all Released Claims against the Released Parties; (6) dismisses with prejudice the operative Complaints pursuant to the terms of the Settlement Agreement; (7) confirms the appointment of the Settlement Administrator; and (8) provides that the Court retains continuing and exclusive jurisdiction over the Parties, the Settlement Class and this Settlement Agreement, to interpret, implement, administer and enforce the Settlement Agreement in accordance with its terms and conditions.

SECTION 7
RELEASES

7.1 In consideration of the benefits provided to Settlement Class Members by Aetna as described in this Settlement Agreement, upon the Effective Date, each Settlement Class Member, on his or her own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is or will be entitled to assert any claim on behalf of any Settlement Class Member (the "Releasors"), hereby waive and release, forever discharge and hold harmless the Released Parties, and each of them, of and from any and all past, present and future claims, counterclaims, actions, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether patent or latent, concealed or overt, direct, representative, class or individual in nature, in any forum ("Claims") that the Releasors, and each of them, had, has, or may have in the future arising out of, in any way relating to, or in

connection with, the Incident or the allegations, transactions, facts, matters, occurrences, representations or omissions involved, that are or could have been alleged or set forth in, referred to, or relate to the Complaint and/or Amended Complaint (collectively the "Released Claims," or the "Releases").

7.2 California Civil Code Section 1542. As of the Effective Date, Plaintiffs and each Settlement Class Member shall further be deemed to have waived and released any and all provisions, rights, and benefits conferred by § 1542 of the California Civil Code to the extent applicable or similar laws of any other state or jurisdiction.

SECTION 1542 OF THE CALIFORNIA CIVIL CODE READS:

"CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

7.3 Nothing in this Settlement Agreement, including the Releases, is in any way intended to impact, discharge, release, impair, waive, include, or affect any claims, actions, causes of actions, suits, demands, rights, damages, losses or remedies that any Aetna Released Party had, has, may have, or wishes to assert against any non-party to this Settlement Agreement, including, but not limited to, any and all claims for contribution, subrogation, reimbursement and/or contractual or equitable indemnity against any individual or entity, including, without limitation, the CW Released Parties, the GDC Released Parties, the KCC Released Parties, or the WDK Released Parties.

7.4 Nothing in the Releases will preclude any action to enforce the terms of this Settlement Agreement in the Court.

7.5 The Parties represent and warrant that no promise or inducement has been offered or made for the Releases contained in this Article except as set forth in this Settlement Agreement and that the Releases are executed without reliance on any statements or any representations not contained in this Settlement Agreement.

SECTION 8
ATTORNEYS' FEES, COSTS, AND SERVICE AWARDS

8.1 Attorneys' Fees and Costs. Co-Lead Class Counsel will petition the Court on behalf of all entitled attorneys and law firms for a payment of attorneys' fees and reimbursement of reasonable out-of-pocket costs from the Settlement Fund no later than fourteen (14) days prior to the deadline for submitting objections. The Parties agree that the amount for attorneys' fees shall not exceed twenty-five percent (25%) of the Settlement Fund and Aetna will take no position on the petition as long as the requested amount is consistent with this paragraph. Should the Court decline to approve any requested payment, the Settlement shall remain effective. The Settlement Administrator shall wire the Court-approved attorneys' fees and costs to Berger &

Montague after the Effective Date. Aetna shall bear its own costs of litigation and attorneys' fees incurred in connection with the Action and this Settlement Agreement.

8.2 Class Representative Service Awards. In recognition of their service to the Settlement Class, Co-Lead Class Counsel may petition the Court on behalf of the Class Representatives for modest service awards in an aggregate amount not to exceed $100,000, subject to the approval of the Court, to be allocated in the discretion of Co-Lead Class Counsel based upon the Class Representatives' respective service to the Settlement Class, and to be set forth in Plaintiffs' Motion for Approval of Attorneys' Fees and Costs. Aetna will take no position on the petition as long as the requested aggregate amount is consistent with this paragraph. These amounts shall be paid at the same time as Settlement Payments are made to Settlement Class Members. Should the Court decline to approve any requested service awards, the Settlement shall remain effective.

SECTION 9
MISCELLANEOUS PROVISIONS

9.1 Continuing Jurisdiction. The Court will retain continuing and exclusive jurisdiction over the interpretation, implementation, administration, and enforcement of this Settlement Agreement. The Parties and the Settlement Class are hereby deemed to have submitted to the exclusive jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of, or relating to, this Settlement Agreement.

9.2 Authority. Each of the undersigned signatories represent and warrant that they have authority to enter and sign this Settlement Agreement and fulfill its terms as set forth herein.

9.3 No Admission of Liability. It is understood and agreed that this Settlement Agreement is a compromise of disputed claims and that any consideration given is not to be construed as an admission of liability by the Parties. Aetna denies any liability and nothing in this Settlement Agreement is, or may be construed as, an admission or concession on any point of fact or law by or against any Party.

9.4 No Retaliation. Aetna agrees that it shall not retaliate against any Plaintiff, Class Representative, or Settlement Class Member in any fashion for having participated in this litigation and Settlement Agreement, including, without limitation, with respect to the provision of any health insurance benefits.

9.5 No Liability for Actions in Accordance with Agreement. Plaintiffs and Aetna, as well as Co-Lead Class Counsel, Counsel for any Plaintiff, and Counsel for Aetna, shall not be liable for any acts undertaken in conformance with this Settlement Agreement and the Court's Preliminary Approval Order and Final Approval Order.

9.6 Choice of Law. This Settlement Agreement will be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflict of law principles.

9.7 Cooperation. The Parties will cooperate, assist and undertake all reasonable actions to accomplish all steps contemplated by this Settlement Agreement and to implement the Settlement Agreement on the terms and conditions provided herein. The Parties and all of their counsel agree to support the final approval and implementation of this Settlement Agreement. Neither the Parties nor their counsel, directly or indirectly, will encourage any person to object to the Settlement or assist them in doing so.

9.8 Integration. This Settlement Agreement and its exhibits shall constitute the entire agreement and understanding among the Parties and supersedes all prior proposals, negotiations, letters, conversations, agreements, term sheets, and understandings, whether written or oral, relating to the subject matter of this Settlement Agreement. The Parties acknowledge, stipulate, and agree that no covenant, obligation, condition, representation, warranty, inducement, negotiation, agreement, arrangement, or understanding, whether written or oral, concerning any part or all of the subject matter of this Settlement Agreement has been made or relied on except as expressly set forth in this Settlement Agreement.

9.9 Severability. If any provision or any part of any provision of this Settlement Agreement is for any reason held to be invalid, unenforceable, or contrary to any public policy, law, statute, and/or ordinance, that provision may be severed from the Settlement Agreement and the remainder of the Settlement Agreement shall remain valid and enforceable as if the invalid, unenforceable, or illegal provision or part of any provision had not been contained herein.

9.10 Headings. The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement in any manner. Any inconsistency between the headings used in this Settlement Agreement and the text of the Settlement Agreement shall be resolved in favor of the text.

9.11 Incorporation of Exhibits. All of the exhibits to this Settlement Agreement are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, any inconsistency between this Settlement Agreement and any exhibits hereto will be resolved in favor of this Settlement Agreement.

9.12 Amendment. Subject to the approval of the Court, the Parties may agree in a writing executed by Co-Lead Class Counsel and Counsel for Aetna to amend this Settlement Agreement or to modify the exhibits to this Agreement to effectuate the purpose of this Agreement or to conform to guidance from the Court about the contents of such exhibits without the need to further amend this Agreement. Any amendment modifying the Settlement must be filed with the Court and is subject to the Court's approval.

9.13 Mutual Preparation. The Parties have negotiated all of the terms of this Settlement Agreement at arm's-length and through a mediation process overseen by Judge Welsh. Neither the Settlement Class Members nor Aetna, nor any one of them, nor any of their counsel, will be considered to be the sole drafter of this Settlement Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement. This Settlement Agreement will be deemed to have been mutually prepared by the Parties and will not

be construed against any of them by reason of authorship.

9.14 No Third Party Beneficiaries. This Settlement Agreement, once finally approved by the Court, is binding on the Parties and the Settlement Class, as well as their agents, representatives, heirs, executors, devisees, successors, transferees, assigns, and legal representatives in this matter, provided, however, that this Settlement Agreement is not binding on any pre-existing operations of any successor, assignee or transferee of Aetna's applicable business operations. No provision in this Settlement Agreement is intended to provide any rights to any third parties not signatories to this Settlement Agreement, or is intended to create any third party beneficiaries to this Settlement Agreement. Notwithstanding the preceding sentence, nothing in this Paragraph 9.14 shall affect in any way the Releases contained in Section 7 of this Settlement Agreement.

9.15 Independent Advice of Counsel. The Parties represent and declare that in executing this Settlement Agreement, each relied upon the advice and recommendations of their own independently selected counsel. Further, the Parties represent that each has had sufficient opportunity to consult with their respective attorneys about the terms and conditions of this Settlement Agreement prior to its execution. Each Party has read and fully understands the full contents and effect of this Settlement Agreement, and consciously and voluntarily contracts and agrees as provided herein.

9.16 Extensions of Time. Co-Lead Class Counsel and Counsel for Aetna may agree in writing, subject to approval of the Court where required, to reasonable extensions of time to implement the provisions of this Settlement Agreement.

9.17 Execution in Counterparts. This Settlement Agreement may be executed in counterparts, and a facsimile, emailed, or electronic signature shall be deemed an original signature for purposes of this Settlement Agreement.

9.18 Issuance of Notices. In any instance in which this Settlement Agreement requires the issuance of any notice to the Parties and/or to Co-Lead Class Counsel and Counsel for Aetna, such notice must be issued by issuing written notice to Co-Lead Class Counsel and to Counsel for Aetna as defined above.

AGREED TO AS OF THIS 16th DAY OF JANUARY, 2018

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EXHIBIT A

CLAIM FORM

IMPORTANT -- All Settlement Class Members will automatically receive a minimum Base Payment of either: (1) $75 to all Settlement Class Members whose Protected Health Information was allegedly disclosed improperly by Aetna to Aetna's legal counsel and a settlement administrator; or (2) $500 (inclusive of the $75 dollar payment above) to all Settlement Class Members who were sent the Benefit Notice, whichever is applicable. The "Benefit Notice" was the notice that was sent by a settlement administrator to certain Settlement Class Members to inform Aetna members of their ability to fill prescriptions for certain medications through mail order or retail pharmacy, as required by the settlement of legal claims that had been filed against certain Aetna-related entities or affiliates in *Doe v. Aetna, Inc*., No. 14-cv-2986 (S.D. Cal.).

This Claim Form is solely for Class Members who were sent the Benefit Notice and claim to have suffered financial harm (meaning non-reimbursed out-of-pocket expenses) or non-financial harm. If you do not claim to have suffered financial harm or non-financial harm as a result of the mailing of the Benefit Notice, then you should not fill out this Claim Form.

If you decide to fill out this Claim Form, please answer all questions honestly and accurately. You are swearing under penalty of perjury that your statements below are true and correct as if you were testifying in court.

Part I below is your Claimant Information. Part II below covers the reimbursement of non-reimbursed out-of-pocket expenses that you claim to have incurred as a result of being sent the Benefit Notice. Part III below covers non-financial harms that you claim to have suffered as a result of being sent the Benefit Notice. Claimants can seek a monetary settlement award pursuant to this Settlement under either Part II or Part III or both.

To complete this Claim Form, you must:

(a) completely fill out Part I -- Claimant Information;

(b) completely fill out either or both of Part II -- Financial Harm, and/or Part III -- Non-Financial Harm, as applicable to you;

(c) personally sign the Certification and Declaration in Part IV;

(d) attach all documentation of your alleged harm as requested below; and

(e) return your completed Claim Form and any requested documentation to the Settlement Administrator.

YOU MUST SUBMIT YOUR COMPLETED CLAIM FORM BY DATE IN ORDER FOR IT TO BE CONSIDERED TIMELY.

You may fill out this Claim Form in hard copy or you may download and fill out the electronic Claim Form located at WEBSITE. The electronic Claim Form can be uploaded using the HIPAA-compliant portal also located on the website. If you fill out the Claim Form in hard copy, you may return it by uploading it using the HIPAA-compliant portal at WEBSITE or by mail to INSERT MAIL ADDRESS.

If you have any questions about this Claim Form, please call the Settlement Administrator toll-free at xxx-xxx-xxxx or contact the Settlement Administrator using the Contact Us form located at WEBSITE. For additional information about the Settlement, please visit WEBSITE.

PART I -- CLAIMANT INFORMATION

Note -- All information you provide on this Claim Form will be kept strictly confidential by the Settlement Administrator and will be destroyed by the Settlement Administrator after the distribution of the settlement proceeds.

Name of Claimant: _____

Personal Claimant Number: _____

Confirmation Code: _____
(located on the first page of the Notice of Settlement you received with this Claim Form)

Note -- It is <u>your</u> responsibility to let the Settlement Administrator know if your mailing address changes at any time before you receive a Settlement Payment or if you want future mail sent to a different mailing address.

Current Mailing Address: _____

Telephone: _____ Email: _____

PART II -- FINANCIAL HARM

Please list and provide an itemization below of all non-reimbursed out-of-pocket expenses you claim were caused by the mailing of the Benefit Notice for which you are seeking reimbursement pursuant to this Settlement, and for each expense listed, **<u>you must attach and return to the Settlement Administrator the corresponding receipt, invoice, credit card statement, medical record, insurance record, copy of returned check, or other reasonable form of evidence documenting that you made each payment listed below</u>**. If you need more room, please continue the list on a separate sheet of paper and return it to the Settlement Administrator along with this Claim Form and the required documentation.

Specific description of each non-reimbursed out-of-pocket expense for which you are requesting reimbursement	Date of the expense	Dollar amount of the specific expense

Total Amount Claimed:		

PART III – NON-FINANCIAL HARM

If you claim to have suffered non-financial harm as a result of the mailing of the Benefit Notice, you are eligible to receive a monetary award based upon your answers to the questions below. Please carefully review and answer each question below in detail. If the question does not apply to you, please leave the answer blank or write "not applicable." Each answer you provide below is submitted under penalty of perjury as if you were testifying in court.

ANSWER EACH QUESTION BELOW IN DETAIL OR LEAVE IT BLANK IF IT IS NOT APPLICABLE
1. If someone other than you received your mail the day the Benefit Notice arrived, please explain in detail the circumstances and identify the person(s) that received your Benefit Notice.
2. If your Benefit Notice was left in an area visible to others, please explain in detail the circumstances and state where the Benefit Notice was left.
3. If your Benefit Notice was delivered to a residence or post office box that was not yours, please explain in detail the circumstances including how you came to know of this.

4. If as a result of the Benefit Notice, one or more people learned that you were taking the prescribed medication, please explain in detail the circumstances including by identifying the people who learned that you were taking the prescribed medication.
5. If as a result of the Benefit Notice, you felt forced to explain to someone for the first time about your reason(s) for taking the prescribed medication (including, for example, disclosing your sexual orientation, sexual practices, or medical condition), please explain in detail the circumstances including by identifying the person(s) that you felt forced to talk with, and their relationship to you.
6. If as a result of the Benefit Notice, your medical condition, sexual orientation, sexual practices, and/or reason(s) for taking the prescribed medication has become the subject of gossip in your community, please explain in detail the circumstances.
7. If as a result of the Benefit Notice, your medical condition, sexual orientation, sexual practices, and/or reason(s) for taking the prescribed medication has become known to your employer in a way that was not caused by you, or has affected your employment, please explain in detail the circumstances.
8. If as a result of the Benefit Notice, you have a need for medical or mental health treatment, including counseling, but have not yet received it, please explain in detail the circumstances and why you believe you require medical or mental health treatment.
9. If as a result of the Benefit Notice, you have been treated differently, harassed and/or shunned by family, friends, roommates, neighbors, landlords, or others, please explain in detail the circumstances and identify how you have been treated differently, harassed and/or shunned, and by whom.
10. If as a result of the Benefit Notice, one or more of your important relationships has been damaged, please explain in detail the circumstances and identify the relationship(s) that has been damaged, and how.

11. If as a result of the Benefit Notice, you feel the need to change residences but have not yet done so, please explain in detail the circumstances and identify why you feel the need to change residences and why you have not yet done so.
12. If as a result of the Benefit Notice, you or your dependents have sought and received medical or mental health treatment, including counseling, please explain in detail the circumstances, state how many counseling sessions or visits have occurred, and provide some form of evidence, including by attaching and returning to the Settlement Administrator a doctor's note, insurance record, receipt, invoice, credit card statement, bank statement, copy of returned check, or any other reasonable form of evidence evidencing the visit(s).
13. If as a result of the Benefit Notice, you have experienced repeated episodes of any of the following: trouble sleeping, anxiety, extreme stress, extreme anger, panic attacks, loss of appetite, loss of trust, and/or depression, please explain in detail the circumstances.
14. If as a result of the Benefit Notice, someone in your household has moved out because they no longer wanted to live with you as a result of finding out your reason(s) for taking the prescribed medications, please explain in detail the circumstances, including by identifying the person who previously lived with you and their relationship with you.
15. If as a result of the Benefit Notice, you have been physically harmed or threatened with serious violence or threat of bodily injury, please explain in detail the circumstances, including by identifying the person(s) who harmed or threatened you with serious violence, and describing what occurred.
16. If as a result of the Benefit Notice, you had to change residences, please explain in detail the circumstances, and provide your old and new address, the reason(s) you moved, and provide some form of evidence of your move.
17. If as a result of the Benefit Notice, you suffered any additional non-financial harm that is not covered by any of the above questions, please explain in detail the circumstances.

PART IV – CERTIFICATION AND DECLARATION

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 and the laws of the United States of America that all of the information I have provided above is true and correct.

_____ _____

SIGNATURE DATE

_____

PRINT NAME

PART V -- REMINDER CHECKLIST BEFORE YOU SUBMIT THIS CLAIM FORM

1. Make sure that you fully completed Part I -- Claimant Information.
2. Make sure that you fully completed either or both of Part II and Part III as applicable to your personal situation.
3. Make sure that you signed the Certification and Declaration in Part IV.
4. Make sure that when you return your Claim Form that you include a copy of all required documentation requested above.
5. Make sure that you retain a copy of this Claim Form and your supporting documentation for your records.

EXHIBIT B

INSERT SETTLEMENT ADMINISTRATOR INFO

Mail Date

INSERT PERSONAL CLAIMANT NUMBER

«ClaimantName»
«Addr1»«Addr2»
«City» «State» «Zip»

RE: ***Andrew Beckett, et al. v. Aetna, Inc., et al.*, No. 2:17-CV-3864-JS (E.D. Pa.)**
Notice of Deficiency with Claim Form / Claim Package

Dear INSERT NAME:

Thank you for submitting your Claim Form pursuant to the Settlement Agreement in the above-referenced matter. On behalf of the Court-appointed Settlement Administrator, we have reviewed your Claim Form/Package and it is deficient or lacks necessary information for the following reason(s):

- INSERT detailed explanation for the deficiency and how it can be fixed.
- INSERT more bullet points if needed.

Please note that the deficiency(ies) noted above must be cured by you by **INSERT CURE DEADLINE DATE**, which is thirty (30) days from the date this notice was mailed. You may respond to this notice through the HIPAA-compliant portal located at WEBSITE, or by mail to INSERT MAIL ADDRESS.

If you do not fix the problems identified above, your claim may be denied by the Settlement Administrator.

Please make sure to include your Personal Claimant Number above to assist us in verifying your identity. Your Personal Claimant Number was also printed on the earlier Notice of Settlement that was mailed to you.

If you have any questions about the settlement, please call us toll-free at xxx-xxx-xxxx or by using the Contact Us form located at WEBSITE. For additional information about the Settlement, please visit WEBSITE.

Sincerely,
Settlement Administrator

EXHIBIT C

Name: INSERT
Personal Identification No.: 123456789

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Andrew Beckett, Arizona Doe, California Doe, S.A., Colorado Doe, Connecticut Doe, DC Doe, Florida Doe, Georgia Doe, Illinois Doe, Indiana Doe, Kansas Doe, Maine Doe, Maryland Doe, Minnesota Doe, Mississippi Doe, Missouri Doe, Nevada Doe, NewHampshire Doe, NewJersey Doe, NewMexico Doe, NewYork Doe1, NewYork Doe2, NewYork Doe3, NewYork Doe4, NorthCarolina Doe, Ohio Doe, Oklahoma Doe, SouthCarolina Doe, Tennessee Doe, Texas Doe, Virginia Doe, Washington Doe, John Doe, Jane Doe2, John Doe1, John Doe2, individually and on behalf of all others similarly situated, Plaintiffs, v. Aetna, Inc., Aetna Life Insurance Company, and Aetna Specialty Pharmacy, LLC, Defendants.	Case No. 2:17-CV-3864-JS

NOTICE OF CLASS ACTION SETTLEMENT ("NOTICE")

You are receiving this Notice because you have been identified as being part of a group of people whose Protected Health Information ("PHI") is alleged to have been disclosed improperly by Defendants Aetna, Inc., Aetna Life Insurance Company, and Aetna Specialty Pharmacy, LLC ("Aetna") and/or Aetna-related or affiliated entities, or on their behalf, to third parties, and/or to whom any written notice was mailed in connection with the settlement of legal claims that had been filed against certain Aetna-related entities or affiliates in *Doe v. Aetna, Inc.*, No. 14-cv-2986 (S.D. Cal.) and *Doe v. Coventry Health Care, Inc.*, No. 15-cv-62685 (S.D. Fla.) (collectively, the "*Doe* lawsuits).

It is alleged that there were two possible breaches of privacy: first, in July 2017, it is alleged that Aetna transmitted PHI improperly to its legal counsel and a settlement administrator without having the purportedly proper authorizations to do so; and second, through the sending of a "Benefit Notice." The term "Benefit Notice" means the notice that was sent by the settlement administrator to certain Settlement Class Members to inform Aetna members of their ability to fill prescriptions for

certain medications through mail order or retail pharmacy, as required by the settlement of legal claims that had been filed against certain Aetna-related entities or affiliates in *Doe v. Aetna, Inc.*, No. 14-cv-2986 (S.D. Cal.). Plaintiffs allege that the Benefit Notice was sent in an envelope with a large transparent glassine window in such a manner that the instructions about how individuals could obtain their medications were visible from the outside of the envelope.

A class action lawsuit was filed concerning these events and a settlement has now been preliminarily approved by the Court. This Notice provides information about the lawsuit, the settlement, and your options as a Settlement Class Member. Please read this Notice carefully because it affects your legal rights. A federal court authorized the sending of this Notice to you. This is not a solicitation.

1. Why Should You Read This Notice?

You are receiving this Notice because Aetna's records show that you are a Settlement Class Member.

The term "Settlement Class" means all persons whose Protected Health Information was allegedly disclosed improperly by Aetna and/or Aetna-related or affiliated entities, or on their behalf, to third parties, including Gibson, Dunn & Crutcher, LLP ("GDC") and Kurtzman Carson Consultants LLC ("KCC"), and/or to whom any written notice was mailed as required by the settlement of the *Doe* lawsuits. GDC was Aetna's legal counsel in the *Doe* lawsuits and KCC was the settlement administrator in the *Doe* lawsuits. Please note that KCC is not the settlement administrator in this lawsuit.

Approximately 13,487 Settlement Class Members are claimed to have experienced the first privacy breach referenced above because it is alleged that Aetna sent their PHI improperly to its legal counsel GDC and a settlement administrator, KCC, without the proper authorizations in place and these individuals thereafter received some form of written notice in connection with the *Doe* lawsuits. Included in this group are approximately 11,875 Settlement Class Members who also claim to have experienced the second privacy breach referenced above, when they were sent the Benefit Notice as described above, that Plaintiffs allege revealed PHI through the window of the envelope.

This lawsuit was filed on August 28, 2017 in the United States District Court for the Eastern District of Pennsylvania by a plaintiff using the pseudonym Andrew Beckett, to address the harm caused by the events described above. On December 5, 2017, Plaintiffs filed an Amended Class Action Complaint by 37 Plaintiffs who reside in 28 different states and the District of Columbia.

Following an extensive mediation process overseen by former United States Magistrate Judge Diane Welsh, Plaintiffs and Aetna have now reached a settlement that has been preliminarily approved by the Federal Court, and as a Settlement Class Member, you are entitled to a settlement payment.

Specifically, all Settlement Class Members will automatically receive a "Base Payment" of either: (1) the payment of $75 to all Settlement Class Members whose PHI was allegedly disclosed improperly by Aetna to GDC (Aetna's legal counsel in the *Doe* lawsuits) and KCC (the settlement administrator in the *Doe* lawsuits); or (2) the payment of at least $500 (inclusive of the $75 payment

above) to the approximately 11,875 Settlement Class Members who were sent the Benefit Notice described above, whichever is applicable. **All Settlement Class Members shall automatically receive the applicable Base Payment described above without submitting a Claim Form**.

In addition, the approximately 11,875 Settlement Class Members who were sent the Benefit Notice in an envelope that may have revealed their PHI to others may submit a claim for an additional monetary award if they can demonstrate through the submission of reasonable proof that as a result, they suffered: (a) financial harm (meaning non-reimbursed out-of-pocket expenses); or (b) non-financial harm. Settlement Class Members who meet these requirements can submit such a claim by filling out and returning the enclosed Claim Form or by submitting their Claim Form online at WEBSITE by no later than [DATE].

If you received a Claim Form with this Notice, then you are one of the 11,875 Settlement Class Members who were sent the Benefit Notice.

The United States District Court for the Eastern District of Pennsylvania has preliminarily approved this Settlement as fair and reasonable and authorized this Notice to be sent to you. The Court will hold a Final Approval Hearing on _____, 2018 at _____, in Courtroom ____, 601 Market Street, Philadelphia, Pennsylvania. Additional information about this case and the Settlement can be found at WEBSITE.

2. What Are the Terms of the Settlement?

Under the terms of the Settlement Agreement, a copy of which is available at WEBSITE, Aetna has agreed to pay the non-reversionary cash amount of $17,161,200.00 (the "Settlement Fund") to settle all claims relating to the alleged breaches described above and/or asserted in this lawsuit. None of this money will ever be returned to Aetna under any circumstance.

The Settlement Fund will be used to pay: (a) all Settlement Payments to Settlement Class Members; (b) all settlement administration fees and costs as approved by the Court, not to exceed $_____; (c) Class Counsel's attorneys' fees, not to exceed twenty-five percent of the Settlement Fund, plus costs, subject to the approval of the Court; and (d) service awards to the 37 Class Representatives that are approved by the Court in an aggregate amount not to exceed $100,000. The "Net Settlement Fund" is the amount left in the Settlement Fund after the Court-approved deductions for settlement administration fees and costs, attorneys' fees and costs, and service awards.

In addition to the Settlement Fund, Aetna has agreed to: (a) develop and implement a "best practices" policy (the "Policy") for use of PHI in litigation; (b) communicate the Policy to Aetna in-house and outside counsel in all existing litigation matters; (c) implement procedures to ensure that the Policy is clearly communicated to in-house and outside counsel on all new litigation matters; (d) provide training regarding the Policy and Aetna's requirements under HIPAA and applicable federal and state privacy laws as appropriate to all Aetna in-house counsel whose primary responsibility is to manage litigation involving Aetna; and (e) conduct an audit of all outside counsel handling Aetna litigation matters to ensure that such counsel has executed an Aetna-approved Business Associates Agreement ("BAA") with Aetna. Aetna will keep records to ensure compliance with the terms of the

Settlement Agreement for a period of seven (7) years. Aetna will incur additional costs to implement these actions that Aetna will pay in addition to the Settlement Fund described above.

The Settlement Payments to Settlement Class Members will be calculated as follows:

A. **Automatic Base Payment**: All Settlement Class Members will automatically receive a "Base Payment" of either: (1) the payment of $75 to all Settlement Class Members whose PHI was allegedly disclosed improperly by Aetna to GDC (Aetna's legal counsel in the *Doe* lawsuits) and KCC (the settlement administrator in the *Doe* lawsuits); or (2) the payment of at least $500 (inclusive of the $75 payment above) to all approximately 11,875 Settlement Class Members who were sent the Benefit Notice, whichever is applicable. **All Settlement Class Members shall automatically receive the applicable Base Payment amount described above without submitting a Claim Form**.

B. **Claimant Award**: The approximately 11,875 Settlement Class Members who were sent the Benefit Notice may also submit a Claim Form and any required supporting documentation to apply for an additional monetary award if they believe that as a result of the Benefit Notice, they suffered financial harm or non-financial harm. In order to be considered timely and valid, all Claim Forms and supporting documentation must be submitted by DATE. The Court-appointed Settlement Administrator shall receive and review all completed Claim Forms, and shall calculate all Claimant Awards. Claimant Awards shall be based on the total of: (a) the Claimant's Financial Harm Award; and (b) the Claimant's Non-Financial Harm Award.

i. Financial Harm Award. A Claimant's Financial Harm Award shall be calculated by the Settlement Administrator based on all reasonable non-reimbursed out-of-pocket expenses incurred by the Claimant as documented on the Claim Form. The Claim Form shall be submitted under penalty of perjury. Examples of such out-of-pocket expenses include, for example, moving costs, counseling costs, loss of income, or other non-reimbursed out-of-pocket expenses caused by the Benefit Notice. "Reasonable proof" is required. The term "reasonable proof" means the submission to the Settlement Administrator by the Claimant of copies of receipts, invoices, credit card statements, medical records, insurance records, returned checks, and/or any other reasonable form of proof of non-reimbursed out-of-pocket expenses incurred as a result of the Benefit Notice. Amounts that a Claimant already received from Aetna will offset any Financial Harm Award to the extent that it would result in a double-recovery.

ii. Non-Financial Harm Award. A Claimant's Non-Financial Harm Award shall be calculated by the Settlement Administrator based on the Claimant's answers on their Claim Form using an objective point-scoring system as set forth in Exhibit D to the Settlement Agreement. All answers given on the Claim Form shall be submitted under penalty of perjury.

iii. Amount of Claimant Awards. Claimants may receive up to $10,000 for financial harm as calculated by the Settlement Administrator and up to $10,000 for non-financial harm as calculated by the Settlement Administrator, for a total maximum of up to $20,000 in addition to the minimum Base Payment described above. The final amount of any Claimant Awards, however, shall be based on the number of Claimants and a *pro rata* distribution of the amount remaining in the Net Settlement Fund for distribution after all minimum Base Payments are subtracted.

iv. Net Settlement Fund. If there is money remaining in the Net Settlement Fund after deducting the minimum Base Payments for all Settlement Class Members and all Claimant Awards, the remaining money shall be distributed *pro rata* to all Settlement Class Members who were sent the Benefit Notice, and shall have the effect of raising the Base Payment Amount for these individuals to an amount above $500.

C. **Timing of Payments**. Settlement Checks will be mailed by U.S. first class mail by the Settlement Administrator to Settlement Class Members no later than 45 days after the Settlement Agreement receives final approval by the Court and the time for any appeals have expired, or any appeals have been resolved.

D. **Uncashed Checks**. The total amount of any uncashed settlement checks after 180 days will be distributed to a *cy pres* recipient – The AIDS Coordinating Committee of the American Bar Association ("the Committee"). The Committee will use a Request for Proposal ("RFP") process to redistribute any funds it receives to nonprofit public-interest legal organizations working on health privacy issues. None of Plaintiffs' Counsel will submit a funding request through this RFP process.

In consideration of the benefits provided to Settlement Class Members by Aetna as described in this Settlement Agreement, upon the Effective Date, each Settlement Class Member, on his or her own behalf and on behalf of his or her respective predecessors, successors, assigns, assignors, representatives, attorneys, agents, trustees, insurers, heirs, estates, beneficiaries, executors, administrators, and any natural, legal, or juridical person or entity to the extent he, she, or it is or will be entitled to assert any claim on behalf of any Settlement Class Member (the "Releasors"), hereby waive and release, forever discharge and hold harmless the Released Parties, and each of them, of and from any and all past, present and future claims, counterclaims, actions, rights or causes of action, liabilities, suits, demands, damages, losses, payments, judgments, debts, dues, sums of money, costs and expenses (including, without limitation, attorneys' fees and costs), accounts, bills, covenants, contracts, controversies, agreements, obligations, or promises, in law or in equity, contingent or non-contingent, known or unknown, suspected or unsuspected, foreseen or unforeseen, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, whether patent or latent, concealed or overt, direct, representative, class or individual in nature, in any forum ("Claims") that the Releasors, and each of them, had, has, or may have in the future arising out of, in any way relating to or in connection with the Incident or the allegations, transactions, facts, matters, occurrences, representations or omissions involved, that are or could have been alleged or set forth in, referred to, or relate to the Complaint and/or Amended Complaint (collectively, the "Released Claims," or the "Releases"). The term Released Parties means the Aetna Released Parties and any other person or entity that is potentially responsible for causing or in any way involved in the events giving rise to this lawsuit.

3. How Do I Submit A Claim Form?

Please note that the Claim Form is solely for the approximately 11,875 Class Members who claim to have been harmed as a result of the mailing of the Benefit Notice, which Plaintiffs allege potentially revealed PHI through the window of the envelope, and who can demonstrate that they suffered financial harm or non-financial harm as a result. **If you were not sent the Benefit Notice**

or do not claim to have suffered financial harm or non-financial harm as a result of the Benefit Notice, then do not fill out the Claim Form. You will automatically receive the applicable Base Payment described above.

In order to be considered valid and timely, Claim Forms must be submitted by DATE. Settlement Class Members may submit multiple Claim Forms before DATE, but shall not recover twice for the same item of alleged damage or harm.

You may fill out this Claim Form in hard copy or you may download and fill out the electronic Claim Form located at WEBSITE. The electronic Claim Form can be uploaded using the HIPAA-compliant portal also located on the website. If you fill out the Claim Form in hard copy, you may return it by uploading it using the HIPAA-compliant portal at WEBSITE or by mail to INSERT ADDRESS.

If you have any questions about this Claim Form, please call the Settlement Administrator toll-free at xxx-xxx-xxxx or contact the Settlement Administrator by using the Contact Us form located at WEBSITE. For additional information about the Settlement, please visit WEBSITE. If you decide to fill out and return the Claim Form, all information you provide will be kept strictly confidential by the Settlement Administrator and will be destroyed by the Settlement Administrator after the distribution of the settlement proceeds.

Important -- It is <u>your</u> responsibility to let the Settlement Administrator know if your mailing address changes at any time before you receive a Settlement Payment or if you want future mail sent to a different mailing address. If you fail to keep your address current, you may not receive your Settlement Award.

4. What Are My Rights?

If you wish to participate in the Settlement, you may: (a) do nothing, in which case you will automatically receive the applicable Base Payment as described above without having to submit a Claim Form; or (b) if you were harmed by the Benefit Notice and can meet the requirements for a Claimant Award noted above, you may submit a Claim Form, as described above, for compensation in addition to the Base Payment, postmarked by DATE.

If you wish to exclude yourself from the Settlement so that you do not receive any Settlement Award and are not bound by any release of claims, then you must submit a written request to opt out to the Settlement Administrator stating "I wish to exclude myself from the Settlement Class in *Beckett v. Aetna, Inc., et al.*, No. 2:17-cv-03864-JS (E.D. Pa.) (or in substantially similar clear and unambiguous language), postmarked by DATE. Your request for exclusion must include your printed name, address, telephone number, email address, date of birth, and actual written signature. Requests for exclusion cannot be made on a group or class basis. All Settlement Class Members who do not timely and properly request exclusion from the Settlement Class will in all respects be bound by all terms of this Settlement Agreement and the Court's Final Approval Order, and upon the Effective Date, will be entitled to all benefits described in this Settlement Agreement. The request for exclusion must be sent to the Settlement Administrator at INSERT ADDRESS. Any person who requests

exclusion from the Settlement will not be entitled to any Settlement Award and will not be bound by the Settlement Agreement or have any right to object, appeal, or comment thereon.

If you wish to accept a Settlement Award but submit an objection to the Settlement, you must submit a written objection to the Settlement Administrator postmarked by DATE, explaining why you believe that the Settlement Agreement should not be approved by the Court as fair, reasonable and adequate. The written statement must include a detailed statement of your specific objection, as well as the specific reasons for your objection, including any evidence and legal authority that you believe supports your objection. Your written statement must include your printed name, address, telephone number, date of birth, and actual written signature, and must attach any other supporting papers, materials, or briefs that you wish the Court to consider when reviewing the objection. If you wish to use a pseudonym for purposes of the public record, you may, and you should inform the Settlement Administrator of your requested pseudonym in your written statement, but you must provide your real name to the Settlement Administrator. If you are represented by counsel, your objection must identify the counsel who represent you and provide their contact information.

If you wish to send the Settlement Administrator a letter in support of the Settlement, you are free to do so, and may send your letter to INSERT ADDRESS.

5. Can Aetna Retaliate Against Me For Participating In This Settlement?

No. Aetna has agreed that it will not retaliate against any Plaintiff, Class Representative, or Settlement Class Member in any fashion for having participated in this litigation and Settlement Agreement, including, without limitation, with respect to the provision of any health insurance benefits.

6. Who Are The Attorneys Representing The Class?

The attorneys who represent the Settlement Class are listed below:

Co-Lead Class Counsel	**Co-Lead Class Counsel**	**Co-Lead Class Counsel**	**Class Counsel**
Ronda B. Goldfein Yolanda French Lollis Adrian M. Lowe AIDS Law Project of Pennsylvania 1211 Chestnut Street, #600 Philadelphia, PA 19107 (215) 587-9377 aetnaclass@aidslawpa.org	Sally Friedman Monica Welby Karla Lopez Legal Action Center 225 Varick Street, St. 402 New York, NY 10014 (212) 243-1313 sfriedman@lac.org	Shanon Carson E. Michelle Drake Sarah R. Schalman-Bergen John Albanese Berger & Montague, P.C. 1622 Locust Street Philadelphia, PA 19103 (215) 875-3000 scarson@bm.net	Torin A. Dorros Dorros Law 8730 Wilshire Boulevard, Suite 350 Beverly Hills, CA 90211 (310) 997-2050 tdorros@dorroslaw.com

The AIDS Law Project of Pennsylvania and the Legal Action Center are both nonprofit public-interest legal organizations that have been representing people living with HIV and AIDS for more than thirty years.

7. How Will The Attorneys For The Settlement Class Be Paid?

You do not have to pay the attorneys who represent the Settlement Class. The Settlement Agreement provides that attorneys' fees and costs will be paid from the Settlement Fund subject to the approval of the Court. The attorneys' request for fees will not exceed twenty-five percent (25%) of the Settlement Fund plus reimbursement of reasonable out-of-pocket costs.

8. Who May I Contact If I Have Further Questions?

If you need more information or have any questions, you may contact the AIDS Law Project of Pennsylvania at (215) 587-9377 or at aetnaclass@aidslawpa.org or the Settlement Administrator using the information below. Please refer to the Aetna Privacy Settlement.

Aetna Privacy Settlement
[ADDRESS]
[TELEPHONE NUMBER]
[TOLL FREE NUMBER]
[EMAIL]
INSERT SETTLEMENT WEBSITE

This Notice only summarizes the Lawsuit, the Settlement and related matters. For more information, you may also inspect the Court files at the Office of the Clerk, United States District Court located at 601 Market Street, Philadelphia, Pennsylvania, from 8:30 a.m. to 4:30 p.m., Monday through Friday.

PLEASE DO NOT CONTACT THE COURT.

EXHIBIT D

CLAIMANT PAYMENT FORMULA

A Claimant's Award shall be the total of: (a) the Claimant's Financial Harm Award, if any; and (b) the Claimant's Non-Financial Harm Award, if any, as calculated by the Settlement Administrator.

A. Financial Harm Award. A Claimant's Financial Harm Award shall be calculated by the Settlement Administrator and shall include all reasonable non-reimbursed out-of-pocket expenses incurred by the Claimant up to $10,000 that were caused by the Benefit Notice, including, for example, any moving costs, counseling costs, loss of income, or other non-reimbursed out-of-pocket expenses upon a showing of reasonable proof. The term "reasonable proof" means the submission to the Settlement Administrator by the Claimant of receipts, invoices, credit card statements, medical records, insurance records, copies of returned checks, and/or any other reasonable form of written proof of non-reimbursed out-of-pocket expenses incurred as a result of the Benefit Notice. Amounts already received by a Claimant as part of Aetna's Immediate Relief Program will offset any Financial Harm Award to the extent that it would result in a double-recovery.

B. Non-Financial Harm Award. A Claimant's Non-Financial Harm Award shall be calculated by the Settlement Administrator based upon the Claimant's answers submitted under penalty of perjury on their Claim Form using the objective Claim Form Award Grid below. Amounts already received by a Claimant as part of Aetna's Immediate Relief Program will not offset any Non-Financial Harm Award. The Settlement Administrator shall tally the points for each Claimant based upon the Claim Form Award Grid below, and the amount of each Claimant's Non-Financial Harm Award shall be calculated by the Settlement Administrator as follows:

Total Points for Claimant	Amount of Award
1 – 5	$500
6 – 10	$2,500
11 – 17	$5,000
18 and up	$10,000

If the Net Settlement Fund after all Base Payments are subtracted as set forth in the Settlement Agreement does not cover the total collective amount of all Claimant Awards as calculated by the Settlement Administrator (including both Financial Harm Awards and Non-Financial Harm Awards combined), then each totaled Claimant Award shall be reduced *pro rata* to be paid out of the remaining amount in the Net Settlement Fund.

Claim Form Award Grid

Questions on Claim Form	**Points Assigned for Affirmative Response**
1. If someone other than you received your mail the day the Benefit Notice arrived, please explain in detail the circumstances and identify the person(s) that received your Benefit Notice.	If answer to Question 1, 2, and/or 3 is affirmative, then 1
2. If your Benefit Notice was left in an area visible to others, please explain in detail the circumstances and state where the Benefit Notice was left.	If answer to Question 1, 2, and/or 3 is affirmative, then 1
3. If your Benefit Notice was delivered to a residence or post office box that was not yours, please explain in detail the circumstances including how you came to know of this.	If answer to Question 1, 2, and/or 3 is affirmative, then 1
4. If as a result of the Benefit Notice, one or more people learned that you were taking the prescribed medication, please explain in detail the circumstances including by identifying the people who learned that you were taking the prescribed medication.	1
5. If as a result of the Benefit Notice, you felt forced to explain to someone for the first time about your reason(s) for taking the prescribed medication (including, for example, disclosing your sexual orientation, sexual practices, or medical condition), please explain in detail the circumstances including by identifying the person(s) that you felt forced to talk with, and their relationship to you.	2
6. If as a result of the Benefit Notice, your medical condition, sexual orientation, sexual practices, and/or reason(s) for taking the prescribed medication has become the subject of gossip in your community, please explain in detail the circumstances.	2
7. If as a result of the Benefit Notice, your medical condition, sexual orientation, sexual practices, and/or reason(s) for taking the prescribed medication has become known to your employer in a way that was not caused by you, or has affected your employment, please explain in detail the circumstances.	2
8. If as a result of the Benefit Notice, you have a need for medical or mental health treatment, including counseling, but have not yet received it, please explain in detail the circumstances and why you believe you require medical or mental health treatment.	2
9. If as a result of the Benefit Notice, you have been treated differently, harassed and/or shunned by family, friends, roommates, neighbors, landlords, or others, please explain in detail the circumstances and identify how you have been treated differently, harassed and/or shunned, and by whom.	3
10. If as a result of the Benefit Notice, one or more of your important relationships has been damaged, please explain in detail the circumstances and identify the relationship(s) that has been damaged, and how.	3
11. If as a result of the Benefit Notice, you feel the need to change residences but have not yet done so, please explain in detail the circumstances and identify why you feel the need to change residences and why you have not yet done so.	3

12. If as a result of the Benefit Notice, you or your dependents have sought and received medical or mental health treatment, including counseling, please explain in detail the circumstances, state how many counseling sessions or visits have occurred, and provide some form of evidence, including by attaching and returning to the Settlement Administrator a doctor's note, insurance record, receipt, invoice, credit card statement, bank statement, copy of returned check, or any other reasonable form of evidence evidencing the visit(s).	4
13. If as a result of the Benefit Notice, you have experienced repeated episodes of any of the following: trouble sleeping, anxiety, extreme stress, extreme anger, panic attacks, loss of appetite, loss of trust, and/or depression, please explain in detail the circumstances.	5
14. If as a result of the Benefit Notice, someone in your household has moved out because they no longer wanted to live with you as a result of finding out your reason(s) for taking the prescribed medications, please explain in detail the circumstances, including by identifying the person who previously lived with you and their relationship to you.	6
15. If as a result of the Benefit Notice, you have been physically harmed or threatened with serious violence or threat of bodily injury, please explain in detail the circumstances, including by identifying the person(s) who harmed or threatened you with serious violence, and describing what occurred.	6
16. If as a result of the Benefit Notice, you had to change residences, please explain in detail the circumstances, and provide your old and new address, the reason(s) you moved, and provide some form of evidence of your move.	7
17. If as a result of the Benefit Notice, you suffered any additional non-financial harm that is not covered by any of the above questions, please explain in detail the circumstances.	3 (though the Administrator shall not assign the points if the answer is duplicative of any questions above and/or if there is not an affirmative answer to Questions 1, 2 or 3)

EXHIBIT E

SETTLEMENT ADMIN INFO

Mail Date

«ClaimantName»
«Addr1»«Addr2»
«City» «State» «Zip»

RE: ***Andrew Beckett, et al. v. Aetna, Inc., et al.*, No. 2:17-CV-3864-JS (E.D. Pa.)**
Notice of Deficiency with Claim Form / Claim Package

Dear INSERT NAME:

Thank you for participating in the class action settlement in the above-referenced matter. Your settlement payment, which is attached to this letter, was calculated in accordance with the terms of the Court-approved Settlement Agreement.

Please note that your attached check must be cashed on or before MAILDATE+180 days. If you fail to cash your check by MAILDATE+180, your check will be voided and the funds will be distributed to INSERT CY PRES APPROVED BY THE COURT, pursuant to the Court's Final Approval Order and Judgment.

Please also note that the Settlement Administrator and Class Counsel cannot provide tax advice. We suggest that you contact your tax advisor regarding your settlement payment and the tax consequences related to these proceeds.

If you have any questions about your settlement payment, please call us toll-free at xxx-xxx-xxxx or contact us using the Contact Us form located at WEBSITE. For additional information about the Settlement, please visit WEBSITE.

Sincerely,
Settlement Administrator

SAVE THIS INFORMATION

Settlement Payment	«Bene»
Total Payment	**«CKAMT»**

DETACH CHECK BEFORE CASHING -- VOID AFTER MAILDATE+180 days

3

EXHIBIT F

Procedure Name:	Use of Protected Health Information in Litigation – Best Practices Policy
Procedure Number:	###
Effective Date:	
Business Unit Name:	Litigation
Business Owner:	
Department Head:	
Approval Date:	
Type	☒ New
Applicable Business	☒ Litigation

Document Control and Version History

Version	Effective Date	Author	Comments	Status
1.0				

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Background

Aetna, Inc., Aetna Life Insurance Company and Aetna Specialty Pharmacy, LLC ("collectively, "Aetna is a "covered entity" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), and its implementing rules and regulations, including the Standards for Privacy of Individually Identifiable Health Information (the "HIPAA Rules"). As a covered entity, Aetna has certain legal obligations regarding the use and disclosure of protected health information ("PHI") in its possession. In general, Aetna may not use or disclose an individual's PHI for purposes unrelated to treatment, payment or health care operations (which includes conducting or arranging for litigation services), without first obtaining the individual's signed authorization. This general rule is subject to certain specified exceptions. One of those exceptions covers the use and disclosure of an individual's PHI in judicial and administrative proceedings.

The obligations relating to the use and disclosure of PHI apply not only to covered entities like Aetna, but also to their business associates. A "business associate" is, among other things, a person or entity who "creates, receives, maintains, or transmits" PHI in the course of performing services on behalf of the covered entity. Thus, retained litigation counsel for Aetna is a business associate if it "creates, receives, maintains, or transmits" PHI in the course of its representation of Aetna. As explained below, it is Aetna's policy that all retained litigation counsel for Aetna must execute an Aetna-approved business associate agreement ("BAA") with Aetna or sub-BAA with litigation counsel before it may perform legal services. Aetna-approved BAAs require Aetna's business associates to keep PHI secure and to only use and disclose PHI for the purposes for which they are engaged.

In addition, Aetna has certain additional legal obligations relating to the use and disclosure of specific classes of PHI, including information relating to health plan members' HIV status and behavioral health and substance use disorder treatment. These requirements apply equally to retained litigation counsel who have access to these classes of PHI.

Purpose

The purpose of this Use of Protected Health Information in Litigation – Best Practices Policy ("Best Practices Policy") is to implement comprehensive, best practices policies and procedures for the use of PHI in litigation in which Aetna is a party, and establish specialized processes for litigation involving heightened privacy concerns, including health plan members' HIV-related and behavioral health and substance use disorder information. This Best Practices Policy also sets forth policies and procedures for the disclosure of PHI when Aetna is not a party to an action. This Best Practices Policy is designed to provide best practices in addition to satisfying any legal requirements that may exist.

Scope

This Best Practices Policy applies to all litigation managed by Aetna's litigation group supervised by Aetna's Head of Litigation ("Head of Litigation;" currently, Ed Neugebauer).

Definitions

BA: Business Associate. A business associate is a person or entity that performs certain functions or activities that involve the use or disclosure of PHI on behalf of, or provides services to, a covered entity.

BAA: Business Associate Agreement. A business associate agreement is a contract between a covered entity (such as a health plan) and a BA. The BAA protects PHI in accordance with HIPAA Rules.

CE: Covered Entity. A covered entity is any entity that is (i) a health care provider that conducts certain transactions in electronic form (called here a "covered health care provider"); (ii) a health care clearinghouse; or (iii) a health plan. Aetna is a CE because it is a health plan.

HIPAA Rules: HIPAA Rules is defined herein as HIPAA and its implementing rules and regulations, including the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule").

PHI: Protected Health Information, or PHI, as defined in 45 C.F.R. 160.103, includes information maintained by Aetna or one of its BAs that identifies an individual and relates to the individual's health condition, medical treatment or payment for health care. As explained below, PHI can be part of many different types of records, such as claims data, medical records and pre-certification information. PHI also includes demographic information such as dates of birth or zip codes that are part of a data set that has been derived from records containing health information, even if no health information remains in that data set.

QPO: Qualified Protective Order. A Qualified Protective Order is an order from a court that limits use and disclosure of PHI in litigation. Pursuant to 42 C.F.R. 164.512(e)(1)(v), a QPO must meet the following requirements: (1) prohibits the parties from using or disclosing the PHI for any purpose other than the litigation or proceeding; and (2) requires the return to the covered entity or destruction of the PHI at the end of the litigation or proceeding.

Use of PHI in Litigation – Best Practices

Consistent with Aetna's Guide for Outside Counsel and related addenda (the "Guide"), it is critical that Aetna and retained litigation counsel follow federal laws, including HIPAA Rules, and applicable state laws regarding the use, disclosure and handling of PHI, including information related to HIV, behavioral health, and substance use. Aetna may use or disclose PHI without the written authorization of the individual referenced in the PHI in limited situations such as in connection with judicial proceedings, subject to specific rules and limitations. This Best Practices Policy summarizes "best practices" that Aetna and retained litigation counsel must follow in connection with the use and disclosure of PHI in judicial proceedings and pre-litigation negotiations.

1. All Retained Litigation Counsel Must Sign An Aetna-Approved BAA

All retained litigation counsel who work on Aetna litigation matters must sign an Aetna-approved BAA or sub-BAA before starting work, regardless whether PHI may or may not be disclosed as part of the matter. Exceptions to this rule may be granted only in limited circumstances with the express written approval by Aetna's Head of Litigation.

Aetna will establish a SharePoint with signed BAAs for retained litigation counsel. Aetna personnel must verify that a signed Aetna-approved BAA is in place ***before*** retained litigation counsel may commence work. Aetna will, on a periodic basis (and at least once annually) perform audits to ensure compliance with this section.

Aetna will notify retained litigation counsel when additional agreements are required under federal and/or state laws governing the confidentiality of certain types of sensitive health information, such as health plan members' HIV and behavioral health status and substance use disorder information.

2. De-identified Member Information

As a general matter, it is Aetna's policy to limit, whenever possible, the use and/or disclosure of health information in all litigation to only de-identified member information. Aetna and/or retained litigation counsel must take all reasonable steps to avoid the use and disclosure of PHI in litigation matters.

Health information is "individually identifiable" if it includes any of the 18 types of identifiers for an individual or for the individual's employer or family member, or if the provider or researcher is aware that the information could be used, either alone or in combination with other information, to identify an individual. These identifiers include, among others, name, address (all geographic subdivisions smaller than state, including street address, city, county, or ZIP code), all elements (except years) of dates related to an individual (including birth date, admission date, discharge date, date of death, and exact age if over 89), telephone or fax numbers, medical record or health plan beneficiary numbers, license plate numbers, email address, Social Security number, certificate/license number, and any other unique identifying number, characteristic, or code. 45 C.F.R. 160.103.

This "best practice" applies regardless whether Aetna is using health information in litigation for its own purposes or is responding to a subpoena, document request or other lawful process.

3. Minimum Necessary Standard

If PHI is required to be used or disclosed in litigation, it is Aetna's policy to limit the use or disclosure of PHI to the minimum necessary to accomplish the intended purpose of the use or disclosure (the "Minimum Necessary Standard"). Thus, if PHI is required to be used or disclosed in litigation, Aetna and/or retained litigation counsel must take all reasonable steps to limit the use and disclosure of PHI in litigation to the Minimum Necessary Standard prior to its use or disclosure.

This practice applies regardless whether Aetna is using PHI in litigation for its own purposes or is responding to a subpoena, document request or other lawful process. This Best Practices Policy does not, however, require Aetna to move to quash or limit any discovery request or subpoena that calls for the production of PHI.

4. Best Practices Regarding Aetna's Use / Disclosure of PHI in Litigation

In general, Aetna may use or disclose PHI for treatment, payment, or health care operations. "Health care operations" includes conducting or arranging for legal services. Thus, Aetna may use or disclose PHI in connection with litigation, subject to the limitations set forth herein.

a. Use of Business Associates By Aetna to Assist It in Litigation

Aetna is entitled to use BAs to assist it in litigation. As noted above, retained litigation counsel is a BA and is required to execute a BAA prior to starting work. Retained litigation counsel may also hire other counsel (e.g., local counsel), sub-contractors and/or vendors to assist it in litigation. If those sub-contractors or vendors will have access to PHI, they must also sign a BAA directly with Aetna, or sign a sub-BAA with retained litigation counsel, prior to starting work. It is Aetna's practice for Aetna-retained experts and consultants, as well as Aetna-retained litigation support vendors (including, for example, court reporters, mail vendors, claims or settlement administrators, copy services and the like) to execute a BAA (if retained directly by Aetna) or a sub-BAA (if retained by litigation counsel), before PHI is disclosed to them by Aetna or litigation counsel.

If Aetna or an Aetna BA retains a litigation support vendor (including a claims or settlement administrator) to communicate directly to Aetna members, Aetna or an Aetna BA must obtain a BAA or sub-BA with the Aetna-retained vendor and comply with the provisions of Sections 5-11 of the Best Practices Policy below. Aetna shall also require the entry of a QPO for disclosure of PHI to any Aetna-retained vendor.

If, however, Aetna is ordered by a Court to provide PHI to a litigation support vendor (including a claims or settlement administrator), either directly or through a third party, Aetna is not required to obtain a BAA with that vendor, but is required to disclose only the PHI expressly authorized by the Court in the manner the Court so orders, and shall request entry of a QPO or other appropriate order to govern the transmission of the PHI.

An Aetna-approved form BAA and an Aetna-approved sub-BAA are attached to the Guide.

Aetna will establish a SharePoint with a list of Aetna-approved expert and consulting firms and litigation support vendors with which Aetna has already entered into a BAA. Aetna and/or retained litigation counsel shall ensure that any experts, consultants or litigation support vendors it intends to use in litigation has signed a BAA or sub-BAA prior to the disclosure of PHI to them.

In addition, it is Aetna's policy to require Aetna-retained experts, consultants and litigation support vendors to also sign an affidavit or declaration agreeing to the terms of the QPO (see below) that has been entered in the litigation prior to starting work. This requirement is not in lieu of obtaining a BAA, but is in addition to obtaining a BAA, with Aetna-retained experts, consultants and litigation support vendors.

Any disclosure of PHI to experts, consultants or litigation support vendors should be memorialized and monitored by Aetna and retained litigation counsel pursuant to the chain of custody requirements discussed below in Section 8 below.

Further, in cases involving specific classes of PHI, including information relating to a health plan members' HIV status or behavioral health or substance use, Aetna and retained litigation counsel must assess all applicable federal and state-specific laws and regulations addressing those specific classes of PHI to ensure compliance with those laws and regulations before using or disclosing such PHI to Aetna-retained experts, consultants or litigation support vendors (including claims and settlement administrators).

b. Minimum Necessary Standard

The Minimum Necessary Standard described above applies to all uses and disclosures of PHI by Aetna or its business associates in litigation.

c. Use / Disclosure of PHI By Aetna in Court Proceedings

It is Aetna's policy not to file PHI with any court unless reasonably necessary. If necessary to file, Aetna and/or retained litigation counsel must take all reasonable steps to protect against the public disclosure of PHI through redacting PHI from public filings and/or filing documents that contain PHI under seal or *in camera*, in compliance with court rules. Aetna and/or retained litigation counsel shall work with courts to protect the public disclosure of PHI in trials or other proceedings. In cases involving specific classes of PHI, including information relating to a health plan member's HIV status or behavioral health or

substance use, Aetna and/or retained litigation counsel must assess all applicable federal and state-specific laws and regulations addressing those specific classes of PHI to ensure compliance with those laws and regulations, and may be required to take additional steps to protect against the public disclosure of PHI.

5. Best Practices Regarding Disclosure of PHI to Opposing Party or Requesting Third Party

Aetna may not produce PHI to an opposing party or a requesting third party, except as set forth below.

a. HIPAA Authorization

In any litigation or settlement, or pre-litigation matter involving an individual member (or individual members), if requested by the member's attorney (or other designated representative), Aetna and/or outside litigation counsel may disclose member PHI to them if the member(s) have signed a HIPAA Authorization permitting the disclosure pursuant to HIPAA Rules. A copy of Aetna's standard HIPAA Authorization form is attached to the Guide.

In situations where specific classes of PHI, including information relating to a health plan members' HIV status and behavioral health and substance use, could potentially be used or disclosed to a member's counsel, Aetna and retained litigation counsel must assess applicable federal and state-specific laws to ensure that the authorization form complies with those laws prior to disclosing the member's PHI to the member's attorney or other third party.

This "best practice" applies regardless whether or not Aetna is a party to an action.

b. Disclosures Pursuant to Lawful Process

In addition, Aetna and retained litigation counsel may disclose PHI in the course of a judicial proceeding under the following circumstances only (42 C.F.R. 164.512(e)):

(1) In response to an order of a court or administrative tribunal, provided that Aetna only discloses the PHI *expressly* authorized by the order, and if the order does not contain a QPO, Aetna shall request a QPO or other appropriate order;

(2) In response to a subpoena, discovery request, or other lawful process propounded by an opposing party or requesting third party if: (i) Aetna receives satisfactory assurances that the party seeking the information has made reasonable efforts to ensure that the individual who is the subject of the PHI has been given notice of the request, or (ii) the party seeking the information has secured a QPO. Aetna and/or retained litigation counsel must make reasonable efforts to meet and confer with the requesting party to narrow the scope of the requested PHI to the Minimum Necessary Standard, consistent with Section 4(b) above.

Further, in cases involving specific classes of PHI, including information relating to health plan members' HIV status or behavioral health or substance use, Aetna and/or retained litigation counsel must assess relevant laws and regulations addressing those specific classes of PHI to ensure compliance with those laws and regulations prior to use or disclosure in litigation.

c. Entry of QPO

In any case in which PHI may be used or disclosed to an opposing party in litigation, it is Aetna's policy to require the entry of a QPO at the earliest possible time in the litigation. Attached to the Guide is a form QPO that may be used in litigation, subject to court- or state-specific requirements.

In cases involving specific classes of PHI, including information relating to health plan members' HIV status or behavioral health or substance use, Aetna and/or retained litigation counsel must assess and, where applicable, modify the form QPO to ensure compliance with laws and regulations that address those specific classes of PHI.

In individual member litigation, a QPO is not required to produce member PHI to a member's attorney (or designated representative), if that member executes a valid authorization form prior to disclosure. That said, it is Aetna's policy to ensure that a QPO is entered in all cases in which PHI may be used or disclosed, prior to use or disclosure. In individual member cases, retained litigation counsel should consult with and obtain approval from Aetna prior to disclosing member PHI to a member's attorney and must take reasonable steps to ensure that a QPO is entered at the earlier possible time. Aetna's retained litigation counsel must memorialize efforts taken to ensure entry of a QPO in individual member cases. No PHI may be disclosed in individual member cases if Aetna has not obtained either a HIPAA Authorization or if a QPO is not in place.

6. Transmission of PHI in Litigation

The transmission of PHI to opposing counsel or to any third party consistent with the above must be done in a HIPAA-compliant manner, pursuant to 45 C.F.R. § 164.312.

Further, in cases involving specific classes of PHI, including information relating to health plan members' HIV status or behavioral health or substance use, Aetna and/or retained litigation counsel must assess relevant laws and regulations addressing those specific classes of PHI to ensure compliance with those laws and regulations prior to transmission of PHI in litigation.

7. Chain of Custody Documentation

Each disclosure of PHI must have a complete chain of custody documented in the case file. For example, Aetna must have a BAA between Aetna and retained litigation counsel before sending any PHI to the law firm, and any PHI disclosed to retained litigation counsel should be recorded in the case file.

In addition, before any PHI is disclosed to an Aetna-retained expert or consultant, Aetna and/or retained litigation counsel must have a BAA or sub-BAA with the expert or consultant. Further, before any PHI is disclosed to an Aetna-retained litigation support vendor, Aetna and/or retained litigation counsel must have a BAA or sub-BAA with the vendor. As noted above in Section 4, it is Aetna's policy to require Aetna-retained experts, consultants and litigation support vendors to also execute an affidavit or declaration agreeing to comply with the terms of the QPO. It is Aetna's policy to maintain a record of each disclosure of PHI by Aetna and retained litigation counsel to ensure compliance with this Best Practices Policy.

Further, before any PHI is disclosed to an opposing party by Aetna and/or retained litigation counsel, a QPO (and/or a signed HIPAA Authorization, in individual member cases) must be on file with Aetna prior to disclosure. Aetna's form QPO prohibits opposing counsel from disclosing PHI to any third party unless and until the third party executes an affidavit or declaration agreeing to comply with the terms of the QPO. As noted above, retained litigation counsel should also attempt to obtain agreement from opposing counsel that any subsequent disclosures of PHI by opposing counsel to any third party require prior notification by opposing counsel to Aetna of the disclosure, including to whom the disclosure is being made and the purpose of the disclosure.

Aetna will engage in periodic audits of case files to ensure compliance with this section.

8. Communications with Members

In any matter in which a communication will be sent by Aetna or on Aetna's behalf, retained litigation counsel and/or an Aetna-retained consultant or vendor to members who are not a named party to the lawsuit (*e.g.*, putative class members or class members) and the communication includes any suggestion of a member's health condition or treatment or otherwise contains any member PHI, the substance and form of the communication ***must first be approved in writing by both the Court and by Aetna's Privacy Office,*** and any vendor to be used for the communication and any follow-up communications must be approved by Aetna in writing. It is a best practice in all communications with members (regardless of whether the member is a named party) to limit the inclusion of a member's health condition or treatment or PHI to the minimum necessary.

9. Government Investigations

This Best Practices Policy also applies to government investigations, as appropriate under the circumstances. Aetna must receive adequate assurances from government agencies demanding PHI, prior to disclosure, that PHI will be subject to the highest degree of protection and will not be disclosed or transmitted to any third party without advance notice to Aetna and an opportunity to take action.

10. Return or Certification of Destruction of PHI

At the conclusion of each litigation matter, Aetna and/or retained litigation counsel must obtain the return, or a written certification of destruction, of PHI by opposing counsel and all third parties to whom

disclosure of the PHI was made before, during or following the litigation. This includes opposing counsel, any third party with whom opposing counsel disclosed the PHI, Aetna-retained experts and consultants, and litigation support vendors (including claims and settlement administrators). In consultation with Aetna and retained litigation counsel, and subject to approval by Aetna's Head of Litigation, opposing counsel may retain work product that includes PHI, provided that opposing counsel continues to be subject to the terms of the QPO and agrees that the PHI will be subject to the highest degree of protection.

11. Mandatory Education and Training

Aetna shall implement initial and annual training of the best practices in handling PHI in litigation for Aetna's litigation staff and retained litigation counsel on Aetna matters. Relevant litigation staff includes all personnel who may receive or transmit PHI, or who are responsible for the maintenance of records containing PHI, and may include non-lawyers.

12. No Admission or Waiver

Nothing in this Best Practices Policy shall be deemed an admission by Aetna of its legal requirements or a waiver of any of Aetna's rights, remedies or defenses.

* * * * * * *

Any questions regarding this policy may be directed to Aetna's Head of Litigation ("Head of Litigation;" currently, Ed Neugebauer).

EXHIBIT E

ATTORNEY GENERAL OF THE STATE OF NEW YORK
HEALTH CARE BUREAU

In the Matter of

Assurance No. 18-001

Investigation by ERIC T. SCHNEIDERMAN, Attorney General of the State of New York, of

Aetna Inc.,

Respondent.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York ("OAG") commenced an investigation pursuant to Executive Law Section 63(12) into certain privacy breaches by Aetna Inc. ("Aetna"), through its mailing of material which improperly disclosed member Protected Health Information ("PHI"). This Assurance of Discontinuance ("Assurance") contains the findings of OAG's investigation and the relief agreed to by OAG and Aetna, whether acting through its respective directors, officers, employees, representatives, agents, affiliates, or subsidiaries, etc. (collectively, the "Parties").

I. BACKGROUND

1. Human Immunodeficiency Virus ("HIV")-related stigma continues to be a barrier that must be overcome in supporting those living with HIV and stopping the spread of HIV and Acquired Immunodeficiency Syndrome ("AIDS"). In fact, 90% of Americans recognize that people living with HIV and AIDS face prejudice and discrimination. *See* Henry J. Kaiser Family Foundation, the Washington Post/Henry J. Kaiser Family Foundation 2012 Survey of Americans

on HIV/AIDS (July 2012). More than half of Americans say they feel some discomfort with people with HIV/AIDS. *Id.* And roughly one in eight people living with HIV is denied health services because of such stigma and discrimination associated with HIV and AIDS. *See HIV Stigma and Discrimination*, AVERT, https://w.avert.org/professionals/hiv-social-issues/stigma-discrimination (last visited Jan. 10, 2018).

2. Thus, an improper disclosure of a person's HIV or AIDS status can often result in the denial of proper health care, poor treatment in educational and work settings, and many other collateral consequences. *Activities Combating HIV Stigma and Discrimination*, HIV.gov, https://www.hiv.gov/federal-response/federal-activities-agencies/activities-combating-hiv-stigma-and-discrimination (last visited Jan. 10, 2018).[1] Moreover, for the roughly one million Americans living with HIV/AIDS, the "painful stigma and discrimination continue to permeate their daily lives." *Eradicating Discrimination Against People Living With HIV/AIDS*, U.S. Dept. of Justice Archives, https://www.justice.gov/archives/opa/blog/eradicating-discrimination-against-people-living-hivaids (last visited Jan. 10, 2018).

3. To ensure that its residents feel safe to come forward to be tested and treated for HIV, the State of New York has enacted HIV-specific privacy provisions designed to protect the confidentiality of health information. *See, e.g.,* N.Y. Pub. Health Law §§ 18 and 2782.

[1] "HIV stigma and discrimination can pose complex barriers to prevention, testing, treatment, and support for people living with or at risk for HIV. Some examples of stigma include being shunned by family, peers, and the wider community; receiving poor treatment in health care and education settings; and experiencing judgmental attitudes, insults, or harassment. Some individuals with HIV have been denied or lost employment, housing, and other services; prevented from receiving health care; denied access to educational and training programs; and have been victims of violence and hate crimes. HIV-related stigma and discrimination prevents individuals from learning their HIV status, disclosing their status even to family members and sexual partners, and/or accessing medical care and treatment, weakening their ability to protect themselves from getting or transmitting HIV, and to stay healthy." Activities Combating HIV Stigma and Discrimination, HIV.gov, https://www.hiv.gov/federal-response/federal-activities-agencies/activities-combating-hiv-stigma-and-discrimination (last visited Jan. 10, 2018).

4. HIV-specific privacy laws and corresponding civil penalties are a valuable and effective policy measure, given the serious consequences resulting from an improper disclosure of a person's HIV or AIDS status. *Activities Combating HIV Stigma and Discrimination*, HIV.gov, https://www.hiv.gov/federal-response/federal-activities-agencies/activities-combating-hiv-stigma-and-discrimination (last visited Jan. 10, 2018).

5. Congress recognized the importance of protecting the privacy of all individually identifiable health information when it enacted the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), which established a Federal floor of safeguards to protect the confidentiality of medical information.

II. OAG'S INVESTIGATION AND FINDINGS

As a result of the OAG's investigation, the OAG has made the following findings:

a. Aetna's July 2017 Breach of Its Members' Privacy Rights

6. Aetna is a covered entity within the meaning of HIPAA, and thus is required to comply with the HIPAA federal standards that govern the privacy of individually indefinable health information.

7. Prior to January 1, 2016, because some health plans administered by Aetna placed HIV Medications on the Specialty Drug List, some members were designated to obtain these medicines through mail order (and not a brick and mortar retail pharmacy) unless they were able to opt-out. Additionally, Aetna had alerted other members that there would be a 2015 plan change implementing the use of mail order for such medicines, although Aetna ultimately decided not to implement the change. Two separate class action lawsuits (*see Doe v. Aetna, Inc.*, No. 14-cv-2986 (S.D. Cal); *Doe v. Coventry Health Care, Inc.*, No 15-cv-62685 (S.D. Fla.) (collectively, the "*Doe* lawsuits")) were filed regarding the use of mail order to obtain HIV

Medications. The lawsuits claimed, among other things, that members were harmed by possible increased out-of-pocket financial responsibility and potential privacy concerns related to receiving medications by mail order.

8. The *Doe* lawsuits were ultimately resolved in 2017. As part of the settlement, the parties agreed that a letter would be sent to certain members to clarify their options for obtaining HIV Medications at brick and mortar retail pharmacies or by mail order.

9. Aetna then provided the personal health information of such members to its Outside Counsel, who in turn gave the information to a third party settlement administrator ("Settlement Administrator"), who then processed and carried out the mailing required by the settlement agreement.

10. At all times relevant, Outside Counsel was acting as Aetna's business associate under a business associate agreement, performing services on Aetna's behalf.

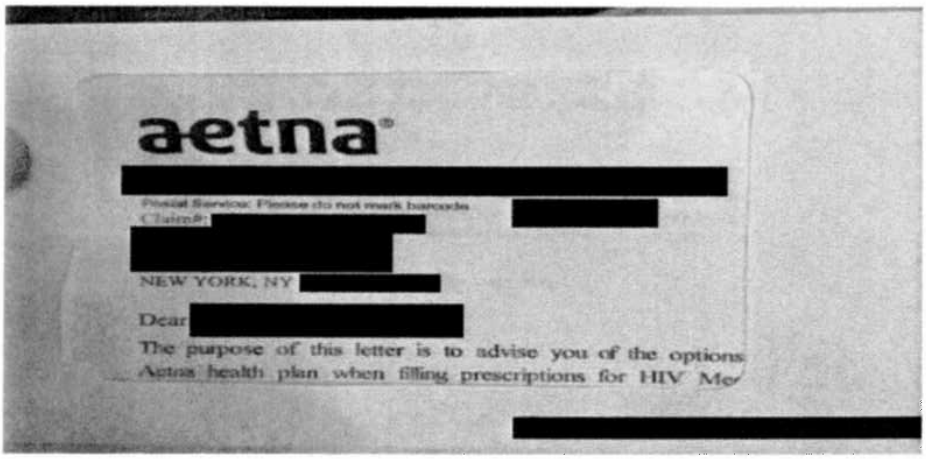
11. Neither Aetna nor counsel in the case, ensured that the Settlement Administrator entered into any business associate agreement with Aetna or its Outside Counsel.

12. Approximately 2,460 letters were sent to New Yorkers in envelopes with a large transparent glassine window on July 28, 2017.

13. On July 31, 2017, Aetna began receiving calls and emails from some members who had received the letter, claiming that the words "HIV Medications," in whole or in part, could be seen through the envelope's window.

14. As the following figure illustrates, due to the large-window envelope and the way in which the letters were folded and inserted in the envelope, individuals' names, addresses, and claim numbers as well as the first several lines of letter containing instructions related to HIV

Medications were clearly visible from the outside of the envelope if the letter shifted in the envelope during delivery. Thus the mailing revealed the HIV status of some of the approximately 2,460 New Yorkers who received the letter to third parties.



15. On August 28, 2017, Plaintiff Andrew Beckett filed a putative class action complaint in the Eastern District of Pennsylvania, *Beckett v. Aetna, Inc. et al.* (Case No. 2:17-cv-03864 (JS)), which he amended in the First Amended Complaint ("FAC") on December 5, 2017, to assert claims arising under New York State law on behalf of "[a]ll persons whose Aetna [July 28 mailing] was mailed to a New York address." Specifically, pursuant to New York State law, the FAC asserts violations of N.Y. Gen. Bus. Law § 349(a) and N.Y. Pub. Health Law § 2780, et seq. The FAC seeks, *inter alia*, an "[a]ward[] of compensatory, statutory, exemplary, and punitive damage on behalf of Plaintiffs and the [New York] Class members[.]"[2]

[2] The class action lawsuit is expected to resolve the damages question for members who received the mailing; therefore, this Assurance does not include or resolve those claims.

b. Aetna's September 2017 AFib Mailing

16. As part of a research study intended to improve anti-coagulant medication usage, Aetna identified 163 of its members residing in New York to receive educational materials based on their Atrial Fibrillation ("AFib") diagnosis with the intent to improve their medication adherence. On September 25, 2017 Aetna sent each of these members a mailing containing such educational materials.

17. Displayed on each envelope was the logo of the research study, "IMACT-AFIB," which could have been interpreted as indicating that the recipient member had an AFib diagnosis. No additional information about the member other than his/her name and address was included on the envelope. Aetna reported the mailing to the Office of Civil Rights. ("Impact AFib Notice").

c. Additional Aetna Notifications to HHS

18. In addition to the two mailing incidents described above, within 24 months, Aetna reported three other breaches to the Department of Health & Human Services ("HHS"), as it is required to do when such breaches affect 500 or more individuals. In total, these three incidents reported by Aetna affected over 25,000 individuals, some of whom are believed to reside within the State of New York. HHS, which is required to post a list of breaches of unsecured protected health information affecting 500 or more individuals, has posted information for these three privacy breaches by Aetna.

d. Aetna's Representations with Regard to Member Privacy

19. On Aetna's publically accessible website, the company acknowledges, *inter alia*, that HIPAA (in addition to other federal and state privacy laws) requires health care companies like Aetna to keep patient information confidential. *See Privacy FAQs*, Aetna,

https://www.aetna.com/faqs-health-insurance/about-us-privacy-faqs.html (last visited Jan. 10, 2018). The confidential information would include "[a]nything your doctors, nurses, and others put in your medical record." *Id.* The website asserts that an Aetna member could "[d]ecide if you want to give your permission before your information can be used or shared," as well as "[g]et a report on when and why your information was shared for certain purposes[.]" Aetna assures members that in service of privacy it would:

- Put safeguards in place to protect [such] information
- Limit the use and disclosure of your information to the minimum needed to accomplish our goals
- Enter into agreements with [Aetna's] contractors and others to make sure they use and disclose your information properly and safeguard it appropriately
- Have procedures in place to limit who can see your information
- Hold training programs for employees to learn how to protect your information

Id. Indeed, Aetna also claims that it has "extensive operational and technical protections in place" to protect its members' personal health information, and that it was "continually improving and updating as part of [Aetna's] existing commitment to information privacy and compliance with legislation such as HIPAA and state privacy laws." *Personal Health Record (PHR) FAQs*, Aetna, https://www.aetna.com/faqs-health-insurance/personal-health-record-faqs.html (last visited Jan. 10, 2018).

20. Plan documents that describe Aetna health plans of which New York residents are members represent that [i]nformation contained in the medical records of Members and information received from any Provider incident to the provider-patient relationship shall be kept

confidential in accordance with applicable law. Information may be used or disclosed by HMO when necessary for a Member's care or treatment, the operation of HMO and administration of this [Explanation of Coverage], or other activities, as permitted by applicable law.

21. Aetna's own policy, "Use and Disclosure of Member Protected Health Information ("PHI")," states that Aetna "will safeguard member PHI from impermissible and unauthorized use and disclosure in accordance with federal and state law, the Company's Code of Conduct, and industry standards."

e. Aetna Privacy Practice Changes

22. Aetna asserts that it has modified or is in the process of modifying its Standard Operating Procedure for Print/Mailing Quality-Prevention of PHI/unwanted disclosure(s) ("Standard Operating Procedure # PRINT MAILING") and Use of Protected Health Information in Litigation – Best Practices Policy ("Standard Operating Procedure # LITIGATION"), (collectively referred to herein as "New Operating Procedures"), in the following manner:

a. Standard Operating Procedure # PRINT MAILING applies to all Aetna business units.

b. To use only the minimum necessary member PHI and/or Personally Identifiable Information ("PII"), Aetna now requires that a production attestation be used throughout all Aetna business areas to document instances in which use of Aetna member PHI or PII is contemplated in a member-facing mailing. This procedure requires that each business area and its privacy manager approve whether including PHI or PII is absolutely necessary in any new or changed printed member mailing. This procedure also requires approval of anything printed on the envelope itself. In addition, this procedure prohibits print vendors from processing any member-facing print material containing PHI/PII without an attestation form.

c. When, as a result of their review of the production attestation a business area manager and privacy manager determine that the use of PHI and/or PII is absolutely necessary, the new Standard Operating Procedure # PRINT MAILING requires that:

i. All print projects be performed through Aetna's Print Procurement Team for print sourcing. It also prohibits business areas from contracting directly with third party print vendors.

ii. The Print Procurement Team maintains a procedure to ensure that no information is positioned anywhere near an envelope's window, and requires a cover sheet, in certain situations, such that only the member's name and address will appear on the first page of any mailing.

d. Aetna shall require employees to be trained on Standard Operating Procedure # PRINT MAILING as part of Aetna's annual code of conduct training process, and no less frequently than annually thereafter. Aetna shall also require new Aetna employees to be trained on Standard Operating Procedure # PRINT MAILING within thirty days of his or her date of hire, and no less frequently than annually thereafter.

e. In 2018, Aetna will conduct an internal audit of the process and controls implemented in Standard Operating Procedure # PRINT MAILING.

f. Standard Operating Procedure # LITIGATION applies to the litigation business area.

g. Standard Operating Procedure # LITIGATION shall adopt comprehensive, best practices policies and procedures for the use of PHI in litigation in which Aetna is a party, and shall establish specialized processes for litigation involving heightened privacy concerns, including health plan members' HIV-related and behavioral health and substance use disorder information. Standard Operating Procedure # LITIGATION shall set forth policies and procedures for the disclosure of PHI when Aetna is not a party to an action. Standard Operating Procedure # LITIGATION is designed to provide best practices in addition to satisfying any existing legal requirements.

h. Standard Operating Procedure # LITIGATION requires that Aetna implement initial and annual training of the best practices in handling PHI in litigation for Aetna's litigation staff and retained litigation counsel on Aetna matters. Relevant litigation staff includes all personnel who may receive or transmit PHI, or who are responsible for the maintenance of records containing PHI, and may include non-lawyers.

i. In 2018, Aetna will conduct a review of the process and controls implemented in Standard Operating Procedure # LITIGATION.

III. RELEVANT NEW YORK STATE AND FEDERAL LAW

23. The New York State Executive Law prohibits "repeated fraudulent or illegal acts" in conduct of any business, trade or commerce, and allows the OAG to institute a special proceeding for restitution, damages, and/or injunctive relief against any party which has committed such acts. N.Y. Exec. Law § 63(12).

24. Section 18 of the Public Health Law describes the process that health care providers must follow when making disclosures of patient information to third parties:

> Whenever a health care provider, as otherwise authorized by law, discloses patient information to a person or entity other than the subject of such information or to other qualified persons, either a copy of the subject's written authorization shall be added to the patient information or the name and address of such third party and a notation of the purpose for the disclosure shall be indicated on the file or record of such subject's patient information maintained by the provider[.]

N.Y. Pub. Health Law § 18(6). The statute further provides that "[a]ny disclosure made pursuant to this section shall be limited to that information necessary in light of the reason for disclosure. Information so disclosed should be kept confidential by the party receiving such information and the limitations on such disclosure in this section shall apply to such party." *Id.*

25. New York General Business Law ("GBL") § 349 provides that "[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in [New York] are ... unlawful."

26. The OAG finds that Aetna's July 28, 2017 mailing and its September 25, 2017 mailing are in violation of HIPAA (45 C.F.R. § 164.502; 42 U.S.C. § 1320d-5), N.Y. Gen. Bus. Law § 349, N.Y. Pub. Health Law § 18(6), and N.Y. Exec. Law § 63(12).

27. Aetna neither admits nor denies the OAG's assertions, allegations and findings set forth in Paragraphs 1 through 21, 24 and 26 above.

28. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. Aetna agrees to this Assurance in settlement of claims asserted herein and intending that this Assurance will promote further and ongoing cooperation between Aetna and the OAG concerning Aetna's compliance with the laws referenced herein. THEREFORE, the OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of Executive Law based on the conduct described above.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

29. Programmatic Relief:

a. Aetna shall maintain the modifications already made to its New Operating Procedures described in paragraph 22, and complete the remainder within 120 days of the Effective Date of this Assurance. For a period of two (2) years following the Effective Date of this Assurance, Aetna shall notify the OAG of any proposed material changes to its New Operating Procedures at least 30 days in advance of implementing proposed changes.

b. Aetna shall provide to the OAG a copy of all audit reports produced pursuant to paragraph 22 of this Assurance, within thirty (30) days of completion.

c. Acceptance of this Assurance by OAG is not an approval or endorsement by OAG of any of Aetna's practices or procedures, and Aetna shall make no representation to the contrary.

d. *Compliance with Other Obligations.* In the event that Aetna reasonably believes that the performance of its obligations under any provision of this Assurance would conflict with any federal or state law or regulation that may be enacted or adopted after the Effective Date of this Assurance such that compliance with both this Assurance and such provision of law or regulation is not possible, Aetna shall notify the OAG promptly and the Parties shall meet and confer at their earliest convenience to attempt to resolve such conflict.

30. Oversight:

a. *Independent Consultant:* Within sixty (60) days of the Effective Date of this Assurance, Aetna shall submit to the OAG (i) the names and addresses of three (3) independent consultants with appropriate experience and expertise in privacy matters in the healthcare industry to conduct the monitoring and reporting set forth in this paragraph, and (ii) their respective monitoring proposals for OAG approval. Within ninety (90) days of the Effective Date of this Assurance, Aetna shall engage, for a period of two (2) years, the services of an independent consultant whose proposal is among those approved by the OAG ("Consultant"). The Consultant shall review all Aetna's policies and standard operating procedures related to member privacy, confidential information, PHI and/or PII, including plans to disseminate the policies and employee training on the privacy policies, to insure compliance with all applicable federal and New York State laws and shall monitor Aetna's compliance with its obligations under paragraph 29 of this Assurance.

i. Within sixty (60) days of engagement, the Consultant shall provide an initial report to the OAG regarding his/her findings.

ii. Following the initial report, the Consultant shall, at twelve months and again at twenty–four (24) months from the Effective Date of this Assurance, submit additional reports on the status of Aetna's compliance with this Assurance and on its compliance with applicable federal and state law.

iii. These reports will also include recommendations for enhancement of privacy policies in an effort to maintain best practices in the privacy area.

iv. At the discretion of the OAG, the Consultant shall be extended for a one year period if Aetna is not in substantial compliance with this Assurance or if the Consultant identifies significant material recommendations for enhancement of privacy policies in his or her final report.

b. *Periodic Compliance Reports:* Aetna shall provide the OAG with a report detailing its compliance with the requirements set forth in this Assurance, paragraph 29 (Programmatic Relief), to be submitted to the OAG within one hundred twenty (120) days of the Date of this Assurance. This report shall be in writing and shall set forth in detail the manner and form of compliance with this Assurance, and shall be signed by Aetna. Thereafter, a report of compliance shall be submitted to OAG on an annual basis for the following two (2) years. In any case where the circumstances warrant, the OAG may require Aetna to file an interim report of compliance upon thirty (30) days' notice.

c. *Compliance Report or Certificate on Demand:* At any time through two years from the Effective Date of this Assurance, and upon thirty (30) days written notice from the OAG, Aetna shall provide the OAG with a report detailing and a certification affirming its compliance with the requirements set forth in this Assurance, paragraph 29 (Programmatic Relief).

d. *Record Keeping Requirements:* Aetna shall retain all records relating to its obligations hereunder, including outreach, training, special programs, and other activities as set forth herein, until at least three years from the Effective Date of this Assurance. During that time, Aetna shall, upon thirty (30) days written notice from the OAG, provide all documentation and information necessary for the OAG to verify compliance with this Assurance.

31. Monetary Relief

a. Aetna shall pay to the State $1,150,000 in penalties. Payment shall be made in full within ten (10) business days of the Effective Date of this Assurance and receipt of wiring instructions from OAG, whichever is later.

b. Payments shall be made by wire transfer to the "State of New York", and shall reference Assurance No. 18-001. Notice of wire transfer payment shall be sent to Susan J. Cameron, Deputy Bureau Chief; State of New York, Office of the Attorney General, Health Care Bureau, 120 Broadway, New York, NY 10271-0332 and via e-mail at susan.cameron@ag.ny.gov.

32. Enforcement

a. Aetna expressly agrees and acknowledges that a default in the performance of any obligation under this Assurance, after written notice of the default is provided to Aetna by the OAG and Aetna does not cure such default within ten (10) days of receipt of such notice (or such longer time as necessary to remedy the default as agreed to by the OAG, which agreement shall not to be unreasonably withheld), is a violation of the Assurance. Aetna further agrees and acknowledges that the OAG thereafter may commence the civil action or proceeding consistent with Executive Law § 63(15).

MISCELLANEOUS

Subsequent Proceedings.

33. In any subsequent investigation, civil action, or proceeding by the OAG to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to paragraph 40, Aetna expressly agrees and acknowledges:

a. that any statute of limitations or other time-related defenses are tolled from and after the Effective Date of this Assurance;

b. that the OAG may use statements, documents or other materials produced or provided by Aetna prior to or after the Effective Date of this Assurance;

c. that any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Aetna irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue.

34. If a court of competent jurisdiction determines that Aetna has violated the Assurance, Aetna shall pay to the OAG the reasonable cost, if any, of obtaining such

determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

Effects of Assurance:

35. This Assurance is not intended for use by any third party in any other proceeding.

36. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Aetna's applicable business operations with respect to such operations as of the Effective Date of this Assurance, regardless of how such applicable business operations are structured within the successor, assignee or transferee. For an avoidance of doubt, this Assurance shall not apply to any pre-existing business operations of any successor, assignee or transferee of Aetna's applicable business operations. Aetna will provide notice of the obligations under this Assurance to any acquiring entity of Aetna's applicable business operations during the term of this Assurance.

37. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

38. Any failure by the Attorney General to insist upon the strict performance by Aetna of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the Attorney General, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Aetna.

Communications:

39. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 18-001, and shall be in writing and shall, unless

expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to Aetna, to: Ed Neugebauer, or in his/her absence, to the person holding the title of Chief Litigation Officer.

If to the OAG, to: Susan J. Cameron, Deputy Bureau Chief, Health Care Bureau, or in his/her absence, to the person holding the title of Bureau Chief, Health Care Bureau.

Representations and Warranties:

40. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by Aetna and its counsel and the OAG's own factual investigation as set forth in paragraphs (1)-(22) above. Aetna represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by Aetna or its counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

41. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Aetna in agreeing to this Assurance.

42. Aetna represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized.

General Principles:

43. Unless a term limit for compliance is otherwise specified within this Assurance, Aetna's obligations under this Assurance are enduring. Nothing in this Agreement shall relieve Aetna of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

44. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that Aetna violates the Assurance after its Effective Date.

45. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

46. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

47. Aetna acknowledges that it has entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel as a compromise of disputed claims.

48. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

49. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

50. This Assurance may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

51. The effective date of this Assurance shall the date this Assurance is signed by all parties ("Effective Date").

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
120 Broadway
New York, NY 10271

LISA LANDAU
Health Care Bureau Chief

By: _____ 1/23/18
Susan J. Cameron
Deputy Bureau Chief
Health Care Bureau

AETNA, INC.

By: _____
Ed Neugebauer
Chief Litigation Officer

STATE OF PA)
) ss.:
COUNTY OF Montgomery)

On this 19th day of January, 2018, Ed Neugebauer, known personally to me to be the Chief Litigation Officer of Aetna Inc., appeared before the undersigned and acknowledged to me that he, as such officer and being authorized so to do, executed the within instrument for the purposes therein set forth, on behalf of the RESPONDENT, by his signature on the instrument as such officer.

Sworn to before me this

19th day of January, 2018 Gail Christiansen

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
GAIL CHRISTIANSEN
Notary Public
NORTH WALES BORO, MONTGOMERY COUNTY
My Commission Expires Apr 15, 2019

EXHIBIT F

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Aetna Error Sees PHI of 5,000 Individuals Expos Online

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Posted By HIPAA Journal on Jun 27, 2017

Aetna®

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Hartford, CT-based health insurer Aetna has discovered the protected health information of more than 5,000 plan members has been exposed online and was accessible through search engines.

Aetna started investigating a security issue affecting two computer services on April 27, 2017. Those services were intended to show documents containing PHI to plan members and other authorized individuals, although it was discovered that the documents had been indexed by search engines and could be viewed by unauthorized individuals.

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On May 10, the investigation had uncovered evidence that confirmed a data breach had occurred, with the investigation concluding on June 9. While the investigation into security issues was launched in April, Aetna first became aware of exposed PHI on February 1, according to the S*an Antonio Express-News*. It is unclear why it took almost three months for an investigation to be launched.

Aetna says Social Security numbers, financial information and credit/debit card information was not exposed. The PHI in the documents only included names, identification numbers, member numbers, provider information and claim payment amounts. Some individuals also had dates of service, procedure codes and service codes exposed.

1,708 Ohio and 522 Texas residents are known to have been affected by the breach. In total, the PHI of 5,002 individuals was exposed online, according to the breach report submitted to the Department of Health and Human Services' Office for Civil Rights.

Aetna has not uncovered evidence to suggest any information has been misused as a result of its exposure online. Action has already been taken to deindex the documents to prevent them from being displayed in search engine results and for cached data to be removed from search engines. Steps have also been taken to prevent the documents from being re-indexed by search engines.

Affected individuals and plan sponsors are now being notified of the data breach by mail.

EXHIBIT G

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Lost CD Contained Social Security Numbers of 18,854 Health Plan Members

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Posted By HIPAA Journal on Dec 8, 2016

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18,854 health plan members have been notified of a potential breach of their protected health information following the loss of a compact disc in the mail.

An employee at Aetna Signature Administrators (ASA), a provider of network and management services to group health plans, mailed a CD containing sensitive health plan members' information to another ASA employee. The CD was mailed on September 6 and the envelope was delivered on September 9; however, the CD was missing from the envelope.

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The CD contained reports that had been provided to ASA by health plans or health plan administrators. The reports were used by ASA to evaluate and select programs and services for health plan members.

The reports contained the dates of birth of health plan members along with their Social Security numbers, and in some instances, names and addresses. Individuals impacted by the incident were notified of the potential ePHI breach last month.

Since Social Security numbers were exposed, ASA has offered all affected individuals a year of identity theft protection services through Equifax (Equifax Credit Watch Gold) without charge. The services are provided as a precaution against identity theft and fraud. ASA has not received any reports to suggest the CD has been accessed or used by unauthorized individuals. Neither ASA nor the U.S. Postal Services has located the missing CD.

This is the second incident of this nature to be reported in the past week. Last week, OptumHealth New Mexico announced that a business associate had mailed an unencrypted flash drive in the mail, but it failed to arrive at its destination.

ASA has now taken the decision to stop mailing CDs containing ePHI and will use other, more secure methods of communication in the future. Staff members have also been retrained on handling sensitive health plan members' information and health plans have been instructed not to include members' Social Security numbers in reports submitted to ASA.