

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
FRANKFORT DIVISION

*Electronically Filed*

ROBERT NIXON, on behalf of himself	)	
and all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	CASE NO. _____
v.	)	
	)	Removed from Franklin Circuit Court
ANTHEM, INC. and ANTHEM UM	)	Civ. Act. No. 19-CI-00977
SERVICES, INC.,	)	
	)	
Defendants.	)	

**NOTICE OF REMOVAL**

Defendants Anthem, Inc. and Anthem UM Services, Inc. (collectively, “Defendants”), by counsel, file this Notice of Removal of this action to the United States District Court for the Eastern District of Kentucky at Frankfort, from the Franklin Circuit Court, Franklin County, Kentucky, on this 23rd day of October, 2019, for the following reasons:

1. On or about September 20, 2019, Plaintiff Robert Nixon (“Plaintiff”) filed Civil Action No. 19-CI-00977 (the “Action”) against Defendants Anthem, Inc. and Anthem UM Services, Inc. in the Franklin Circuit Court. Service of Summons and Complaint were made upon Anthem UM Services, Inc. on or about September 24, 2019 and upon Anthem, Inc. on or about October 11, 2019. This Notice of Removal is being filed within thirty (30) days of the first date on which Defendants received a copy of the Complaint through service or otherwise.

2. The United States District Court for the Eastern District of Kentucky at Frankfort is the district court of the United States for the district and division embracing the place where the action is pending (Franklin County, Kentucky). *See* 28 U.S.C. § 1441(a).

3. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon the Defendants, which papers include the summons and complaint, are attached hereto as **Exhibit A**.

4. Removal is proper as a federal district court has removal jurisdiction over any cause of action in a state court complaint that arises under federal law, for which it would have had original jurisdiction. 28 U.S.C. § 1441; 28 U.S.C. § 1331. This is a case where Plaintiff's claims and causes of action arise under federal law. *See Bell v. Hood*, 327 U.S. 678, 681-82 (1946); *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 52, 56 (1987); *Med. Mut. of Ohio v. k. Amalia Enters., Inc.*, 548 F.3d 383, 388-89 (6th Cir. 2008).

5. Plaintiff's claims arise under federal law insofar as the Complaint states the "action is brought under ERISA [to the Employee Retirement Income Security Act], 29 U.S.C. §§ 1132(a), (e), (f), and (g) as it relates to claims for employee welfare benefits under employee welfare benefit plans." Complaint at ¶ 9.

6. As alleged in the Complaint, Plaintiff was at all times pertinent to this matter a subscriber to a self-insured benefit plan ("Plan") that was created pursuant to, and is governed by, ERISA 29 U.S.C. § 1001, *et seq.* Complaint at ¶¶ 9, 13-14.

7. Plaintiff's Complaint expressly alleges that his claims arise under federal law.

a. Count I of Plaintiff's Complaint claims that "[u]nder 29 U.S.C. § 1132(a)(1)(B), Plaintiff is entitled to recover benefits due under the terms of the plan..." Complaint at ¶68. Claims under § 1132(a)(1)(B) are subject to the jurisdiction of this Court. 29 U.S.C. § 1332(e)(1).

b. Claims under § 1132(a)(1)(B) raise a federal question. *See Bell*, 327 U.S. at 681-82; *Pilot Life Ins.*, 481 U.S. at 52, 56; *Carlson v. Principal Fin. Group*, 320

F.3d 301, 306 (2d. Cir. 2003).

c. Count II of Plaintiff's Complaint seeks relief under 29 U.S.C. § 1332(a)(3) based on the allegation that Defendants breached duties "under 29 U.S.C § 1104(a), and have violated 29 U.S.C. §1133, and its associated regulations under 29 C.F.R. 2560.503-1...." Complaint at ¶ 81. *See also id.* at ¶ 82. Claims under § 1132(a)(3) are subject to the exclusive jurisdiction of this Court. *See* 29 U.S.C. § 1332(e)(1).

d. Claims under § 1132(a)(3) also raise a federal question. *See Pilot Life Ins.*, 481 U.S. at 52, 56; *Med. Mut. of Ohio*, 548 F.3d at 388-89; *Carlson*, 320 F.3d at 306.

8. Pursuant to 29 U.S.C. § 1132, this Court has been vested with jurisdiction to determine the merits of Plaintiff's Complaint, which is properly removable to this Court from the Franklin Circuit Court.

9. This action is removed to this Court pursuant to the provisions of 28 U.S.C. § 1441 and 1446, because this Court has original jurisdiction over this action, the Complaint raises a federal question, this Notice of Removal is filed within thirty (30) days of the service of pleading or other document upon Defendants indicating that this matter is, or has become, removable, and the state court in which this action was filed is within this Court's district and division.

10. Plaintiff's claims arise under the laws of the United States so as to be within the original jurisdiction of this Court conferred by 28 U.S.C. § 1331 and 28 U.S.C. § 1332, and so as to authorize removal of this action pursuant to 28 U.S.C. § 1441.

11. In addition, removal is also proper under the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d). *See* 28 U.S.C. § 1453. Although Defendants deny that any class may be certified in this case, Plaintiff purports to bring this claim on behalf of a class of similarly situated

individuals. Complaint at ¶¶ 54-66. The CAFA jurisdictional requirements set forth in 28 U.S.C. § 1332(d) are satisfied, insofar as: (1) Plaintiff is a Kentucky resident, whereas Defendants are Indiana corporations with their principal places of business in Indiana; (2) Plaintiff's allegations indicate that Plaintiff seeks to certify a class that could contain more than 100 members, Complaint at ¶¶ 56, 58; and (3) although Defendants deny that any relief is appropriate here, the total value or cost to Defendants of all the relief Plaintiff purports to seek on behalf of himself and his proposed class could exceed \$5,000,000, Complaint at p. 16 (seeking injunction to reprocess every putative class members' claim, disgorgement of profits, and attorneys fees).

12. Immediately upon filing this Notice of Removal, Defendants will give written notice hereof to all parties and will file a copy of this Notice of Removal with the Clerk of the Franklin Circuit Court, Franklin County, Kentucky.

13. Given the circumstances set forth above, this action, which has been filed in the Franklin Circuit Court, constitutes a civil action which could have originally been brought in this Court pursuant to 28 U.S.C. § 1331, and may be removed pursuant to 28 U.S.C. § 1441. Additionally, removal is proper pursuant to 28 U.S.C. § 1332(d).

**WHEREFORE**, Defendants Anthem, Inc. and Anthem UM Services, Inc., hereby give notice that this action is removed to this Court, pursuant to the laws of the United States.

Respectfully submitted,

FROST BROWN TODD LLC

/s/ Jason P. Renzelmann  
Cory J. Skolnick  
Gene F. Price  
Jason P. Renzelmann  
Miles R. Harrison  
400 West Market Street, 32nd Floor  
Louisville, KY 40202-3363  
(502) 589-5400

(502) 581-1087 (facsimile)  
cskolnick@fbtlaw.com  
gprice@fbtlaw.com  
jrenzelmann@fbtlaw.com  
mharrison@fbtlaw.com  
*Counsel for Defendants Anthem, Inc. and  
Anthem UM Services, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 23, 2019, I caused to be electronically filed the foregoing with the Clerk of the Court by using the CM/ECF System, which will send a notice of electronic filing to all counsel of record:

M. Austin Mehr  
Philip G. Fairbanks  
Erik D. Peterson  
Mehr, Fairbanks & Peterson Trial Lawyers, PLLC  
201 West Short Street, Suite 800  
Lexington, KY 40507  
(859) 225-3731 (phone)  
(859) 225-3830 (facsimile)  
*Counsel for Plaintiff Robert Nixon*

/s/ Jason P. Renzelmann  
*Counsel for Defendants Anthem, Inc. and  
Anthem UM Services, Inc.*

# EXHIBIT A



19-CI-00977

**NIXON, ROBERT VS. ANTHEM, INC. , ET AL**

**FRANKLIN CIRCUIT COURT**

Filed on 09/20/2019 as CONTRACT with HON. PHILLIP J. SHEPHERD

\*\*\*\* NOT AN OFFICIAL COURT RECORD \*\*\*\*

<b>Parties</b>	<b>19-CI-00977</b>
<b>ANTHEM UM SERVICES, INC. as DEFENDANT / RESPONDENT</b>	
<b>Memo</b> Registered Agent of Service exists.	
<b>Summons</b> <b>CIVIL SUMMONS</b> issued on <b>09/20/2019</b> by way of <b>CERTIFIED MAIL</b> 9214890194038390751751	
<b>ANTHEM, INC. as DEFENDANT / RESPONDENT</b>	
<b>Address</b> KATHLEEN S. KIEFER 220 VIRGINIA AVENUE INDIANAPOLIS IN 46204	
<b>Summons</b> <b>CIVIL SUMMONS</b> issued on <b>09/20/2019</b> served on <b>10/11/2019</b> by way of <b>LONG ARM STATUTE - SOS</b> 7018 1830 0000 1321 3433SOS RCVD ON 10/1/19RCVD PROOF OF SERVICE FROM SOS ON 10/17/19SIGNATURE I LLEGIBLE	
<b>NIXON, ROBERT as PLAINTIFF / PETITIONER</b>	
<b>FAIRBANKS, PHILIP as ATTORNEY FOR PLAINTIFF</b>	
<b>Address</b> MEHR, FAIRBANKS & PETERSON 201 WEST SHORT STREET, SUITE 800 LEXINGTON KY 40507	
<b>CT CORPORATION SYSTEM as REGISTERED AGENT OF SERVICE</b>	
<b>Memo</b> Related party is ANTHEM UM SERVICES, INC.	
<b>Address</b> 306 WEST MAIN STREET SUITE 512 FRANKFORT KY 40601	
<b>Documents</b>	<b>19-CI-00977</b>
<b>COMPLAINT / PETITION</b> filed on <b>09/20/2019</b>	
<b>Images</b>	<b>19-CI-00977</b>
<b>COMPLAINT / PETITION</b> filed on <b>09/20/2019</b> Page(s): 17	
<b>SUMMONS</b> filed on <b>09/20/2019</b> Page(s): 1	
<b>SUMMONS</b> filed on <b>09/20/2019</b> Page(s): 1	
<b>COURTESY FINANCIAL TRANSACTION REPORT</b> filed on <b>09/20/2019</b> Page(s): 1	

\*\*\*\* End of Case Number : 19-CI-00977 \*\*\*\*



ROBERT NIXON, on behalf  
of himself and all others similarly  
situated

PLAINTIFF

vs.

**CLASS ACTION COMPLAINT  
AND JURY DEMAND**

ANTHEM, INC.; and  
ANTHEM UM SERVICES, INC.

DEFENDANTS

Serve:

Agent for Anthem, Inc.:  
Kathleen S. Kiefer  
Anthem, Inc.  
220 Virginia Avenue  
Indianapolis, IN 46204

Registered Agent for Anthem UM Services, Inc.:  
CT Corporation System  
306 West Main Street  
Suite 512  
Frankfort, KY 40601

\*\*\*\*\*

Plaintiff Robert Nixon, on behalf of himself and all others similarly situated, sets forth herein the allegations of his Class Action Complaint against Defendants Anthem, Inc. and Anthem UM Services, Inc.

**Introduction**

1. Anthem, Inc. ("Anthem") is one of the largest health benefits companies in the United States in terms of medical membership, serving approximately 40 million members through its affiliated companies as of December 31, 2018, according to its Schedule



10-k filings with the Securities and Exchange Commission. Through its wholly-owned subsidiaries and affiliated companies, including Defendant Anthem UM Services, Inc. (“Anthem UM”), Anthem acts throughout the United States as a full-service company in the business of insuring and administering health insurance and health benefit plans, many of which are employer-sponsored and governed by the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, et seq. (the “Anthem Plans”).

2. Anthem UM serves as the claims administrator for the Anthem Plans and is responsible for deciding whether claims are covered under the Anthem Plans, including both fully-insured and self-insured plans.
3. Anthem and Anthem UM aid each other in the administration of the Anthem Plans, including working together and at each other’s direction in the development of coverage guidelines they call “Medical Policies,” which are used to make decisions about which claims are approved or denied.
4. Anthem and Anthem UM have acted as ERISA fiduciaries and administrators with respect to the Anthem Plans, including Plaintiff Robert Nixon’s plan.
5. This case involves the Defendants’ uniform practice of denying coverage for a medical procedure known commonly as minimally invasive sacroiliac joint fusion surgery (“MISIIF”) on the basis that it is “investigational and not medically necessary.”
6. Defendants have developed and utilized a medical coverage policy called “Sacroiliac Joint Fusion (SURG.00127),” which uniformly, and contrary to medical standards, classifies MISIJF procedures as “investigational and not medically necessary.”

7. The products used for MISIJF have been approved by the United States Food and Drug Administration (“FDA”); the procedure is approved for Medicare beneficiaries throughout the United States; it is considered safe and effective by medical societies and associations; and it has been regularly performed by surgeons around the country.
8. Plaintiff brings this action to redress Defendants’ uniform and repeated violations of ERISA resulting from their practice of denying coverage for MISIJF as “investigational” and “not medically necessary.” Through uniform development and use of a medical policy on sacroiliac joint fusion, Defendants have erroneously, and contrary to prevailing medical standards, denied all requests for MISIJF.

**Jurisdiction and Venue**

9. This action is brought under ERISA, 29 U.S.C. §§ 1132(a), (e), (f), and (g) as it relates to claims for employee benefits under employee welfare benefit plans.
10. This Court has jurisdiction over the Defendants because ERISA allows for nationwide service of process and because each Defendant has minimum contacts within this state and in Franklin County.
11. Under 29 U.S.C. § 1132(e), state courts have concurrent jurisdiction, along with the federal courts, of actions involving claims brought under 29 U.S.C. § 1132(a)(1)(B).
12. Venue is appropriate in this Court because Defendant Anthem UM maintains its registered agent in this county, located at 306 West Main Street, Suite 512, Frankfort, KY 40601.

**Parties**

13. Plaintiff Robert Nixon at all relevant times was a participant in and covered by the Catholic Health Initiatives Medical Plan (“CHIMP”), an employee welfare benefit plan under which Plaintiff is entitled to health care benefits.
14. Anthem and Anthem UM are corporations, both of which have their principal place of business in Indianapolis, Indiana. They administer and make benefit determinations related to ERISA health care plans within this district and nationwide.

**Background**

15. Plaintiff and the class members are and/or were covered by health plans, either self-funded or fully insured, administered by Defendants and which provided medical and surgical benefits.
16. Included within the health plans is a provision that excludes coverage for services that are “investigational” and a provision requiring services to be “medically necessary.”
17. Plaintiff was covered under the CHIMP, a self-funded plan administered by Defendants, and which contained definitions for “investigational” and “medically necessary” that are the same, or in all respects substantially similar, to definitions contained in all Anthem Plans.

**Minimally Invasive and Percutaneous Sacroiliac Joint Fusion Surgery**

18. The sacroiliac joints serve as the connection between the spine and pelvis. These joints are a well-known cause of pain, typically resulting in pain in the low back and buttocks, sometimes with radiation into the groin and/or upper legs.
19. Non-surgical treatment for sacroiliac joint pain includes pain medications, physical therapy, injections, and ablation.



20. Surgical treatment for sacroiliac joint pain includes open surgery and MISIJF. These surgical procedures fuse the sacrum and ilium.
21. MISIJF involves the use of small incisions under fluoroscopic guidance, generally with the placement of titanium triangular implants.
22. MISIJF has substantiated high rates of pain relief and improvement of functional measures, along with low rates of complications.
23. In November 2008, one of the devices used in MISIJF was granted substantial equivalence section 510(k) approval by the FDA for use in MISIJF. Similar products have received the same approval since that time.
24. In 2014, the International Society for the Advancement of Spine Surgery issued a policy statement indicating that MISIJF is a safe and effective procedure for patients with pain due to sacroiliac joint disorders.
25. In 2015, the National American Spine Society issued a coverage policy statement indicating that MISIJF is indicated for patients with pain due to sacroiliac joint disorders.
26. In 2015, several Medicare Administrative Contractors issued local coverage determinations that MISIJF is indicated for the treatment of sacroiliac joint pain and would be approved for Medicare beneficiaries.
27. By June 16, 2016, all Medicare Administrative Contractors (consisting of all 50 states) had removed MISIJF from non-covered services and indicated it would be approved for Medicare beneficiaries.

28. These coverage determinations and policy statements were based, in part, on collective medical studies, articles, and findings indicating that MISIJF was safe and effective for the treatment of sacroiliac joint pain.
29. Those medical studies, clinical trials, articles, and findings uniformly indicate that MISIJF is safe and effective. There are no contrary studies.
30. Additionally, MISIJF is widely recognized in the medical community as safe and effective for treatment of sacroiliac joint pain and is performed at medical facilities throughout the country.

#### Defendants' Medical Policy

31. Defendants have developed and implemented Medical Policies that they use to make determinations as to whether medical procedures are investigational and/or medically necessary.
32. On information and belief, these Medical Policies are used to make coverage determinations for all Anthem Plans.
33. Anthem UM uses the Medical Policies to administer claims under the Anthem Plans, and those medical policies were developed by Anthem (and/or its affiliates) and Anthem UM for use in making coverage determinations under the Anthem Plans.
34. Specific to sacroiliac joint fusion surgery, the Defendants have used Medical Policy SURG.00127 to deny requests for MISIJF.
35. Defendants' own Medical Policy SURG.00127 cites to several articles, clinical trials, medical society coverage positions, and medical findings, all of which support the safety and effectiveness of MISIJF.

36. Despite this evidence, Medical Policy SURG.00127 nonetheless categorically denies all requests for MISIJF. It states, “Minimally invasive sacroiliac joint fusion and percutaneous sacroiliac joint fusion procedures are considered **investigational and not medically necessary.**” (emphasis in original).

37. Anthem Plans exclude coverage for services that are “investigational,” and that term is defined in a substantially similar manner throughout all Anthem Plans, including the definition in Plaintiff’s plan:

Investigational...means procedures, drugs, devices, services and/or supplies which:

- Are provided or performed in special settings for research purposes or under a controlled environment and which are being studied for safety, efficiency, effectiveness, and/or
- Are awaiting endorsement by the appropriate National Medical Specialty College or federal government agency for general use by the medical community at the time they are rendered to you, and
- Specifically with regard to drugs, combination of drugs and/or devices, are not finally approved by the Food and Drug Administration at the time used or administered to you.

38. Anthem Plans contain exclusionary language with respect to services that are “investigational,” and that exclusionary language is defined in a substantially similar manner throughout all Anthem Plans, including the language in Plaintiff’s plan:

You are not covered for a service, supply, device, or drug that is Investigational, experimental or unproven. A treatment is considered Investigational or experimental when it has progressed to limited human applications but has not achieved recognition as being proven effective in clinical medicine.

To determine Investigational or experimental status, the Claims Administrator may refer to technical criteria established, including whether a service, supply, device, or other drug meets these criteria:

- It has final approval from the appropriate governmental regulatory bodies;
- The scientific evidence must permit conclusions concerning its effect on health outcomes;
- It improves the net health outcome;
- It is as beneficial as any established alternatives; and
- The health improvement is attainable outside the Investigational settings.



39. Anthem Plans do not cover services that are not “medically necessary,” and that term is defined in a substantially similar manner throughout all Anthem Plans, including the definition in Plaintiff’s plan:

A Medically Necessary health care service is one that a Provider, exercising prudent clinical judgment, provides to a patient for the purpose of preventing, evaluating, diagnosing, or treating an Illness, Accidental Injury, disease, or its symptoms, and is:

- Provided in accordance with generally accepted standards of medical practice. Generally accepted standards of medical practice are based on:
  - Credible scientific evidence published in peer-reviewed medical literature generally recognized by the relevant medical community; and
  - Physician Specialty Society recommendations and the views of Physicians practicing in the relevant clinical area; and
  - Any other relevant factors; and
- Clinically appropriate in terms, type, frequency, extent, site, and duration, and considered effective for the patient’s Illness, Accidental Injury, or disease; and
- Not provided primarily for the convenience of the patient, Physician, or other health care Provider.

40. Despite the proven safety and efficacy of MISIJF, Defendants have categorically denied all requests for benefits related to MISIJF on the basis that it is investigational and not medically necessary under all circumstances under Medical Policy SURG.00127.

41. MISIJF is not investigational under the Plaintiff’s plan or the terms of the Anthem Plans.

**Plaintiff’s request for MISIJF**

42. Plaintiff suffers from sacroiliac joint pain, with pain in the buttocks and groin.

43. Plaintiff has treated with Dr. Harry Lockstadt, a board-certified orthopedic surgeon who practices medicine at Bluegrass Orthopaedics in Lexington, Kentucky.

44. Plaintiff has undergone extensive medical testing and treatment on his low back and sacroiliac joint, including MRI, CT scan, x-rays, diagnostic SI joint blocks, epidural



injections, and physical examinations confirming the SI joint as the source of his pain.

45. On July 25, 2018, Dr. Lockstadt recommended that Plaintiff undergo MISIJF.
46. Plaintiff and Dr. Lockstadt sought authorization from the Defendants for the performance of the MISIJF procedure.
47. On November 9, 2018, Defendants sent a letter denying Plaintiff's request for coverage and requesting additional information. The letter stated that the request was "reviewed for your plan by Anthem UM Services, Inc."
48. On December 10, 2018, Defendants sent Plaintiff another letter denying his appeal with respect to his request for MISIJF. The letter stated, "Anthem UM Services, Inc. is a separate company providing utilization review services on behalf of Anthem Blue Cross and Blue Shield." The Defendants stated, "[c]overage for the services remains denied because they are considered investigational and not medically necessary."
49. The letter advised that according to Anthem UM, "Medical studies have shown that this procedure works well for treating tumors, infection, or trauma in the area of the sacroiliac joint. We have seen do not show that this surgery works well to relieve your type of pain. For this reason, we believe that this surgery is investigational and not medically necessary for you. We based our decision on health plan medical policy called Sacroiliac Joint Fusion (SURG.00127)."
50. Plaintiff appealed this decision, but in response, Defendants sent Plaintiff a letter dated January 11, 2019, wherein they advised, "Anthem UM Services is a separate company providing utilization review services on behalf of Anthem Blue Cross and

Blue Shield.” Anthem upheld its denial of coverage and again alleged, “the services are considered investigational and not medically necessary.”

51. Plaintiff made additional requests for authorization for MISIJF, but Defendants sent a similar letter denying the request as “investigational” on June 3, 2019. Defendants stated the request was “reviewed for your plan by Anthem UM Services, Inc.”
52. On September 10, 2019, Defendants sent another letter denying the request for authorization for MISIJF. The letter stated the request was “reviewed for your plan by Anthem UM Services, Inc.” and was denied because it was “investigational.”
53. All these denials relied on Defendants’ Medical Policy SURG.00127, which categorically denies requests for MISIJF.

#### CLASS ACTION ALLEGATIONS

54. Plaintiff incorporates by reference all preceding paragraphs as if fully stated herein.
55. Pursuant to Rule 23 of the Kentucky Rules of Civil Procedure, Plaintiff brings this lawsuit as a class action on behalf of himself and on behalf of all others similarly situated. This action satisfies the requirements of numerosity, commonality, typicality, ascertainability, and adequacy of representation.
56. The proposed class that Plaintiff seeks to represent is defined as follows:

All persons covered under Anthem Plans, governed by ERISA, whether self-funded or fully insured, whose request(s) for minimally invasive sacroiliac joint fusion surgery were denied by Anthem UM at any time during the applicable limitations period pursuant to Anthem’s Medical Policy on Sacroiliac Joint Fusion, SURG.00127, on the bases that the surgery was investigational and/or not medically necessary.
57. Plaintiff and the class reserve the right to amend or modify the class to include greater specificity, by further division into subclasses, or by limitation to particular issues.

58. The members of the proposed class are so numerous that joinder of all members is impracticable. While the precise number of proposed class members has not been determined at this time, Plaintiff reasonably believes there is a significant number of individuals covered under the Anthem Plans who have been similarly affected. The names and addresses of the members of the proposed class are readily identifiable through records maintained by the Defendants or from information readily available to the Defendants.
59. The Defendants have acted on grounds generally applicable to the proposed class in that Anthem UM serves as claims administrator for the Anthem Plans and bases coverage determinations on Medical Policies that it applies to all proposed class members.
60. Common questions of law and fact exists as to all members of the proposed class and predominate over any questions affecting only individual members.
61. Plaintiff's claims are typical of the claims of all proposed class members, as they are similarly affected by the Defendants' custom and practice of denying all requests for MISIJF based on allegations it is "investigational" or not "medically necessary." Plaintiff is not different in any material respect from any other member of the proposed class.
62. Plaintiff and his counsel will fairly and adequately protect the interests of the members of the proposed class. Plaintiff's interests do not conflict with the interests of the proposed class he seeks to represent. Plaintiff has retained lawyers who are competent and experienced in class action and ERISA litigation. Plaintiff and Plaintiff's counsel have the necessary financial resources to adequately and



vigorously litigate this class action, and Plaintiff and counsel are aware of their responsibilities to the proposed class members and will diligently discharge those duties by vigorously seeking the maximum possible recovery for the proposed class while recognizing the risks associated with litigation.

63. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Joining all proposed class members in one action is impracticable and prosecuting individual actions is not feasible. The size of the individual claims is likely not large enough to justify filing a separate action for each claim. For many, if not most, members of the proposed class, a class action is the only procedural mechanism that will afford them an opportunity for legal redress and justice. Even if proposed class members had the resources to pursue individual litigation, that method would be unduly burdensome to the courts in which such cases would proceed. Individual litigation exacerbates the delay and increases the expense for all parties, as well as the court system. Individual litigation could result in inconsistent adjudications of common issues of law and fact.
64. In contrast, a class action will minimize case management difficulties and provide multiple benefits to the litigating parties, including efficiency, economy of scale, unitary adjudication with consistent results and equal protection of the rights of Plaintiff and members of the proposed class. These benefits would result from the comprehensive and efficient supervision of the litigation by a single court.
65. Questions of law or fact common to Plaintiff and the proposed class members predominate over questions affecting only individual members (if any), and a class action is superior to other available methods for the fair and efficient adjudication of

the controversy. Class action treatment will allow a large number of similarly situated consumers to prosecute their common claims in a single forum, simultaneously, efficiently, and without the necessary duplication of effort and expense that numerous individuals would require. Further, the monetary amounts due to many individual proposed class members may be relatively small, and the burden and expense of individual litigation would make it difficult or impossible for individual proposed class members to seek and obtain relief. On the other hand, a class action will serve important public interests by permitting consumers harmed by the Defendants' unlawful practices to effectively pursue recovery of the sums owed to them, and by deterring further unlawful conduct. The public interest in protecting the rights of consumers favors disposition of the controversy in the class action form.

66. Class certification is further warranted because Defendants have acted or refused to act on grounds that apply generally to the class, so final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole. Plaintiff may seek, in the alternative, certification of an issues class under Ky. R. Civ. P. 23.03(6), (7).

**COUNT I – DENIAL OF PLAN BENEFITS AND FOR CLARIFICATION AND/OR ENFORCEMENT OF RIGHTS UNDER AN ERISA PLAN BROUGHT ON BEHALF OF PLAINTIFF AND THE CLASS: 29 U.S.C. § 1132(a)(1)(B)**

67. Plaintiff and the class members incorporate by reference all preceding paragraphs as if repeated herein.
68. Under 29 U.S.C. § 1132(a)(1)(B), Plaintiff is entitled to recover benefits due under the terms of the plan and to enforce and clarify his rights to the benefits at issue.

69. As set forth above, Defendants have categorically denied all requests for MISIJF based upon the erroneous position in SURG.00127 alleging that MISIJF is investigational and not medically necessary.
70. Defendants' categorical denials for services based on SURG.00127 are contrary to the established medical and scientific evidence of the safety and efficacy of MISIJF, the FDA 510(k) clearance of the products, the Medicare Administrative Contractors' acceptance of MISIJF as medically indicated and approved for Medicare beneficiaries, and the procedure's general acceptance in the medical community.
71. Because of the Defendants' categorical denials of MISIJF, Defendants failed to adopt or implement any standards or criteria for the approval of the procedures and did not assess the individual eligibility for any person.
72. Plaintiff and the members of the class have been harmed by Defendants' improper benefit denials because Defendants have used coverage criteria that were inconsistent with the applicable plan terms.
73. As the entities responsible for making coverage determinations and for developing internal practices and procedures for making such determinations, Defendants are ERISA fiduciaries.
74. As ERISA fiduciaries, and pursuant to 29 U.S.C. § 1104(a), Defendants are required to discharge their duties "solely in the interest of the participants and beneficiaries" and for the "exclusive purpose" of providing benefits to participants and their beneficiaries and paying reasonable expenses of administering the plan(s). They must do so with reasonable care, skill, and prudence in accordance with the terms of the plan(s). They must conduct themselves with the fiduciary duty of loyalty.



- 75. Defendants violated these duties by developing, adopting, and implementing the erroneous SURG.00127 Medical Policy.
- 76. Plaintiff and the class have been harmed by the Defendants' breaches of these duties and by the denial of benefits under the Anthem Plans.
- 77. On behalf of himself and the class, Plaintiff seeks a clarification and enforcement of his rights under the plan(s) relating to Defendants' categorical denial of MISIJF as "investigational" and not "medically necessary."

**COUNT II – BREACH OF FIDUCIARY DUTY AND EQUITABLE RELIEF UNDER AN ERISA PLAN BROUGHT ON BEHALF OF PLAINTIFF AND THE CLASS:**  
**29 U.S.C. § 1132(a)(3)**

- 78. Plaintiff and the class members incorporate by reference all preceding paragraphs as if repeated herein.
- 79. Defendants have acted as ERISA fiduciaries with respect to the administration of the Anthem Plans and with respect to the determinations to deny coverage for MISIJF.
- 80. Defendants have categorically and erroneously denied the Plaintiff's claims and the class members' claims for MISIJF.
- 81. Defendants have violated their fiduciary duties under 29 U.S.C. § 1104(a), and have violated 29 U.S.C. § 1133, and its associated regulations under 29 C.F.R. 2560.503-1 by failing to provide adequate reasons for the denial of claims other than through their development, implementation, and use of erroneous Medical Policy SURG.00127.
- 82. Under 29 U.S.C. § 1132(a)(3), Plaintiff and the class seek appropriate declaratory, equitable, and remedial relief as detailed below.
- 83. Plaintiff and the class have been harmed and are likely to continue to be harmed by Defendants' actions.



WHEREFORE, Plaintiff seeks the following relief on behalf of himself and the class,

1. Certification of this action as a class action, appointing Plaintiff Robert Nixon as the representative of the class and appointing Plaintiff's attorneys as counsel for the class;
2. An order that MISIJF is not investigational and has been medically necessary under appropriate medical criteria at all times within the applicable limitations period;
3. An order and/or injunction requiring Defendants to reevaluate and reprocess the claims of the Plaintiff and the class for MISIJF without the erroneous investigational and not medically necessary bases and under appropriate criteria;
4. An order and/or injunction requiring Defendants to provide notice of the reevaluation and reprocessing in a form and manner required by ERISA to all class members who have had requests for MISIJF denied;
5. An order and/or injunction precluding Defendants from relying on other specific reasons or plan provisions not recited in their denial letters;
6. An accounting and disgorgement of any profits made by Defendants from improperly denying the claims;
7. Attorney's fees under 29 U.S.C. § 1132(g), costs, and prejudgment and post judgment interest;
8. Any other equitable and remedial relief the Court may deem appropriate; and
9. Trial by jury for any such issues triable.

Respectfully submitted,

/s/ Philip G. Fairbanks

M. AUSTIN MEHR

PHILIP G. FAIRBANKS

ERIK D. PETERSON

**Mehr, Fairbanks & Peterson**

**Trial Lawyers, PLLC**

201 West Short Street, Suite 800

Lexington, Kentucky 40507

Telephone: 859-225-3731

Facsimile: 859-225-3830

pgf@austinmehr.com

*Attorneys for Plaintiff*

AOC-E-105 Sum Code: CI  
Rev. 9-14

Commonwealth of Kentucky  
Court of Justice Courts.ky.gov

CR 4.02; Cr Official Form 1



Case #: 19-CI-00977

Court: CIRCUIT

County: FRANKLIN

### CIVIL SUMMONS

Plaintiff, NIXON, ROBERT VS. ANTHEM, INC., ET AL, Defendant

TO: ANTHEM, INC.  
KATHLEEN S. KIEFER  
220 VIRGINIA AVENUE  
INDIANAPOLIS, IN 46204

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a legal action has been filed against you in this Court demanding relief as shown on the document delivered to you with this Summons. Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

*Amy Feldman*

Franklin Circuit Clerk

Date: 9/20/2019

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece or on the front if space permits.

1. Article Addressed to:  
Office of the Secretary of State  
Summons Branch  
200 Capital Ave., Suite 86  
Frankfort KY 40601  
for Anthem, Inc.

2. Article Number (Transfer from service label)  
7018 1830 0000 1321 3433

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
X OCT 07 2019

B. Received by (Printed Name)  
AMY FELDMAN, CLERK

C. Date of Delivery  
OCT 07 2019

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Adult Signature  
 Adult Signature Restricted Delivery  
 Certified Mail®  
 Certified Mail Restricted Delivery  
 Collect on Delivery  
 Collect on Delivery Restricted Delivery  
 Mail  
 Mail Restricted Delivery 500

Agent  
 Addressee

Postmark Here  
19-CI-977  
of State

Domestic Return Receipt

Summons ID: @00000217463  
CIRCUIT: 19-CI-00977 Long Arm Statute – Secretary of State  
NIXON, ROBERT VS. ANTHEM, INC., ET AL





AOC-E-105 Sum Code: CI  
Rev. 9-14

Commonwealth of Kentucky  
Court of Justice Courts.ky.gov

CR 4.02; Cr Official Form 1



Case #: 19-CI-00977

Court: CIRCUIT

County: FRANKLIN

**CIVIL SUMMONS**

*Plaintiff, NIXON, ROBERT VS. ANTHEM, INC. , ET AL, Defendant*

**TO: CT CORPORATION SYSTEM  
306 WEST MAIN STREET  
SUITE 512  
FRANKFORT, KY 40601**

Memo: Related party is ANTHEM UM SERVICES, INC.

The Commonwealth of Kentucky to Defendant:  
**ANTHEM UM SERVICES, INC.**

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

*Amy Feldman*

Franklin Circuit Clerk  
Date: 9/20/2019

**Proof of Service**

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title

Summons ID: @00000217464  
CIRCUIT: 19-CI-00977 Certified Mail  
NIXON, ROBERT VS. ANTHEM, INC. , ET AL



**eFiled**

Presiding Judge: HON. PHILLIP J. SHEPHERD (648260)

CI : 000001 of 000001



Commonwealth of Kentucky  
**Amy Feldman, Franklin Circuit Clerk**

Case #: 19-CI-00977	Envelope #: 1919135
Received From: PHILIP FAIRBANKS	Account Of: PHILIP FAIRBANKS
Case Title: NIXON, ROBERT VS. ANTHEM, INC. , ET AL	Confirmation Number: 96505111
Filed On 9/20/2019 4:50:34PM	

#	Item Description	Amount
1	Access To Justice Fee	\$20.00
2	Civil Filing Fee	\$150.00
3	Money Collected For Others(Court Tech. Fee)	\$20.00
4	Library Fee	\$3.00
5	Court Facilities Fee	\$25.00
6	Money Collected For Others(Attorney Tax Fee)	\$5.00
7	Charges For Services(Jury Demand / 12)	\$70.00
8	Money Collected For Others(Postage)	\$12.55
9	Charges For Services(Copy - Photocopy)	\$1.90
10	Money Collected For Others(Postage)	\$13.15
11	Money Collected For Others(Secretary of State)	\$10.00
12	Charges For Services(Copy - Photocopy)	\$3.80
13	Charges For Services(Attestation)	\$0.50
<b>TOTAL:</b>		<b>\$334.90</b>



**Service of Process  
Transmittal**

09/24/2019  
CT Log Number 536308082

**TO:** Pam Williams  
ANTHEM, INC.  
220 VIRGINIA AVE  
INDIANAPOLIS, IN 46204-3709

**RE: Process Served in Kentucky**

**FOR:** Anthem UM Services, Inc. (Domestic State: IN)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

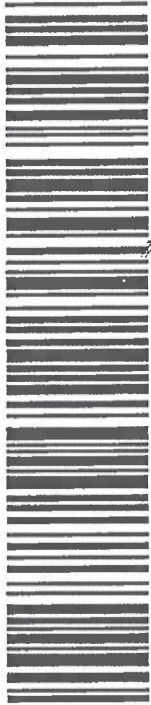
**TITLE OF ACTION:** ROBERT NIXON, etc., Pltf. vs. ANTHEM, INC., and ANTHEM, INC., Dfts.  
**DOCUMENT(S) SERVED:** Summons, Complaint  
**COURT/AGENCY:** Franklin Court Circuit Court, KY  
Case # 19CI00977  
**NATURE OF ACTION:** Plaintiff Demand Judgment against Defendant  
**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Frankfort, KY  
**DATE AND HOUR OF SERVICE:** By Certified Mail on 09/24/2019 postmarked: "Not Post Marked"  
**JURISDICTION SERVED :** Kentucky  
**APPEARANCE OR ANSWER DUE:** Within 20 days following the day this paper is delivered to you  
**ATTORNEY(S) / SENDER(S):** PHILIP G. FAIRBANKS  
Mehr, Fairbanks & Peterson  
201 West Short Street, Suite 800  
Lexington, KY 40507  
859-225-3731  
**ACTION ITEMS:** CT will retain the current log  
Image SOP  
Email Notification, Kristine Gorman kristine.gorman@anthem.com  
Email Notification, Pam Williams Pam.Williams@anthem.com  
Email Notification, MICHELLE KERSEY michelle.kersey@wellpoint.com  
Email Notification, Sandra Reno-Simpson sandra.reno@anthem.com  
Email Notification, John Nicholson John.nicholson@anthem.com  
**SIGNED:** C T Corporation System  
**ADDRESS:** 1999 Bryan St Ste 900  
Dallas, TX 75201-3140  
**For Questions:** 877-564-7529  
MajorAccountTeam2@wolterskluwer.com

40601-184037



Amy Feldman, Franklin Circuit Clerk  
222 St. Clair Street  
Frankfort, KY 40601

USPS CERTIFIED MAIL



9214 8901 9403 8390 7517 51

CT CORPORATION SYSTEM  
306 WEST MAIN STREET  
SUITE 512  
FRANKFORT, KY 40601



ZIP 40601  
041M11456493

NEOPOST  
09/23/2019

US POSTAGE \$005.90

FRANKFORT  
KY 40601  
23 SEP 19  
PM 31



AOC-E-105 Sum Code: CI  
Rev. 9-14

Commonwealth of Kentucky  
Court of Justice Courts.ky.gov

CR 4.02; Cr Official Form 1



Case #: 19-CI-00977

Court: CIRCUIT

County: FRANKLIN

**CIVIL SUMMONS**

Plaintiff, NIXON, ROBERT VS. ANTHEM, INC. , ET AL, Defendant

**TO: CT CORPORATION SYSTEM  
306 WEST MAIN STREET  
SUITE 512  
FRANKFORT, KY 40601**

Memo: Related party is ANTHEM UM SERVICES, INC.

The Commonwealth of Kentucky to Defendant:  
**ANTHEM UM SERVICES, INC.**

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

*Amy Feldman*

Franklin Circuit Clerk  
Date: 9/20/2019

**Proof of Service**

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_ Served By \_\_\_\_\_

Title \_\_\_\_\_

Summons ID: 191913513695340@00000217464  
CIRCUIT: 19-CI-00977 Certified Mail  
NIXON, ROBERT VS. ANTHEM, INC. , ET AL



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ROBERT NIXON, on behalf of himself and all others similarly situated

(b) County of Residence of First Listed Plaintiff Fayette (Kentucky) (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) M. Austin Mehr / Philip G. Fairbanks / Erik D. Peterson Mehr, Fairbanks, & Peterson Trial Lawyers, PLLC 201 W. Short St., Ste 800, Lexington, KY 40507 PH: (859) 225-3731

DEFENDANTS

ANTHEM, INC. and ANTHEM UM SERVICES, INC.

County of Residence of First Listed Defendant Marion (Indiana) (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Cory J. Skolnick / Gene F. Price / Jason P. Renzelmann / Miles Harrison Frost Brown Todd LLC 400 West Market St., 32nd Fl., Louisville, KY 40202 PH: (502) 589-5400

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for PTF and DEF for Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, and Incorporated or Principal Place of Business.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 USC § 1001, et seq. Brief description of cause: Claim for benefits under ERISA Plan

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE: October 23, 2019 SIGNATURE OF ATTORNEY OF RECORD: /s/ Jason P. Renzelmann

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Anthem Refused to Cover Cost of Sacroiliac Joint Fusion Surgery](#)

---