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ELECTRONICALLY

**FILED**

Superior Court of California,  
County of San Francisco

**JAN 22 2015**

Clerk of the Court

BY: ROMY RISK

Deputy Clerk

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11 Attorneys for Defendant  
CALIFORNIA PHYSICIANS' SERVICE d/b/a/ BLUE  
12 SHIELD OF CALIFORNIA

13  
14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
15 FOR THE COUNTY OF SAN FRANCISCO

17 SIHANATH J. VANGSOULATDA, an  
individual, on behalf of himself and those  
18 similarly situated,

19 Plaintiff,

20 vs.

21 CALIFORNIA PHYSICIANS' SERVICE, a  
California corporation; BLUE SHIELD OF  
22 CALIFORNIA, a California corporation; and  
DOES 1 to 100, inclusive,

23 Defendants.

Case No. CGC-14-543296

**ANSWER OF DEFENDANT  
CALIFORNIA PHYSICIANS'  
SERVICE D/B/A BLUE SHIELD OF  
CALIFORNIA TO PLAINTIFF  
SIHANATH J. VANGSOULATDA'S  
COMPLAINT FOR DAMAGES**

24  
25 Defendant California Physicians' Service d/b/a Blue Shield of California ("Blue Shield"),  
26 erroneously sued separately as California Physicians' Service and Blue Shield of California,  
27 answers the Complaint of Plaintiff Sihanath J. Vangsoulatda ("Plaintiff") as follows:  
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**FOURTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

Blue Shield alleges that Plaintiff is estopped from recovering for any damages, injuries, and/or losses from Blue Shield as a result of Plaintiff's conduct, including without limitation Plaintiff's inexcusable delay in raising the claims alleged in this action.

**FIFTH AFFIRMATIVE DEFENSE**

**(Waiver)**

Blue Shield alleges that Plaintiff has waived any right to recover on any claim against Blue Shield as a result of Plaintiff's conduct.

**SIXTH AFFIRMATIVE DEFENSE**

**(Laches)**

Blue Shield alleges that Plaintiff's claims are barred by the doctrine of laches, as Plaintiff's lack of diligence in pursuing its purported claim has severely prejudiced Blue Shield.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

Blue Shield alleges that Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Conformance with Existing Laws and Regulations)**

All conduct and activities of Blue Shield alleged in the Complaint conformed to statutes, government regulations and industry standards based upon the state of knowledge existing at the time(s) alleged in the Complaint.

**NINTH AFFIRMATIVE DEFENSE**

**(Good Faith)**

The acts and statements of Blue Shield were fair and reasonable and were performed in good faith based on all the relevant facts known to Blue Shield.

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**TENTH AFFIRMATIVE DEFENSE**

**(Plaintiff's Willful Acts)**

If any loss, injury, damage or detriment occurred as alleged in Plaintiff's Complaint, some or all such loss, injury, damage or detriment was caused and contributed to by the willful acts of Plaintiff. Accordingly, Plaintiff's recovery from Blue Shield, if any, should be barred or, in the alternative, reduced in proportion to the percentage of Plaintiff's fault.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Consent)**

Plaintiff consented to and approved all the acts and omissions about which Plaintiff now complains. Accordingly, Plaintiff is barred from pursuing his claims.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Unjust Enrichment)**

Plaintiff's claims are barred because Plaintiff would be unjustly enriched if he were to prevail.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(No Entitlement to Attorneys' Fees)**

Plaintiff has not alleged facts demonstrating an entitlement to an award of attorneys' fees and costs.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Exhaust)**

Some or all of Plaintiff's claims are barred, in whole or in part, because of Plaintiff's failure to exhaust any available administrative and/or contractual remedies and failure to meet the jurisdictional prerequisites required to file this action prior to filing the Complaint.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Lack of Standing)**

Plaintiff lacks standing to sue under the Unfair Competition Law, California Business and Professions Code section 17200, *et seq.*, because he has not suffered an injury in fact and a loss of money or property.

1 **SIXTEENTH AFFIRMATIVE DEFENSE**

2 **(Conduct Not Unlawful)**

3 The Complaint and its alleged causes of action, and each of them, are barred because Blue  
4 Shield's practices are not "unlawful" within the meaning of California Business and Professions  
5 Code section 17200, *et seq.*

6 **SEVENTEENTH AFFIRMATIVE DEFENSE**

7 **(Conduct Not Fraudulent or Deceptive)**

8 The Complaint and its alleged causes of action, and each of them, are barred because Blue  
9 Shield's practices alleged are not "fraudulent" or "deceptive" within the meaning of California  
10 Business and Professions Code section 17200, *et seq.*

11 **EIGHTEENTH AFFIRMATIVE DEFENSE**

12 **(Plaintiff's Claims Not Typical)**

13 On information and belief, this case is not suitable for class certification because, among  
14 other reasons, Plaintiff's claims are not typical of the putative class he purports to represent.

15 **NINETEENTH AFFIRMATIVE DEFENSE**

16 **(Plaintiff Not Adequate Class Representative)**

17 On information and belief, Plaintiff does not adequately represent the putative class.

18 **TWENTIETH AFFIRMATIVE DEFENSE**

19 **(Common Issues Do Not Predominate)**

20 On information and belief, class treatment is not proper because common issues of law  
21 and fact do not predominate over individual issues.

22 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

23 **(No Injunctive Relief)**

24 Blue Shield alleges that Plaintiff is not entitled to injunctive relief sought in the  
25 Complaint because Plaintiff has adequate remedies at law for the claims and injuries alleged  
26 therein and/or because the alleged conduct that Plaintiff seeks to enjoin is neither actively  
27 occurring nor threatened.

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**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Reservation of Right to Assert Other Affirmative Defenses)**

Blue Shield hereby reserves its right to amend its Answer herein to add any additional affirmative defenses it deems necessary.

WHEREFORE, Blue Shield prays for judgment as follows:

1. That class certification be denied;
2. That Plaintiff take nothing by reason of the Complaint, and that the same be dismissed with prejudice on the merits;
3. That Blue Shield be awarded judgment in its favor against Plaintiff;
4. That Blue Shield recover its attorneys' fees and costs of suit herein; and
5. That Blue Shield be granted such other and further relief as this Court may deem just and proper.

Dated: January 22, 2015

MANATT, PHELPS & PHILLIPS, LLP

By: /s/Sharon S. Bauman  
Sharon B. Bauman  
*Attorneys for Defendant*  
CALIFORNIA PHYSICIANS' SERVICE d/b/a  
BLUE SHIELD OF CALIFORNIA

1 **PROOF OF SERVICE**

2 I, Brea Nivera, declare as follows:

3 I am employed in San Francisco County, San Francisco, California. I am over the  
4 age of eighteen years and not a party to this action. My business address is MANATT, PHELPS  
& PHILLIPS, LLP, One Embarcadero Center, 30th Floor, San Francisco, California 94111. On  
5 January 22, 2015, I served the within:

6 **ANSWER OF DEFENDANT CALIFORNIA PHYSICIANS' SERVICE  
D/B/A BLUE SHIELD OF CALIFORNIA TO PLAINTIFF SIHANATH  
7 J. VANGSOULATDA'S COMPLAINT FOR DAMAGES**

8 on the interested parties in this action addressed as follows:

9 Kevin T. Barnes, Esq.  
10 Gregg Lander, Esq.  
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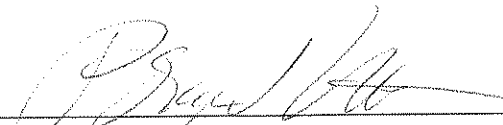
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21  **VIA E-SERVICE:** I personally caused each such document to be served by File &  
22 ServeXpress™ by transmitting true and correct copies to File & ServeXpress™ to  
23 service the parties listed above.

24 I declare that I am employed in the office of a member of the bar of this court at  
25 whose direction the service was made and that the foregoing is true and correct.

26 Executed on January 22, 2015, at San Francisco, California.

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28 \_\_\_\_\_  
Brea Nivera

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