1 2	XAVIER BECERRA Attorney General of California NICKLAS A. AKERS	FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO				
3	Senior Assistant Attorney General STACEY SCHESSER	SAN BERNARDINO DISTRICT				
4	Supervising Deputy Attorney General JESSICA WANG (SBN 278300)	JAN 30 2019				
5	Deputy Attorney General 455 Golden Gate Ave., Suite 11000	BY RAFAEL HERNANDEZ, DEPUTY				
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7	Fax: (415) 703-5480 E-mail: Jessica.Wang@doj.ca.gov	[EXEMPT FROM FILING FEES				
8	Attorneys for Plaintiff, The People of the State of California	PURSUANT TO GOVERNMENT CODE SECTION 6103]				
9	SUPERIOR COURT OF THE STATE OF CALIFORNIA					
10	FOR THE COUNTY OF SAN BERNARDINO					
11						
12	THE BOOME OF THE STATE OF CALLEODNIA	Case No. CIVDS1903012				
13	THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,	Case No				
14		COMPLAINT FOR IN HINCTION CIVIL				
15	v.	COMPLAINT FOR INJUNCTION, CIVIL PENALTIES, AND OTHER EQUITABLE RELIEF				
16	Aetna Inc.,					
17	Defendant.	(CIVIL CODE § 56.101; BUS. & PROF. CODE, § 17200, et seq.)				
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	Complaint for Injunction, Civil Penalties, and other Equitable Relief					

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1	Plaintiff, the People of the State of California ("Plaintiff" or the "People"), by and through			
2	Xavier Becerra, Attorney General of the State of California, alleges the following on information			
3	and belief:			
4	INTRODUCTION			
5	1. Plaintiff brings this action against Aetna Inc. ("Aetna" or "Defendant") for			
6	violations of California state law, including the Confidentiality of Medical Information Act			
7	("CMIA"), Health and Safety Code section 120980, the State Constitution, and the Unfair			
8	Competition Law ("UCL"), after 1,991 Californians were mailed letters revealing through an			
9	enlarged, clear window of the envelope that they were taking HIV-related medication.			
10	PLAINTIFF			
11	2. Plaintiff is the People of the State of California. Plaintiff brings this action by and			
12	through Xavier Becerra, Attorney General. The Attorney General is authorized by Civil Code			
13	section 53.36(f)(1)(A) to bring actions to enforce the CMIA, and by Business and Professions			
14	Code sections 17204, 17206, and 17207 to bring actions to enforce the UCL.			
15	DEFENDANT			
16	3. Defendant Aetna is a health care insurance company. Its principal place of			
17	business is located at 151 Farmington Avenue, Hartford, CT 06156-3475.			
18	4. The defendant identified in Paragraph 1 above is referred to in this Complaint as			
19	"Aetna" or "Defendant." Whenever reference is made in this Complaint to any act of or by			
20	Aetna, the allegation shall mean that Aetna did the acts alleged in this Complaint through Aetna's			
21	officers, directors, employees, agents and/or representatives acting within the actual or ostensible			
22	scope of their authority.			
23	JURISDICTION AND VENUE			
24	5. This Court has jurisdiction over Defendant because Aetna, by providing health			
25	care insurance in California, intentionally availed itself of the California market so as to render			
26	the exercise of jurisdiction over Aetna by the California courts consistent with traditional notions			
27	of fair play and substantial justice.			
28	6. The violations of law alleged in this Complaint occurred throughout California.			
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7. Venue is proper in this Court pursuant to Code of Civil Procedure section 395.5 2 because Aetna's liability arises in this county.

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DEFENDANT'S BUSINESS ACTS AND PRACTICES

8. Aetna is a health care service plan operating in the State of California who, in the 4 5 regular course of business, collects personal health and medical information from its patients and 6 stores and transmits said information. Accordingly, Aetna must comply with the CMIA, the 7 Health and Safety Code, and the State Constitution, and must protect the confidentiality of 8 medical information.

9. In connection with settling two private class action lawsuits, Aetna agreed to send 9 10 letters informing affected insureds that they could obtain their HIV medications through a retail 11 pharmacy instead of by mail order. On or about July 28, 2017, a settlement administrator mailed these letters to Aetna's members, including approximately 1,991 Californians. The letters were 12 13 sent in envelopes that contained an enlarged, clear window that revealed through this window that 14 the recipient was taking HIV-related medication.

Aetna provided this medical information to the settlement administrator without 15 10. adequately satisfying its legal obligations to preserve the confidentiality of the medical 16 17 information.

18	FIRST CAUSE OF ACTION					
19	VIOLATIONS OF THE CONFIDENTIALITY OF MEDICAL INFORMATION ACT					
20	CIVIL CODE SECTION 56.101					
21	(Failure to Preserve Confidentiality of Medical Information)					
22	11. The People reallege and incorporate by reference each of the paragraphs above as					
23	though fully set forth herein.					
24	12. Aetna is a health care service plan that creates, maintains, receives, and transmits					
25	protected health information.					
26	13. Aetna is obligated to preserve the confidentiality of medical information it creates,					
27	maintains, preserves, stores, abandons, destroys, or disposes. [Civ. Code § 56.101(a).]					
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1	14. Aetna failed to maintain, preserve, and store medical information in a manner that			
2	preserves the confidentiality of the information. Aetna provided the information about its			
3	members without taking adequate steps to protect the information from being disclosed through			
4	the window of the envelopes.			
5	15. Because of Aetna's failures, Aetna negligently maintained, preserved, and stored			
6	medical information in violation of Civil Code section 56.101(a).			
7	16. Aetna also negligently disclosed medical information in violation of Civil Code			
8	section 56.36(c)(1).			
9	SECOND CAUSE OF ACTION			
10	VIOLATIONS OF BUSINESS AND PROFESSIONS CODE			
11	SECTION 17200, ET SEQ.			
12	(Unlawful, Unfair, and Fraudulent Business Practices)			
13	17. The People reallege and incorporate by reference each of the paragraphs above as			
14	though fully set forth herein.			
15	18. Aetna has engaged in unlawful, unfair, or fraudulent acts or practices, which			
16	constitute unfair competition within the meaning of Section 17200 of the Business and			
17	Professions Code.			
18	19. Specifically, Aetna has violated the following laws:			
19	(a) Civil Code section 56.101(a), which requires Aetna to create, maintain,			
20	preserve, and store medical information in a manner that preserves the			
21	confidentiality of the information contained therein;			
22	(b) Health & Safety Code § 120980, which penalizes "[a]ny person who			
23	negligently discloses results of an HIV test" in a way that identifies the taker of			
24	the test; and			
25	(c) California Constitution, Article 1, § 1, which provides for a right of privacy,			
26	including the protection of a person's HIV status.			
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1	PRAYER FOR RELIEF					
2	WHEREFORE, Plaintiff prays for judgment as follows:					
3	1. Pursuant to Business and Professions Code section 17203, that the Court enter all					
4	orders necessary to prevent Aetna, its successors, agents, representatives, employees, and all					
5	persons who act in concert with Aetna from engaging in any act or practice that constitutes unfair					
6	competition in violation of Business and Professions Code section 17200, including as alleged in					
7	this Complaint;					
8	2. Pursuant to Civil Code section 56.36(c)(1), that the Court assess a civil penalty of					
9	Two Thousand Five Hundred Dollars (\$2,500) for each violation of Civil Code section 56.101, as					
10	proved at trial;					
11	3. Pursuant to Business and Professions Code section 17536, that the Court assess a					
12	civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each violation of Business and					
13	Professions Code section 17200, as proved at trial;					
14	4.	4. That Plaintiff recovers its cost of suit herein, including costs of investigation.				
15	5.	5. For such other and further relief as the Court deems just and proper.				
16	Dated: Janua	rv 28, 2019		Respectfully Submitted,		
17	Dated. Janua	u j 201 j 201 j		Xavier Becerra		
18				Attorney General of California NICKLAS A. AKERS		
19				Senior Assistant Attorney General STACEY SCHESSER		
20				Supervising Deputy Attorney General		
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22				Jenn Veg		
23 24				JESSICA WANG Deputy Attorney General		
24				Attorneys for Plaintiff, The People of the State of California		
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