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14 *Attorneys for Defendants*

15 Anthem Blue Cross Life and Health Insurance Company;
16 Anthem, Inc., an Indiana corporation (erroneously sued
17 as doing business in California as Anthem Health, Inc.);
18 The Anthem Companies of California, Inc.; The Anthem
19 Companies, Inc.; Anthem Insurance Companies, Inc.;
20 Blue Cross of California

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA**

23 THE DISCOVERY HOUSE, LLC, a
24 California limited liability company;
25 DISCOVERY TRANSITIONS
26 OUTPATIENT, INC., a California
27 corporation; DHP HEIGHTS, LLC,
28 doing business as CIRCLE OF HOPE, a
California limited liability company; MT
GOLDEN CORPORATION, doing
business as ADJUSTMENTS FAMILY
SERVICES, a California corporation;
MT PROCESS LLC, doing business as
DIVINE DETOX, a California limited
liability company,

Plaintiffs,

v.

ANTHEM BLUE CROSS LIFE AND
HEALTH INSURANCE COMPANY, a
California corporation; ANTHEM INC.,
an Indiana corporation doing business in

Case No. 2:21-cv-2330

Removal from Orange County Superior
Court Case No. 30-2021-01179856-CU-
BC-CJC

**NOTICE OF REMOVAL OF CIVIL
ACTION PURSUANT TO 28 U.S.C.
§§ 1331 AND 1441**

**[ERISA Federal Question
Jurisdiction]**

*[Filed concurrently with Civil Cover
Sheet and Certificate of Interested
Parties]*

Complaint Filed: January 19, 2021

1 California as ANTHEM HEALTH,
2 INC.; THE ANTHEM COMPANIES OF
3 CALIFORNIA, a California corporation;
4 THE ANTHEM COMPANIES, INC., an
5 Indiana corporation; ANTHEM
6 INSURANCE COMPANIES, INC., an
7 Indiana corporation; BLUE CROSS OF
8 CALIFORNIA, a California corporation;
9 BLUE CROSS AND BLUE SHIELD
10 ASSOCIATION, an Illinois corporation;
11 VIANT, INC., a Nevada corporation;
12 MULTIPLAN, INC., a New York
13 corporation; and DOES 1 through 100,
14 inclusive,

Defendants.

11 **TO THE CLERK OF THE U.S. DISTRICT COURT AND TO ALL**
12 **PARTIES:**

13 PLEASE TAKE NOTICE that Defendants Anthem Blue Cross Life and Health
14 Insurance Company; Anthem Inc., an Indiana corporation (erroneously sued as doing
15 business in California as Anthem Health, Inc.); The Anthem Companies of
16 California, Inc.; The Anthem Companies, Inc.; Anthem Insurance Companies, Inc.,
17 and Blue Cross of California (collectively “Anthem”), by and through its undersigned
18 counsel, appearing specially so as to preserve any and all defenses including those
19 available under Rule 12 of the Federal Rules of Civil Procedure, hereby invoke this
20 Court’s jurisdiction under the provisions of 28 U.S.C. Sections 1331, 1367 and
21 1441(a) and 29 U.S.C. 1132(e)(1). As grounds in support of this Notice of Removal,
22 Anthem respectfully states as follows:

23 **I. BACKGROUND**

24 1. On February 16, 2021, Anthem accepted service of the summons and
25 complaint in this action, executing its Notice of Acknowledgment and Receipt, a true
26 and correct copy of which is attached hereto as **Exhibit A**. A true and correct copy
27 of the other contents of the Orange County Superior Court case file is attached hereto
28 as **Exhibit B**. The action was filed on January 19, 2021, by Plaintiffs the Discovery

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1 House, LLC; Discovery Transitions Outpatient, Inc.; DHP Heights, LLC; Mt Golden
2 Corporation; and Mt Process LLC (“Plaintiffs”) in the Superior Court for the State
3 of California, County of Orange, styled and captioned exactly as above, and assigned
4 Case No. 30-2021-01179856-CU-BC-CJC (the “State Court Action”).

5 2. The Complaint identified the Anthem entities as named defendants,
6 along with three other entities, Viant, Inc., MultiPlan, Inc., Blue Cross and Blue
7 Shield Association, and “Doe” defendants. Anthem is informed and believes that
8 none of the unidentified Doe defendants have been served in this matter. No other
9 pleadings or papers have been filed in the action.

10 **II. GROUNDS FOR REMOVAL**

11 **A. Federal Question Jurisdiction**

12 3. Federal courts have original jurisdiction of all cases that arise under
13 federal law, 28 U.S.C. § 1331, and such cases are explicitly within this Court’s
14 removal jurisdiction. 28 U.S.C. § 1441(b) (providing that the courts have removal
15 jurisdiction for any action in which the district courts have original jurisdiction
16 founded on a claim or right arising under the Constitution, treaties, or laws of the
17 United States).

18 4. In Count I of the Complaint, Plaintiffs assert “Claims for Plan Benefits
19 Under ERISA, 29 U.S.C. § 1332(a)(1)(B).” (Compl. ¶¶ 125-139.) Plaintiffs allege
20 that Defendants have violated the Employee Retirement Income Security Act
21 (“ERISA”) in a variety of ways. (*E.g.*, *id.* ¶135(a)-(p).) Because Plaintiffs assert
22 claims explicitly arising under federal law, this Court has jurisdiction pursuant to 28
23 U.S.C. § 1331 which provides that the district court has original jurisdiction of “all
24 civil actions arising under the Constitution, laws, or treaties of the United States.”
25 See 29 U.S.C. § 1132(a). This alone provides ample grounds for removal.

26 5. However, this Court also has additional grounds for removal based on
27 Plaintiffs’ Counts III-V. Under the doctrine of complete preemption, the district
28 court has original jurisdiction of “all civil actions arising under the Constitution,

1 laws, or treaties of the United States” pursuant to 28 U.S.C. § 1331. *See* 29 U.S.C. §
2 1132(a); *Aetna Health Inc. v. Davila*, 542 U.S. 200, 207–08 (2004) (“[W]hen the
3 federal statute completely preempts the state-law cause of action, a claim which
4 comes within the scope of that same cause of action, even if pleaded in terms of state
5 law, is in reality based on federal law: ERISA is one of these statutes.”) (internal
6 quotations and citations omitted). Under this doctrine, multiple of Plaintiffs’ state-
7 law causes of action are entirely encompassed by Section 502(a) of ERISA, 29 U.S.C.
8 Section 1132(a) and those claims in the Complaint are converted into federal claims
9 for purposes of the well-pleaded complaint rule. *Id.*

10 6. Here, on information or belief, at least some of the state law claims
11 asserted relate to patients who are covered by ERISA-governed employee benefit
12 plans. (Compl. ¶¶ 125-139.)

13 7. Plaintiffs assert claims, and seeks relief, regarding services allegedly
14 provided to patients with health insurance that was sold, insured and/or administered
15 by Defendants. (Compl. ¶ 20.) Plaintiffs’ Complaint does not identify the patients
16 and it has not yet provided a list of those patients to Anthem. (*See Id.*). However,
17 Plaintiffs’ Complaint on its face makes clear that at least some of those patients are
18 beneficiaries or participants in ERISA health plans. (*Id.* ¶¶ 125-139.) Specifically,
19 Plaintiffs allege that “Traditionally, insurers and employers have covered treatment
20 for mental health conditions, including substance use disorders, less favorably than
21 treatment for physical health conditions, including higher cost-sharing obligations
22 for patients, more restrictive limits on the number of inpatient days and outpatient
23 visits, and more onerous prior authorization requirements. To address this unequal
24 treatment, Congress first passed a mental health parity law in 1996, and many states
25 followed suit in the following decade by passing laws of their own. Among other
26 limitations, however, the 1996 act did not address the treatment of substance use
27 disorders. Congress addressed this gap in passing the historic Paul Wellstone and
28 Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA),

1 42 U.S.C. § 300gg-26, which, among other things, prohibits most plans governed by
2 the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§
3 1001 et seq., from imposing different treatment limits, cost sharing and in-network
4 and out-of-network coverage on mental health and substance use disorder treatment
5 than are imposed on other medical and surgical services. Furthermore, ERISA
6 requires fiduciaries to act solely in the interests of plan participants and beneficiaries,
7 and to decide claims for health care benefits in accordance with plan documents and
8 under a full and fair procedure.” (*Id.* ¶ 38.)

9 8. For “each” of the patients whose claims give rise to this lawsuit,
10 including the patients identified above, Plaintiffs “obtained a written assignment of
11 benefits” to assert “all rights and causes of action” against Anthem. (Compl. ¶ 47.)
12 Thus, Plaintiffs could have brought suit as assignees under ERISA for the portion of
13 their patients whose claims for benefits are covered under ERISA plans.

14 9. Under the complete preemption doctrine, the legal claims that Plaintiffs
15 seek to adjudicate with respect to these ERISA plans are properly characterized as
16 claims under ERISA Section 502(a), even though they are pled as state law claims.
17 After *Davila*, the Ninth Circuit has held that a state-law cause of action is completely
18 preempted if “(1) an individual, at some point in time, could have brought the claim
19 under ERISA § 502(a)(1)(B), and (2) where there is no other independent legal duty
20 that is implicated by a defendant's actions.” *Fossen v. Blue Cross & Blue Shield of*
21 *Mont.*, 660 F.3d 1102, 1107-08 (9th Cir. 2011) (citations omitted). As explained
22 further below, each of Plaintiffs’ claims satisfies that test.

23 10. Upon information and belief, Plaintiffs’ claims for breach of written
24 contract, breach of implied covenant of good faith and fair dealing, breach of implied
25 contract, breach of oral contract, promissory estoppel, and unfair competition relate
26 to the enforcement of rights and the payment of benefits under ERISA-governed
27 health benefits plans. 29 U.S.C. § 1132(a). For each of these causes of action,
28 Plaintiffs make clear that it is asking the Court to adjudicate claims for benefits under

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