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VIA U.S. MAIL & E-MAIL

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Re: *Los Angeles County Medical Association, et al., v. Aetna Health of California, Inc., et al.*, Los Angeles Superior Court Case No. BC 487670

Dear Counsel:

As you are aware, we, along with our co-counsel at Hooper Lundy & Bookman, P.C., are counsel for the named Plaintiffs in the recently filed case of *Los Angeles County Medical Association, et al., v. Aetna Health of California, Inc., et al.*, Los Angeles Superior Court Case No. BC 487670 (the "LACMA Litigation"), which challenges Aetna's unlawful business practices and policies of improperly restricting Aetna's PPO beneficiaries from accessing the out-of-network facilities coverage for which they paid. As you know, the basis of Plaintiffs' Complaint is that Aetna sold PPO coverage to its beneficiaries but, behind their back, penalized, threatened and terminated doctors who encouraged beneficiaries to use the out-of-network benefits for which they paid. It has recently come to our attention that since the filing of the Complaint on July 3, 2012, Aetna has not only failed to cease its illegal behavior, it has engaged in a new, increased and invigorated pattern of threats and terminations. In fact, we have been made aware that Aetna is engaged in a retaliatory campaign of threatening, penalizing and terminating additional doctors from Aetna's network for participating in the LACMA Litigation, and/or solely for their affiliation with CMA and LACMA who are Plaintiffs in the LACMA Litigation. This letter serves as Plaintiffs' demand that Aetna cease and desist from such illegal acts of retribution and unfair business conduct that not only forms the basis of the LACMA Litigation, but gives rise to further and additional claims against Aetna.

Because we assume that you have not been made privy to Aetna's recent conduct, we summarize some of these incidents here. Last week we were informed by CMA that Aetna had ceased negotiations and refuses to contract with any physician to join Aetna's provider network if the physician is a member of CMA or any of the local county medical association Plaintiffs who are parties to the LACMA Litigation. In fact, an Aetna network manager informed a CMA member, after months of negotiations with Aetna, that all contract negotiations were over because of CMA's participation in the LACMA Litigation. After inquiring directly with Aetna, CMA has received confirmation in writing of Aetna's refusal to negotiate or contract with

any CMA physician because of CMA and the county medical associations' participation in the LACMA Litigation.

Aetna's illegal acts of retaliation, bad faith and unfair business conduct extend to individual physicians as well. Since the filing of the LACMA Litigation, named physician Plaintiffs as well as unnamed physicians have been ruthlessly and indiscriminately terminated – without basis or current warning. Indeed, counsel for Plaintiffs along with CMA, the county medical association Plaintiffs and named Plaintiff physicians have all been inundated by calls from physicians who have received Aetna termination letters. Most egregiously, many of the physicians who are being terminated made only sporadic and/or limited referrals to out-of-network facilities – meaning that they have been terminated for no reason other than their participation in the LACMA Litigation either directly or solely via their membership in CMA or LACMA.

Undoubtedly, Aetna's recent retaliations constitute further evidence supporting Plaintiffs' claims and harm to additional persons or entities who intend to join the LACMA Litigation. However, Aetna's conduct also gives rise to additional legal claims.

There is no doubt, based on both written and oral communications from representatives at Aetna, that the recent terminations are intended to penalize and punish Plaintiffs and terminated physicians *because of the LACMA Litigation*. Therefore, they constitute retaliatory terminations in violation of public policy and in violation of the First Amendment right to petition the courts for redress of grievances, a right also protected by the California constitution. Additionally, Aetna's actions constitute disruptions and interferences with the physician-patient relationship and the prospective economic advantage associated therewith. The retaliatory terminations also constitute violations of California's False Advertising laws. Indeed, every day, Aetna continues to advertise that those who purchase Aetna's PPO benefits may seek treatment at out-of-network facilities, yet the physicians who are referring patients to the very same out-of-network facilities they paid to access are being terminated. Through the terminations, Aetna is breaching its contracts both with physicians and patients and denying both the benefits that they bargained for.

In addition to the new causes of action that are accruing against Aetna at an alarming rate, the retaliatory terminations constitute violations of the causes of action already pending in the LACMA Litigation, including but not limited to violations of California Insurance Code § 10133, California Health and Safety Code § 1367(g), Business and Profession Code § 2056, Business & Profession Code § 17200, et seq., Business and Profession Code § 1750, et seq., Breach of Contract, and Intentional and/or Negligent Interference with Prospective Economic Advantage. Through the retaliatory terminations, Aetna is engaged in conduct giving rise to additional harm, increasing damages exponentially.

However, most alarming is the clear disruption that Aetna's terminations will have on the physician patient relationship. The physicians who have been, and are continuing to be terminated, are treating Aetna patients with whom they either have a long standing and/or important relationship or who are in the middle of treatment. Aetna's retaliatory conduct is not as simple as a breached contract violating California law, it is also endangering peoples' lives and preventing physicians from treating the patients for whose

wellbeing they are responsible. Additionally, Aetna's campaign is directed at members of CMA and the other named medical associations, thereby interfering with their ability to function as organizations whose duty it is to fight for physicians, patients and the medical profession. Aetna's acts are jeopardizing the most important medical organizations in the state of California. The illegal and retaliatory terminations must stop.

We remain hopeful that with your counsel, the above-described illegal and retributive acts have been or will be immediately ceased and that the contentions surrounding the acts of Aetna alleged in the LACMA Litigation will be allowed their just adjudication without interference or further antagonizing by Aetna. We look forward to receiving your written confirmation that said acts have ceased by no later than Friday, August 31, 2012, 12:00 p.m. PDT.

The foregoing is neither a complete recitation of the facts of this matter, nor a waiver nor relinquishment of any of our clients' rights, claims, remedies or defenses, all of which are hereby expressly reserved.

Very truly yours,

By
Angela C. Agrusa, Esq.

cc: Daron L. Tooch, Esq.
Katherine Markowski Dru, Esq.