

1 ROBERT S. GIANELLI, #82116  
 2 JOSHUA S. DAVIS, #193187  
 3 ADRIAN J. BARRIO, #219266  
 4 GIANELLI & MORRIS, A Law Corporation  
 5 550 South Hope Street, Suite 1645  
 6 Los Angeles, CA 90071  
 Tel: (213) 489-1600; Fax: (213) 489-1611  
 rob.gianelli@gmlawyers.com  
 joshua.davis@gmlawyers.com  
 adrian.barrio@gmlawyers.com

7 CONAL DOYLE, Cal. Bar #: 227554  
 8 STEPHEN BEKE, Cal. Bar #: 290972  
 9 DOYLE LAW  
 10 9401 Wilshire Blvd., Suite 608  
 Beverly Hills, CA 90212  
 Tel: (310) 385-0567; Fax (310) 943-1780  
 conal@conaldoylelaw.com  
 sbeke@conaldoylelaw.com

11 Attorneys for Plaintiffs  
 12 LACY ATZIN and MARK ANDERSEN,  
 13 on behalf of themselves and all others  
 similarly situated

14 UNITED STATES DISTRICT COURT

15 CENTRAL DISTRICT OF CALIFORNIA

18 LACY ATZIN; MARK ANDERSEN,  
 19 on behalf of themselves and all others  
 20 similarly situated,

21 Plaintiffs,

22 v.

23 ANTHEM, INC.; ANTHEM UM  
 24 SERVICES, INC.,

25 Defendants.  
 26

) Case No.: 2:17-cv-6816

) **CLASS ACTION**

) **COMPLAINT FOR BENEFITS,  
 ) DETERMINATION OF RIGHTS AND  
 ) BREACH OF FIDUCIARY DUTY  
 ) UNDER ERISA**

27  
 28

1 Plaintiffs, Lacy Atzin and Mark Andersen, on behalf of themselves and all  
2 others similarly situated, herein set forth the allegations of their Complaint against  
3 Defendants Anthem, Inc. and Anthem UM Services, Inc.

#### 4 INTRODUCTION

5 1. Anthem, Inc. (“Anthem”) is “one of the largest health benefit  
6 companies in terms of medical membership in the United States, serving 39.9  
7 million medical members through [its] affiliated health plans as of December 31,  
8 2016.”<sup>1</sup> Anthem owns “Blue” organizations in California and many other states, as  
9 well as other subsidiaries.<sup>2</sup> Through its wholly-owned subsidiaries, including  
10 Defendant Anthem UM Services, Inc. (“Anthem UM”), Anthem acts as a fully  
11 integrated company that is in the business of insuring and administering health  
12 insurance plans, most of which are employer-sponsored and governed by the  
13 Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001,  
14 *et seq.* (“Anthem plans”).

15 2. With respect to all Anthem plans, Anthem UM serves as the claims  
16 administrator, responsible for determining whether claims are covered under  
17 Anthem plans (both fully insured and self-insured) and effectuating any resulting  
18 benefit payment. Anthem aids Anthem UM in its administrative duties by, among  
19 other things, participating with Anthem UM in the development of coverage  
20 guidelines called Medical Policies, collaborating with Anthem UM on the types of  
21 claims that will be approved or denied, and assisting Anthem UM in carrying out its  
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23 <sup>1</sup> Anthem’s 2016 10-K, p. 3.  
24

25 <sup>2</sup> Anthem operates under the “Blue” moniker in California, Colorado, Connecticut,  
26 Georgia, Indiana, Kentucky, Maine, Missouri, Nevada, New Hampshire, New York,  
27 Ohio, Virginia and Wisconsin. Anthem also conducts business through subsidiaries  
28 such as Amerigroup, Simply Healthcare Holdings, HealthLink, UniCare, and  
CareMore Health Group, Inc.

1 various other administrative duties. As such, Defendants have acted as ERISA  
2 fiduciaries with respect to all Anthem plans, including Plaintiffs' plans.

3 3. Plaintiffs bring this action to address Defendants' practice of denying  
4 coverage for microprocessor controlled lower limb prostheses for persons with  
5 lower limb loss. Defendants have developed and used a coverage guideline, the  
6 Anthem Medical Policy on Microprocessor Controlled Lower Limb Prosthesis,  
7 Policy No. OR-PR.00003 (hereinafter "OR-PR.00003"), to deny claims for  
8 microprocessor controlled lower limb prostheses. With respect to microprocessor  
9 controlled knee prostheses, Defendants have used erroneous criteria in OR-  
10 PR.00003 to deny most requests for these devices on the basis they are not "medical  
11 necessary." With respect to microprocessor controlled foot-ankle prostheses,  
12 Defendants have denied coverage for all such devices under OR-PR.00003 on the  
13 bases they are "investigational and not medically necessary for all indications."  
14 Contrary to Defendants' position, these devices are effective and necessary for  
15 persons with lower limb loss.

### 16 JURISDICTION AND VENUE

17 4. This action is brought under 29 U.S.C. §§ 1132(a), (e), (f) and (g) as it  
18 involves claims by Plaintiffs for employee benefits under employee benefit plans  
19 regulated and governed by ERISA. Subject matter jurisdiction is predicated under  
20 these code sections as well as 28 U.S.C. § 1331 as this action involves a federal  
21 question.

22 5. The Court has personal jurisdiction over Defendants because ERISA  
23 provides for nationwide service of process, and each defendant has minimum  
24 contacts with the United States. *See* 29 U.S.C. § 1132(e)(2).

25 6. The claims of Plaintiffs and the putative class arise out of policies  
26 Defendants issued, administered, and/or implemented in this District. Thus, venue is  
27 proper in this judicial district pursuant to 29 U.S.C. § 1132(e)(2) (setting forth  
28 special venue rules applicable to ERISA actions).

1 **THE PARTIES**

2 7. Plaintiffs were at all relevant times covered under an employee welfare  
3 benefit plans regulated by ERISA and pursuant to which Plaintiffs are entitled to  
4 health care benefits.

5 8. Anthem and Anthem UM are corporations with their principal place of  
6 business in Indianapolis, Indiana. They administer and make benefit determinations  
7 related to ERISA health care plans around the country.

8 9. Defendants do not operate independently and in their own interests, but  
9 serve solely to fulfill the purpose, goals and policies of each other.

10 **SUBSTANTIVE ALLEGATIONS**

11 **A. Microprocessor controlled knee and foot-ankle prostheses.**

12 10. There are approximately 2 million people living with limb loss in  
13 the United States. Approximately 185,000 amputations occur in the United  
14 States each year, about 500 a day.

15 11. People with limb loss require the use of a prosthesis, an artificial  
16 extension that replaces a missing body part such as an upper or lower body  
17 extremity. The development of prostheses is part of the field of biomechanics, the  
18 science of fusing mechanical devices with human muscle, skeleton, and nervous  
19 systems to assist or enhance motor control lost by trauma, disease, or defect. The  
20 type of prosthesis used is determined largely by the extent of an amputation or loss  
21 and location of the missing extremity.

22 12. The two types of lower limb prostheses are the transfemoral (above the  
23 knee) prosthesis and the transtibial (below the knee) prosthesis. Improvements in  
24 technology have allowed manufacturers to use microprocessors to power artificial  
25 knees and feet-ankles in these devices. Microprocessor technology has been used in  
26 prosthetics for decades-and has long been “standard” issue in the industry.

27 13. Microprocessor controlled knees feature sensors, a microprocessor,  
28 software, a resistance system and a battery. The knee’s internal computer

1 (microprocessor) controls an internal fluid, which may be hydraulic or pneumatic.  
2 The microprocessor monitors each phase of a person's gait cycle using a series of  
3 sensors. The sensors detect and monitor changes in the environment, such as  
4 walking on a different surface, going up or down a slope or walking at a different  
5 speed. Based on that feedback, the microprocessor adjusts the resistance to knee  
6 flexion (bending) and extension (straightening) to accommodate walking speed and  
7 terrain. This enhances stability and security for the user, decreases the incidence of  
8 stumbles and falls, and provides improved ambulation on all surfaces. The primary  
9 advantage of microprocessor technology over the alternative is safety and stability-  
10 not speed of ambulation or ability to engage in athletic endeavors. There are other,  
11 very different, types of prosthetics whose primary purpose is to increase speed of  
12 ambulation and/or maximize athletic performance. Microprocessor knees are  
13 primarily for "everyday walking around" activities of daily living and are beneficial  
14 and necessary for amputees of virtually every demographic.

15 14. Microprocessor controlled foot-ankle devices use the same technology  
16 to simulate the movements of a normal foot and ankle. The device responds to  
17 constant feedback from sensors to the microprocessor, which changes the resistance  
18 to plantarflexion (downward motion) and dorsiflexion (upward motion) of the foot  
19 based on walking speed, incline, decline and type of terrain. Adjustments are made  
20 in real time. This creates stability, decreases stumbles and falls, improves  
21 ambulation on all services, and decreases the discomfort and pain associated with a  
22 prosthetic device.

23 15. Given the benefits of microprocessor controlled lower limb prostheses  
24 for persons with lower limb loss in everyday settings, the devices are established  
25 and accepted by the medical community at large as "standard" prostheses, and they  
26 are routinely prescribed prosthetic options for individuals meeting appropriate  
27 medical criteria.

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1           **B. Defendants' Medical Policies.**

2           16. To enable their administration of fully insured and self-insured health  
3 plans, Defendants have developed Medical Policies, that is, written directives on  
4 coverage positions they take with respect to certain medical treatments. *Inter alia*,  
5 the Medical Policies provide Defendants' coverage position on whether certain  
6 treatments are medically necessary and/or investigational.

7           17. As stated in Anthem's "Medical Policy Formation" document:

8           The Office of Medical Policy & Technology Assessment (OMPTA)  
9 develops medical policy and clinical IJM guidelines (collectively  
10 "Medical Policy") for the company. The principal component of the  
11 process is the review for development of medical necessity and/or  
investigational policy position statements or clinical indications for  
certain new medical services and/or procedures or for new uses of  
existing services and/or procedures.

12           18. Defendants use the Medical Policies to administer claims under  
13 Anthem plans. As set forth below, Defendants have used OR-PR.00003 to deny  
14 requests for microprocessor controlled lower limb prostheses.

15           **C. Defendants' denials of requests for microprocessor controlled  
16 lower limb prostheses.**

17           19. Anthem plans do not cover services that are not "medically necessary"  
18 and they define that term in substantially the same manner as services that are:

19           1. Appropriate and necessary for the diagnosis or treatment of the  
20 medical condition;

21           2. Clinically appropriate in terms of type, frequency, extent, site and  
22 duration and considered effective for the patient's illness, injury or  
disease;

23           ...

24           7. The most appropriate procedure, supply, equipment or service which  
25 can safely be provided. The most appropriate procedure, supply,  
equipment or service must satisfy the following requirements:

26           a. There must be valid scientific evidence demonstrating that the  
27 expected health benefits from the procedure, supply, equipment or  
service are clinically significant and produce a greater likelihood of

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1 benefit, without a disproportionately greater risk of harm or  
2 complications, for you with the particular medical condition being  
treated than other possible alternatives; and

3 b. Generally accepted forms of treatment that are less invasive have  
4 been tried and found to be ineffective or are otherwise unsuitable.

5 20. Anthem plans also exclude “investigational” services and they define  
6 that term in substantially the same manner as services:

7 1) that have progressed to limited use on humans, which are not  
8 generally accepted as proven and effective procedures within the  
9 organized medical community; or 2) that do not have final approval from  
10 the appropriate governmental regulatory body; or 3) that are not  
11 supported by scientific evidence which permits conclusions concerning  
12 the effect of the service, drugs or device on health outcomes; 4) that do  
not improve the health outcome of the patient treated; or 5) that are not  
as beneficial as any established alternative; or 6) whose results outside  
the Investigational setting cannot be demonstrated or duplicated; or 7)  
that are not generally approved or used by Physicians in the medical  
community.

13 21. Defendants deny requests for microprocessor controlled knee  
14 prostheses based on erroneous criteria set forth in OR-PR.00003. Under this  
15 Medical Policy, Defendants deem requests for these prosthetics not “medically  
16 necessary” and not covered unless *all* of the following criteria are met:

17 1. Individual has adequate cardiovascular reserve and cognitive learning  
18 ability to master the higher level technology and to allow for faster than  
normal walking speed; **and**

19 2. Individual has demonstrated the ability to ambulate faster than their  
20 baseline rate using a standard swing and stance lower extremity  
prosthesis; **and**

21 3. Individual has a documented need for daily long distance ambulation  
22 (for example, greater than 400 yards) at variable rates. (In other words,  
use within the home or for basic community ambulation is not sufficient  
23 to justify the computerized limb over standard limb applications); **and**

24 4. Individual has a demonstrated need for regular ambulation on uneven  
25 terrain or regular use on stairs. Use of limb for limited stair climbing in  
the home or place of employment is not sufficient to justify the  
computerized limb over standard limb applications.

26 (Emphasis in original.)

27 22. Defendants have wrongly denied requests for microprocessor  
28 controlled knee prostheses because all of the criteria in OR-PR.00003 are erroneous.

1 Criteria 1 and 2 are predicated on a person with a prosthetic leg demonstrating the  
2 ability to master “a faster than normal walking speed” and doing so with a “standard  
3 swing and stance” device. While a microprocessor controlled knee prosthesis may  
4 allow a person to walk faster, this is only one benefit of the device. Because the  
5 device approximates the action of a real knee, it allows persons without lower limbs  
6 to accomplish “normal” activities of daily living. *Inter alia*, a microprocessor  
7 controlled knee prosthesis creates better stability and, therefore, reduces the  
8 incidence of stumbles and falls, lessens the extra energy it takes to move an artificial  
9 leg, decreases discomfort and pain, and aids walking at a variable cadence, over  
10 uneven terrain, or using steps—activities that individuals with artificial legs  
11 encounter in every setting, including their homes. Criterion 3 creates an  
12 unreasonable distance requirement, walking at least 400 hundred yards everyday.  
13 Use of a device that is safer and aids mobility in everyday settings has nothing to do  
14 with daily long distance use. Similarly, Criterion 4 makes unreasonable demands  
15 regarding “regular” use of uneven terrain or stairs while excluding the use of home  
16 or workplace stairs.

17 23. Defendants have also wrongly denied coverage for all requests for  
18 microprocessor controlled foot-ankle prostheses pursuant to a directive in OR-  
19 PR.00003.

20 The use of a microprocessor controlled foot-ankle prosthesis (for  
21 example, Proprio Foot of the PowerFoot Biom) is considered  
**investigational and not medically** necessary for all indications.

22 (Emphasis in original.)

23 24. OR-PR.00003 acknowledges that there are studies demonstrating the  
24 benefits created by microprocessor controlled foot-ankle prostheses. For instance,  
25 with respect to the Proprio Foot device, OR-PR.00003 references a study where  
26 “[t]he authors concluded that the Proprio device contributes significantly to an  
27 increased minimum to clearance measurement which may provide a significant  
28 contribution to decreased likelihood of tripping.” Indeed, OR-PR.00003 cites seven



1 different peer reviewed studies in support of it's conclusion that microprocessor  
2 ankle-feet are "experimental and investigational." Yet *every one* of those studies  
3 concluded that microprocessor ankle-feet *provided significant benefits* over  
4 mechanical ankle-feet. None of the studies cited by Anthem actually supports its  
5 conclusion that the technology is "experimental and/or investigational." And  
6 Anthem ignores numerous other studies that also support the efficacy of  
7 microprocessor foot-ankle technology. Yet OR-PR.00003 concludes "further study  
8 is needed to establish a meaningful outcome benefit of the Proprio Foot over the  
9 conventional ankle-foot prosthesis."

10 25. Defendants' "investigational" position on microprocessor controlled  
11 foot-ankle prostheses is erroneous. There is more than sufficient evidence of the  
12 effectiveness of these devices. They respond to constant feedback from sensors to  
13 the onboard computer, which changes the resistance to plantarflexion (downward  
14 motion) and dorsiflexion (upward motion) of the foot based on walking speed,  
15 incline, decline and type of terrain. The devices allow for a more normal bend at the  
16 ankle when walking so that there is a reduction in toe drag and better balance. This  
17 creates better stability and reduces stumbles and falls. Rigid ankles also cause pain  
18 and stiffness of the residual limb that is reduced by an active ankle. The substantial  
19 benefits of these devices for those with lower limb loss have been well documented  
20 and are well known to Defendants.

21 **D. Defendant's denial of Plaintiff Lacy Atzin's request for a**  
22 **microprocessor controlled knee device.**

23 26. Ms. Atzin was diagnosed with a cancer tumor in her left leg when she  
24 was 11 years old. Her left leg was amputated above the knee. She was then fitted  
25 with a prosthetic device. She is currently married with five children.

26 27. In April of 2016, Ms. Atzin was referred to Hanger Clinic, a nationwide  
27 provider of prosthetic services. A certified prosthetist in Hanger Clinic's Lower  
28 Extremity Prosthetics Program determined that Ms. Atzin needed a prosthetic leg

1 with a microprocessor-controlled knee. Hanger Clinic sought authorization from  
2 Defendants for this device.

3 28. On May 3, 2016, Defendants' delegated medical group, Sharp Rees-  
4 Stealy Medical Group, denied coverage stating that the microprocessor controlled  
5 knee prosthesis was not "medically necessary" because Ms. Atzin did not satisfy the  
6 erroneous criteria of OR-PR.00003. Pursuant to its agreement with Defendants and  
7 their subsidiaries, Sharp Rees-Stealy Medical Group was required to follow OR-  
8 PR.00003 when it received a request for a microprocessor controlled knee prosthesis  
9 under an Anthem plan.

10 29. Ms. Atzin appealed this decision. On June 6, 2016 Anthem UM sent  
11 Ms. Atzin a letter advising that "Anthem UM Services, Inc. provides utilization  
12 management services for Anthem Blue Cross and Anthem Blue Cross Life and  
13 Health Insurance Company." Anthem UM stated it was denying Ms. Atzin's appeal  
14 because she did not meet the criteria of OR-PR.00003:

15 You must be able to walk faster than the normal walking speed of  
16 someone with a standard prosthesis. There must be a need for walking  
17 more than 400 yards a day at different speeds. There must also be a need  
18 to walk over uneven ground or to use stairs often outside of your home  
19 or workplace. You must also be able to control a complex device. We do  
20 not see this is the case for you. For this reason, we believe this prosthesis  
21 is not medically necessary for you. We based this decision on the health  
22 plan medical policy, Microprocessor Controlled Lower Limb Prosthesis  
23 (OR-PR.00003).

24 30. Ms. Atzin's orthopedist requested a re-review of Anthem UM's  
25 decision. On October 19, 2016, Defendants, acting through their subsidiary Anthem  
26 Blue Cross, advised they would cover the request for an above the knee prosthetic  
27 leg but would not approve the request for one that is controlled by a microprocessor  
28 controlled knee. Defendants advised that "[w]e base this decision on the health plan  
29 medical policy, Microprocessor Controlled Lower Limb Prosthesis (OR-  
30 PR.00003)."

31 31. Because it was Defendants' policy and practice to deny coverage for  
32 requests for microprocessor controlled knee prostheses as not medically necessary

1 when the requests did not meet all of its erroneous criteria, Defendants did not  
2 assess whether Ms. Atzin met any valid individual medical criteria for receiving the  
3 device.

4 **E. Defendants' denial of Plaintiff Mark Andersen's request for  
5 microprocessor controlled foot-ankle prostheses.**

6 32. Mr. Andersen underwent bilateral below the knee amputations  
7 following a boating accident in 2000. He was subsequently fitted with below the  
8 knee prosthetic devices. Mr. Andersen operates a small moving and storage  
9 company.

10 33. In February of 2015, Mr. Andersen was evaluated for new prostheses  
11 by a certified prosthetist at Achilles Prosthetics and Orthotics. The prosthetist  
12 determined that Mr. Andersen needed below the knee prostheses with  
13 microprocessor controlled foot-ankle systems. Achilles Prosthetics and Orthotics  
14 sought authorization from Defendants for the devices.

15 34. On June 9, 2015, Anthem UM sent Mr. Andersen a letter advising that  
16 "Anthem UM Services, Inc. provides utilization management services for Anthem  
17 Blue Cross and Anthem Blue Cross Life and Health Insurance Company." Anthem  
18 UM stated it was denying the request for microprocessor controlled foot-ankle  
19 prosthesis because "[y]ou must have an above amputation." Anthem UM also  
20 indicated that Mr. Andersen did not meet the criteria of OR-PR.00003 and stated  
21 that "[w]e based this decision on the health plan medical policy, Microprocessor  
22 Controlled Lower Limb Prosthesis (OR-PR.00003)."

23 35. Mr. Andersen appealed this decision. On August 5, 2015 Anthem UM  
24 sent Mr. Andersen a letter advising that "Anthem UM Services, Inc. provides  
25 utilization management services for Anthem Blue Cross." Anthem UM stated it was  
26 denying Ms. Andersen's appeal because the microprocessor controlled foot-ankle  
27 prostheses "are considered investigational" and "[w]e based this decision on the  
28 health plan medical policy, Microprocessor Controlled Lower Limb Prosthesis (OR-  
PR.00003)."

1 36. Because it was Defendants' policy and practice to deny all requests for  
2 microprocessor controlled foot-ankle prostheses as "investigational and not  
3 medically necessary for all indications," Defendants did not assess whether Mr.  
4 Andersen met any individual medical criteria for receiving the devices.

5 **CLASS ACTION ALLEGATIONS**

6 37. Plaintiffs bring this action on behalf of themselves and all others  
7 similarly situated as a class action pursuant to Federal Rules of Civil Procedure Rule  
8 23. Pursuant to Rule 23(b)(1) and (b)(2), Plaintiffs seek certification of the  
9 following class:

10 All persons covered under Anthem plans, governed by ERISA, self-  
11 funded or fully insured, whose requests for microprocessor controlled  
12 knee or foot-ankle prostheses have been denied during the applicable  
13 statute of limitations pursuant to Anthem's Medical Policy on  
14 Microprocessor Controlled Lower Limb Prosthesis, Policy No. OR-  
15 PR.00003.

16 38. Plaintiffs and the class members reserve the right under Federal Rule of  
17 Civil Procedure Rule 23(c)(1)(C) to amend or modify the class to include greater  
18 specificity, by further division into subclasses, or by limitation to particular issues.

19 39. This action has been brought and may be properly maintained as a class  
20 action under the provisions of Federal Rules of Civil Procedure Rule 23 because it  
21 meets the requirements of Rule 23(a) and Rule 23(b)1 and (b)(2).

22 **A. Numerosity**

23 40. The potential members of the proposed class as defined are so  
24 numerous that joinder of all the members of the proposed class is impracticable.  
25 While the precise number of proposed class members has not been determined at  
26 this time, Plaintiffs are informed and believe that there are a substantial number of  
27 individuals covered under Anthem Plans who have been similarly affected.

28 **B. Commonality**

41. Common questions of law and fact exist as to all members of the  
proposed class.

///

1           **C. Typicality**

2           42. The claims of the named Plaintiffs are typical of the claims of the  
3 proposed class. Plaintiffs and all members of the class are similarly affected by  
4 Defendants' wrongful conduct.

5           **D. Adequacy of representation**

6           43. Plaintiffs will fairly and adequately represent and protect the interests  
7 of the members of the proposed class. Counsel who represent Plaintiffs are  
8 competent and experienced in litigating large and complex class actions.

9           **E. Superiority of class action**

10          44. A class action is superior to all other available means for the fair and  
11 efficient adjudication of this controversy. Individual joinder of all members of the  
12 proposed class is not practicable, and common questions of law and fact exist as to  
13 all class members.

14          45. Class action treatment will allow those similarly situated persons to  
15 litigate their claims in the manner that is most efficient and economical for the  
16 parties and the judicial system. Plaintiffs are unaware of any difficulties that are  
17 likely to be encountered in the management of this action that would preclude its  
18 maintenance as a class action.

19          **F. Rule 23(b) requirements**

20          46. Inconsistent or varying adjudications with respect to individual  
21 members of the class would establish incompatible standards of conduct for  
22 Defendants.

23          47. Adjudications with respect to individual class members would be  
24 dispositive of the interests of the other members not parties to the individual  
25 adjudications or would substantially impair or impede their ability to protect their  
26 interests.

27        ///

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1           55. Mr. Andersen has exhausted his administrative remedies, as alleged  
2 above.

3           56. Based on the foregoing, Plaintiffs and the class members seek the  
4 payment of medical expenses, interest thereon, a clarification of rights, and  
5 attorneys fees.

6  
7                                   **SECOND CLAIM FOR RELIEF**  
8                                   **BREACH OF FIDUCIARY DUTY AND EQUITABLE RELIEF UNDER AN**  
9                                   **ERISA PLAN [29 U.S.C. § 1132(a)(3)]**

10           57. Plaintiffs and the class members repeat and re-allege each and every  
11 allegation set forth in all of the foregoing paragraphs as if fully set forth herein.

12           58. As alleged herein, Defendants have acted as ERISA fiduciaries with  
13 respect to the administration and claims decisions under Anthem plans and, in  
14 particular, have acted as ERISA fiduciaries in denying requests for microprocessor  
15 controlled knee and foot-ankle prosthesis, as alleged herein.

16           59. Defendants have improperly denied Plaintiffs' and the class members'  
17 requests for microprocessor controlled knee and foot-ankle prostheses in beach of  
18 their fiduciary duties, as alleged herein.

19           60. Pursuant to 29 U.S.C. § 1132(a)(3), Plaintiffs and the class members  
20 seek declaratory, equitable and remedial relief as follows:

21           a. An order declaring that Defendants' denials of requests for  
22 microprocessor controlled knee prostheses are wrong and improper;

23           b. An order declaring that Defendants' denials of requests for  
24 microprocessor controlled foot-ankle prostheses are wrong and improper;

25           c. An injunction requiring Defendants to reevaluate and reprocess  
26 Plaintiffs' and class members' requests without the erroneous denial bases under  
27 appropriate and valid medical necessity criteria;

28           ///

