

1 MANATT, PHELPS & PHILLIPS, LLP  
2 GREGORY N. PIMSTONE (Bar No. 150203)  
3 BRAD W. SEILING (Bar No. 143515)  
4 JUSTIN JONES RODRIGUEZ (Bar No. 279080)  
5 11355 West Olympic Boulevard  
6 Los Angeles, California 90064-1614  
7 Telephone: (310) 312-4000  
8 Facsimile: (310) 312-4224

**FILED**  
Superior Court of California  
County of Los Angeles

MAR 12 2018

Sherri R. Carter, Executive Officer/Clerk of Court  
By , Deputy  
Glorietta Robinson

*Attorneys for Defendants*

HEALTH NET, INC. and HEALTH NET COMMUNITY SOLUTIONS, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

CENTRAL DISTRICT

12 JOSE NUNEZ,

13 Plaintiff,

14 vs.

15 HEALTH NET, INC. et al.,

16 Defendants.

Case No. BC688713

Hon. Gregory Keosian, Dept. 61

**DEFENDANTS HEALTH NET, INC. AND  
HEALTH NET COMMUNITY  
SOLUTIONS, INC.'S ANSWER TO  
PLAINTIFF'S UNVERIFIED COMPLAINT**

Complaint Filed: December 29, 2017

030641201818

CIT/CASE: BC688713  
LEA/DEF#:

RECEIPT #: CCH505376072  
DATE PAID: 03/12/18 12:52 PM  
PAYMENT: \$870.00 310  
RECEIVED:  
CHECK: \$870.00  
CASH: \$0.00  
CHANGE: \$0.00  
CARD: \$0.00

81037771100

RECEIVED  
MARCH 12 2018  
12:52 PM

ORIGINAL

1 Defendants Health Net, Inc. and Health Net Community Solutions, Inc. (collectively  
2 “Health Net”), hereby answer the Complaint of Plaintiff Jose Nunez as follows:

3 **GENERAL DENIAL**

4 Health Net answers the unverified Complaint pursuant to Code of Civil Procedure  
5 Section 431.30(d). Health Net denies, generally and specifically, each and every allegation of the  
6 Complaint and each and every cause of action alleged against Health Net. Health Net further  
7 denies that Plaintiff was injured, harmed or damaged in the manner or sums alleged, or at all, by  
8 the conduct of Health Net or any of its authorized agents or employees.

9 **AFFIRMATIVE DEFENSES**

10 Without waiving the foregoing or undertaking any burden of proof not otherwise assigned  
11 to it, Health Net asserts the following separate and affirmative defenses to the causes of action  
12 alleged in the Complaint.

13 **FIRST AFFIRMATIVE DEFENSE**

14 **(Failure to State a Claim)**

15 The Complaint and each cause of action alleged in it fail to state facts sufficient to allege a  
16 cause of action against Health Net or to obtain any of the relief sought against Health Net.

17 **SECOND AFFIRMATIVE DEFENSE**

18 **(Full Performance—Health Net)**

19 Health Net’s purported obligations and duties as alleged in the Complaint were fully  
20 performed by Health Net or its agents.

21 **THIRD AFFIRMATIVE DEFENSE**

22 **(Reasonable and Good Faith Conduct)**

23 Each and every act done or statement made by Health Net or its agents or employees with  
24 reference to Plaintiff and his agents was a reasonable and good faith assertion of Health Net’s  
25 legal and contractual rights.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 **(Unconstitutionality of Punitive Damages)**

28 California Civil Code Section 3294 and the California judicial doctrine allowing open-

03/04/2010

1 ended extra-contractual and punitive damages for certain tort claims are invalid on their faces and  
2 as applied to Health Net because they violate Article I, Sections 1, 2, 7, 9, 16 and 17, Article III,  
3 Section 3 and Article IV, Section 1 of the California Constitution; and the Ex Post Facto Clause  
4 of Article I, Section 10, Article IV, Section 2, and the First Amendment and Due Process and  
5 Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

6 **FIFTH AFFIRMATIVE DEFENSE**

7 **(Failure to Exhaust Administrative Remedies)**

8 On information and belief, Plaintiff has failed to exhaust his administrative remedies.

9 **SIXTH AFFIRMATIVE DEFENSE**

10 **(Comparative Fault—Plaintiff)**

11 Plaintiff and his agents failed to exercise ordinary care, caution or prudence for his own  
12 welfare or to avoid the losses or damages alleged in the Complaint. By failing to do so, Plaintiff  
13 directly and proximately caused and contributed to those alleged losses and damages. Any  
14 recovery by Plaintiff must be reduced in proportion to the fault of Plaintiff and his agents.

15 **SEVENTH AFFIRMATIVE DEFENSE**

16 **(Comparative Fault—Third Parties)**

17 Persons or entities other than Health Net failed to exercise ordinary care, caution or  
18 prudence. By failing to do so, they directly and proximately caused or contributed to Plaintiff's  
19 alleged damages. These persons or entities other than Health Net were acting without Health  
20 Net's consent, authorization, knowledge or ratification. Any recovery against Health Net must be  
21 reduced in proportion to the fault of those other persons or entities.

22 **EIGHTH AFFIRMATIVE DEFENSE**

23 **(No Vicarious Liability)**

24 Plaintiff's causes of action against Health Net are barred, in whole or in part, to the extent  
25 Plaintiff improperly seeks to hold Health Net vicariously liable for the alleged acts of medical  
26 providers, medical groups and/or other third parties in violation of California statutory and case  
27 law.

03/14/2018

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**NINTH AFFIRMATIVE DEFENSE**

**(Unjust Enrichment)**

Each of Plaintiff's causes of action is barred by the principle of unjust enrichment.

**TENTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

Each of Plaintiff's causes of action is barred by the principle of unclean hands.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate)**

By exercising reasonable diligence, Plaintiff and his agents could have mitigated the alleged monetary and other damages. But Plaintiff and his agents have failed to exercise reasonable diligence and have not mitigated those alleged damages. As a result, Plaintiff's claims are barred. Or, alternatively, any damages awarded to Plaintiff should be reduced in proportion to the fault of Plaintiff and his agents in failing to mitigate their damages.

**TWELFTH AFFIRMATIVE DEFENSE**

**(Ratification)**

Plaintiff ratified each of the acts alleged in the Complaint.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Intentional Acts of Others)**

The sole and proximate cause of the damages alleged by Plaintiff was and is due to the willful and intentional acts of Plaintiff or other persons and/or entities.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Join Necessary Parties)**

Plaintiff's Complaint and the causes of action therein are barred to the extent Plaintiff has failed to join all parties necessary to bring an action as successors-in-interest.

**ADDITIONAL AFFIRMATIVE DEFENSES**

The Complaint does not describe the claims or facts with sufficient particularity to permit Health Net to ascertain what other defenses may exist. Health Net will rely on any and all further

01670074600

1 defenses that become available or appear during discovery in this action and specifically reserves  
2 the right to assert any additional defenses.

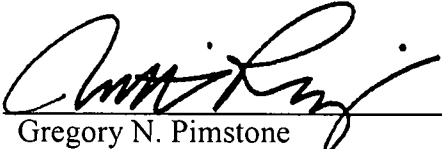
3 **PRAYER**

4 Health Net prays for judgment as follows:

- 5 1. That Plaintiff takes nothing by reason of the Complaint;
- 6 2. That Health Net be awarded its costs and expenses incurred in this action; and
- 7 3. That Health Net recover any other relief that this Court deems just and proper.

8  
9 Dated: March 12, 2018

MANATT, PHELPS & PHILLIPS, LLP

10  
11 By: 

12 Gregory N. Pimstone  
13 Brad W. Seiling  
14 Justin Jones Rodriguez  
15 *Attorneys for Defendant*  
16 HEALTH NET, INC. and HEALTH NET  
17 COMMUNITY SOLUTIONS, INC.

1 **PROOF OF SERVICE**

2 *Nunez v. Health Net, Inc.*  
3 **LASC Case No. BC688713**

4 I, Robert Norvell, declare as follows:

5 I am employed in Los Angeles County, Los Angeles, California. I am over the age of  
6 eighteen years and not a party to this action. My business address is MANATT, PHELPS &  
7 PHILLIPS, LLP, 11355 West Olympic Boulevard, Los Angeles, California 90064-1614. On  
8 March 12, 2018, I served the within:

9 **DEFENDANTS HEALTH NET, INC. AND HEALTH NET  
10 COMMUNITY SOLUTIONS, INC.'S ANSWER TO PLAINTIFF'S  
11 UNVERIFIED COMPLAINT**

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

13 Scott C. Glovsky, Esq.  
14 Ari J. Dybnis, Esq.  
15 Law Offices of Scott Glovsky, APC  
16 Suite 200  
17 1100 East Green Street  
18 Pasadena, California 91106

*Attorneys for Plaintiff*  
JOSE NUNEZ

19 Phone: (626) 243-5598  
20 Fax: (866) 243-2243  
21 Email: [sglovsky@scottglovskylaw.com](mailto:sglovsky@scottglovskylaw.com)  
22 [adybnis@scottglovskylaw.com](mailto:adybnis@scottglovskylaw.com)

23 James Wold, Esq.  
24 Wold Law Group  
25 2455 Mission Street  
26 San Marino, California 91108

*Attorneys for Defendant*  
ANGELES IPA

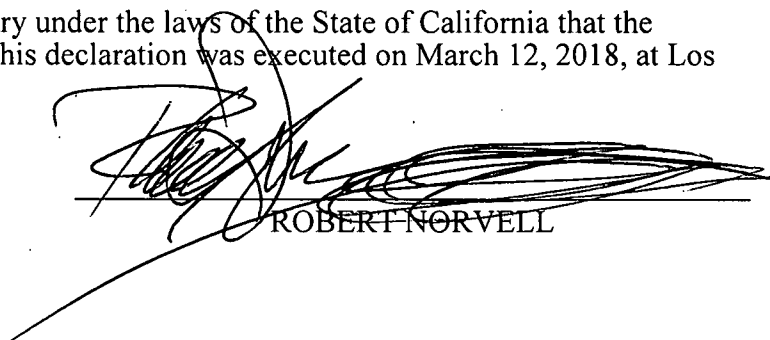
27 Phone: (626) 441-3030  
28 Fax: (626) 441-3063  
Email: [wlawgroup@sbcglobal.net](mailto:wlawgroup@sbcglobal.net)

29  **(BY OVERNIGHT MAIL)** By placing such document(s) in a sealed envelope, for  
30 collection and overnight mailing at Manatt, Phelps & Phillips, LLP, Los Angeles,  
31 California, following ordinary business practice. I am readily familiar with the practice  
32 at Manatt, Phelps & Phillips, LLP, for collection and processing of overnight service  
33 mailing, said practice being that in the ordinary course of business, correspondence is  
34 deposited with the overnight messenger service, **Federal Express**, for delivery as  
35 addressed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(BY ELECTRONIC MAIL) By transmitting such document(s) electronically from my e-mail address, bnorvell@manatt.com (at Manatt, Phelps & Phillips, LLP, Los Angeles, California), to the person(s) at the electronic mail addresses listed above. The transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 12, 2018, at Los Angeles, California.



ROBERT NORVELL

0304170000