		ELECTRONICALLY FILED Superior Court of California, County of San Diego 07/07/2017 at 04:42:32 PM		
1 2	Douglas S. Gilliland, Esq. (SBN 157427) THE GILLILAND FIRM	Clerk of the Superior Court By Vanessa Bahena,Deputy Clerk		
2	402 West Broadway, Suite 1760 San Diego, California 92101 Tel.: (619) 878-1580, Fax (619) 878-6630			
4	Attorneys for Plaintiff LAURA VELTMEYER			
5				
6				
7 8				
	SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SAN DIEGO			
9 10	LAURA VELTMEYER, an individual,	Case No.: 37-2017-00024828-CU-PO-CTL		
11	Plaintiff,	COMPLAINT FOR:		
12	V.	1. Breach of the Implied Covenant of Good		
13	CIGNA HEALTH AND LIFE INSURANCE	Faith and Fair Dealing		
14	COMPANY, a Connecticut corporation, and DOES 1-10, inclusive,	2. Breach of Contract		
15	Defendants.	 Negligence Declaratory Relief 		
16		4. Declaratory Rener		
17				
18				
19				
20	COMES NOW, Plaintiff LAURA VELTMEYER, an individual, by and through her			
21 22	attorneys of record, and THE GILLILAND FIRM, by Douglas S. Gilliland, Esq., and alleges as			
22	follows: I.			
24	I. GENERAL ALLEGATIONS			
25	1. Venue of this lawsuit is proper in the Superior Court of the state of California, in			
26	and for the county of San Diego, pursuant to Code of Civil Procedure section 395(a), because			
27	Defendant CIGNA HEALTH AND LIFE INSURANCE COMPANY, a Connecticut corporation,			
28	is licensed to do business, and is doing business, in San Diego County, California and the			
	1			
		COMPLAINT		

THE GILLILAND FIRM 402 West Broadway, Suite 1760 San Diego, California 92101 TEL (619) 878-1580 FAX (619) 878-6630 1 actionable conduct and damages claimed herein occurred in San Diego County, California.

2 2. The Superior Court of the state of California, in and for the county of San Diego,
 3 has jurisdiction of the subject matter of this civil lawsuit pursuant to California Code of Civil
 4 Procedure section 525, *et seq*.

3. At all times relevant to this Complaint, Defendant CIGNA HEALTH AND LIFE
INSURANCE COMPANY was a Connecticut corporation, licensed to do business in San Diego
County, California and doing business in San Diego County, California.

8 4. At all times relevant to this Complaint, Plaintiff LAURA VELTMEYER was an
9 individual and resident of San Diego County, California.

5. Plaintiff is truly ignorant of the true names, identities and capacities of DOES 1
 through 10, inclusive. Therefore, Plaintiff sues these defendants under the fictitious designations
 of DOES 1 through 10. Plaintiff will either amend this Complaint, or file a DOE amendment
 pursuant to Code of Civil Procedure section 474, once their identities have been ascertained as
 well as the facts giving rise to their liability.

II.

FIRST CAUSE OF ACTION

Breach of the Implied Covenant of Good Faith and Fair Dealing

[Against CIGNA and DOES 1-5]

Plaintiff incorporates by reference all previously pled paragraphs herein.

6. On or about July 15, 2015, a biopsy was taken near Plaintiff LAURA

21 VELTMEYER's breast which revealed that she had cancer. Plaintiff VELTMEYER had health

22 insurance through CIGNA HEALTH AND LIFE INSURANCE COMPANY (hereafter

23 "CIGNA"). Plaintiff VELTMEYER's physician sought a PET scan at that time. A PET scan

24 uses positron emission tomography which is the state of the art diagnostic tool for finding cancer,

25 || learning the stage of cancer, determining if the cancer has spread and determining what course of

26 treatment would be the best choice for a patient's specific cancer. CIGNA denied approval of



28 / / /

15

16

17

18

19

20

COMPLAINT

7. Without the benefit of the PET scan, Plaintiff VELTMEYER was put on regimen
 program of chemotherapy. After the chemotherapy, authority to perform a PET scan was again
 requested and denied by CIGNA.

4 8. In January of 2016, Plaintiff VELTMEYER underwent a double radical
5 mastectomy. Pathology revealed cancer in her breast tissue and lymph nodes. The cancerous
6 tissue is removed.

7 9. In February 2016, Plaintiff VELTMEYER started her second round of
8 chemotherapy.

9 10. In February 2016, a PET scan was approved by CIGNA, but its results were
10 worthless because Plaintiff VELTMEYER had just had the double radical mastectomy so the
11 entire cellular area was reacting to the scan from the trauma of the surgery, not because of the
12 presence of cancer.

13 11. Thereafter, in February 2016, Plaintiff VELTMEYER began another regimen of
14 chemotherapy.

15 12. In March 2016, Plaintiff VELTMEYER starts her third round of chemotherapy.
16 This time the chemotherapy was coupled with radiation treatment.

13. Another PET scan is requested and denied by CIGNA.

18 14. After the PET scan was denied by CIGNA, Mrs. VELTMEYER developed a rash19 on her chest and a cough. She went to a dermatologist and a biopsy revealed cancer.

20 15. Plaintiff VELTMEYER's oncologist called CIGNA to request a PET scan on an
21 emergency basis. CIGNA did not approve the PET scan.

16. The VELTMEYERs called the Scripps Cancer Center to pay for the PET scan out
of pocket. They were told that they cannot pay out of pocket, but must go through the insurance
appeal process with CIGNA.

25 17. Plaintiff VELTMEYER currently suffers from cancer of the lungs, right side of
26 the neck and chest.

3

27 18. Plaintiff VELTMEYER suffered a covered loss under her policy of health
28 insurance with CIGNA because the PET scans requested by her doctors were medically

THE GILLILAND FIRM 402 West Broadway, Suite 1760 San Diego, California 92101 TEL (619) 878-1580 FAX (619) 878-6630

17

necessary for the treatment of her cancer. 1 19. CIGNA was notified of the requests for the PET scans by Plaintiff 2 VELTMEYER's doctors. 3 20. CIGNA unreasonably failed to investigate and approve the policy benefits of the 4 medically necessary PET scans. 5 21. CIGNA's unreasonable failure to investigate and approve the policy benefits of 6 7 the medically necessary PET scans was a substantial factor in causing harm to Plaintiff 8 VELTMEYER, including her health, recovery and prognosis for recovery. 22. 9 The conduct alleged herein amounts to oppression, fraud and/or malice within the meaning of California Civil Code section 3294 which entitles Plaintiff VELTMEYER to punitive 10 damages to punish the defendant(s) and deter them from similar conduct in the future. 11 III. 12 SECOND CAUSE OF ACTION 13 **Breach of Written Contract** 14 [Against CIGNA and DOES 1-5] 15 Plaintiff incorporates by reference all previously pled paragraphs herein. 16 23. 17 Plaintiff VELTMEYER and CIGNA entered into a contract for health insurance. 24. Plaintiff VELTMEYER did all, or substantially all, of the significant things that 18 the contract required her to do. 19 25. All the conditions required for CIGNA to provide performance of its obligations 20 on the contract had occurred because they had been notified of Plaintiff VELTMEYER's 21 22 condition and the PET scans were medically necessary to for the proper medical treatment of Plaintiff VELTMEYER. 23 26. 24 Defendant CIGNA breached its obligations under the contract because it failed to approve medically necessary medical treatment, i.e., the PET scans, which it knew were 25 medically necessary. 26 27 11 28 /// 4

THE GILLILAND FIRM 402 West Broadway, Suite 1760 San Diego, California 92101 TEL (619) 878-1580 FAX (619) 878-6630

1	27. Plaintiff was harmed as a result of Defendant CIGNA's breach of contract.					
2	IV.					
3	THIRD CAUSE OF ACTION					
4	Negligence					
5	[Against CIGNA and DOES 1-5]					
6	Plaintiff incorporates by reference all previously pled paragraphs herein.					
7	28. Defendant had a duty to use ordinary care in the processing of Plaintiff					
8	VELTMEYER's insurance claims.					
9	29. Defendant CIGNA breached that duty of care by failing to properly and timely					
10	investigate the requests for PET scans and by wrongfully concluding that the PET scans					
11	requested were not medically necessary for the for the proper treatment and care of Plaintiff					
12	VELTMEYER's cancer.					
13	30. Defendant CIGNA's breach of duty was a substantial factor in causing harm to					
14	Plaintiff VELTMEYER because her doctors were no able to accurately diagnose the location and					
15	type of cancer nor provide an accurate treatment plan which caused Plaintiff VELTMEYER					
16	harm.					
17	V.					
18	THIRD CAUSE OF ACTION					
19	Declaratory Relief					
20	[Against CIGNA and DOES 1-5]					
21	Plaintiff incorporates by reference all previously pled paragraphs herein.					
22	31. An actual controversy exists relating to the legal rights and duties of Plaintiff					
23	VELTMEYER and Defendant CIGNA as to the rights and responsibilities of the parties under					
24	the contract of health insurance. The controversy is causing irreparable harm to Plaintiff					
25	VELTMEYER because she has no adequate remedy at law.					
26	32. Plaintiff VELTMEYER seeks a judicial determination and declaration of rights					
27	and duties of Plaintiff VELTMEYER and Defendant CIGNA relative to the controversy, to wit,					
28	the rights and responsibilities for approval and payments of health benefits under the contract for					
	5					
	COMPLAINT					

402 West Broadway, Suite 1760 San Diego, California 92101 TEL (619) 878-1580 FAX (619) 878-6630 THE GILLILAND FIRM

	1	health insura	nce.		
	2				
	3	WHEREFORE Plaintiff LAURA VELTMEYER prays as follows:			
	4	1. General damages according to proof at the time of trial;			
5		2. Special damages according to proof at the time of trial;			
	6	3. Punitive damages according to proof at the time of trial;			
7		4. Pre-judgment interest and costs of suit incurred herein and interest; and			
	8	5. Any further equitable or legal relief that this Court deems just and app		or legal relief that this Court deems just and appropriate.	
	9				
	10	DATED: Jul	ly 7, 2017	THE GILLILAND FIRM	
	11				
	12			By: Douglas S. Gilliland, Esq.,	
	13			for Plaintiff LAURA VELTMEYER	
	14				
	15				
	16				
•	17				
	18				
	19				
	20				
	21				
	22				
	23				
	24				
	25				
	26				
	27				
	28			6	
				COMPLAIN	

402 West Broadway, Suite 1760 San Diego, California 92101 TEL (619) 878-1580 FAX (619) 878-6630 THE GILLILAND FIRM