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California, Inc. and Health Net, Inc.

22 **UNITED STATES DISTRICT COURT**

23 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

24 DWIGHT WHITAKER,)
)
 25 Plaintiff,)
)
 26 v.)
)
 27 HEALTH NET OF CALIFORNIA, INC., et)
 al.,)
)
 28 Defendants.)

Case No. 11-CV-00910 KJM DAD
**STIPULATION AND ORDER TO
 REASSIGN CASES PURSUANT TO LOCAL
 RULE 123 AND CONSOLIDATE ALL
 REASSIGNED CASES PURSUANT TO FED.
 R. CIV. P. 42(a)(2)**

1 PORNPETCH ASSAVARUNGNIRUN,)

2 Plaintiff,)

3 v.)

4 HEALTH NET OF CALIFORNIA, INC., et)
5 al.,)

6 Defendants.)
7)
8)

Case No. 11-CV-1008 KJM DAD

9 RACHEL AVILA,)

10 Plaintiff,)

11 v.)

12 HEALTH NET, INC, et al.,)

13 Defendants.)
14)

Case No. 11-CV-01097 KJM DAD

15 ALANA BOURNAS,)

16 Plaintiff,)

17 v.)

18 HEALTH NET, INC., et al.)

19 Defendants.)
20)

Case No. 11-CV-01262 KJM DAD

21 CECIL ORENZO BOWMAN,)

22 Plaintiff,)

23 v.)

24 HEALTH NET, INC., et al.)

25 Defendants.)
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Case No. 11-CV-01320 KJM DAD

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JENNIFER KIRK, et al.,
Plaintiffs,
v.
HEALTH NET, INC., et al.,
Defendants.

) Case No. 11-CV-01376 KJM DAD

DONALD JOHNSTON, et al.,
Plaintiffs,
v.
HEALTH NET OF CALIFORNIA, INC., et
al.,
Defendants.

) Case No. 11-CV-01377 KJM DAD

1 **I. RELATION OF CASES AND REASSIGNMENT**

2 The parties, by and through their attorneys of record, hereby stipulate as follows:

3 Whereas, pursuant to orders entered on May 4, 2011, and June 8, 2011, *Whitaker v. Health Net*
4 *of California, Inc.*, 2:11-cv-00910-KJM-DAD, *Assavarungnirun v. Health Net of California, Inc.*, 2:11-
5 cv-01008-KJM-DAD, *Avila v. Health Net, Inc.*, 2:11-cv-01097-KJM-DAD, *Bournas v. Health Net, Inc.*,
6 2:11-cv-01262-KJM-DAD, *Bowman v. Health Net, Inc.*, 2:11-cv-01320-KJM-DAD, *Johnston v. Health*
7 *Net, Inc.*, 2:11-cv-01377-KJM-DAD, and *Kirk v. Health Net, Inc.*, 2:11-cv-01376-KJM-DAD, are
8 related cases assigned to the Honorable Kimberly J. Mueller,

9 Whereas, *Eandi v. Health Net, Inc. of California*, 2:11-cv-01449-JAM-GGH, was transferred to
10 the Eastern District of California on May 26, 2011, and is pending before the Honorable John A.
11 Mendez,

12 Whereas, *Eandi v. Health Net, Inc. of California*, 2:11-cv-01451-FCD-GGH, was transferred to
13 the Eastern District of California on May 26, 2011, and is pending before the Honorable Frank C.
14 Damrell,¹

15 Whereas, *Green v. Health Net, Inc.*, 2:11-cv-01447-JAM-GGH, was transferred to the Eastern
16 District of California on May 26, 2011, and is pending before the Honorable John A. Mendez,

17 Whereas, the above-listed actions are all brought as class actions against Health Net, Inc. and
18 International Business Machines Corp. and all but two are also brought against Health Net of California,
19 Inc.,

20 Whereas, all of the above-listed actions allege violations of the Confidentiality in Medical
21 Information Act, Cal. Civ. Code § 56, *et seq.*, and all but three allege violations of the Unfair
22 Competition Law, Bus. & Prof. Code § 17200, *et seq.*,

23 Whereas, all of the above-listed actions involve the alleged loss of personal, medical and
24 financial information of current and former Health Net of California, Inc. members in early 2011,

25 _____
26 ¹ *Eandi v. Health Net, Inc. of California* was initially filed as a single action in the Superior Court for
27 the County of San Francisco. The action was split when Defendants separately removed the action to
28 the Northern District of California. Judge Jeffrey S. White ordered the two actions consolidated on May
26, 2011, and transferred the consolidated action to the Eastern District of California. Despite the
consolidation order, the actions were transferred separately to the Eastern District and given unique case
numbers.

1 Whereas, assignment of the above-listed actions to the same judge is likely to effect a substantial
2 savings of judicial effort, to avoid inconsistent rulings, and to be convenient for the parties,

3 Whereas, the ten above-listed actions are pending before three different judges in the Eastern
4 District of California,

5 Whereas, *Whitaker v. Health Net of California, Inc.* is the lowest-numbered of the above-listed
6 actions pending in this District,

7 Therefore, the parties hereby stipulate that:

- 8 1. The above-listed actions are related within the meaning of Local Rule 123;
- 9 2. *Eandi v. Health Net, Inc. of California*, 2:11-cv-01449-JAM-GGH should be reassigned to
10 Judge Mueller;
- 11 3. *Eandi v. Health Net, Inc. of California*, 2:11-cv-01451-FCD-GGH, should be reassigned to
12 Judge Mueller; and
- 13 4. *Green v. Health Net, Inc.*, 2:11-cv-01447-JAM-GGH, should be reassigned to Judge Mueller.

14 **II. CONSOLIDATION OF CASES AND RELATED SCHEDULE**

15 Moreover, the parties, by and through their attorneys of record, further stipulate as follows:

16 Whereas, the actions listed in Section I involve common questions of law or fact,

17 Whereas, consolidation of the actions listed in Section I will avoid unnecessary cost and delay,

18 Therefore, the parties hereby stipulate that,

- 19 1. Once all of the actions listed in Section I are transferred to Judge Mueller, they should be
20 consolidated pursuant to Federal Rule of Civil Procedure 42(a)(2),
- 21 2. Plaintiffs shall promptly submit a proposed organization plan (or plans) of Plaintiffs' counsel,
- 22 3. Plaintiffs shall file a Consolidated Complaint within 30 days of entry of this Order,
- 23 4. Defendants shall file any responsive pleading or motion within 45 days of the filing of
24 Plaintiffs' Consolidated Complaint, and

25 ///

26 ///

27 ///

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1 5. Defendants shall not answer or respond to any complaint or amended complaint filed in any
2 of the actions listed in Section I, with the exception of the Consolidated Complaint.

3
4 DATED: June 10, 2011 **KERSHAW CUTTER RATINOFF LLP**
5
6 By /s/ C. Brooks Cutter
7 C. Brooks Cutter
8 Attorneys for Plaintiff Pornpetch Assavarungnirun

9
10 DATED: June 10, 2011 **GIRARD GIBBS LLP**
11
12 By /s/ Eric H. Gibbs
13 Eric H. Gibbs
14 Attorneys for Plaintiffs Donald Johnston, Ronnie
15 Gayle, and James Kendrick
16 Attorneys for Plaintiff Catherine Eandi

17
18 DATED: June 10, 2011 **RAM, OLSON, CEREGHINO & KOPCZYNSKI
19 LLP**
20
21 By /s/ Michael F. Ram
22 Michael F. Ram
23 Attorneys for Plaintiff Rachel Avila
24 Attorneys for Plaintiff Cecil Orenzo Bowman

25
26 DATED: June 10, 2011 **SCHNEIDER WALLACE COTTRELL
27 BRAYTON KONECKY LLP**
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29 By /s/ Todd M. Schneider
30 Todd M. Schneider
31 Attorneys for Plaintiff Callie Green

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DATED: June 10, 2011

KELLER GROVER LLP

By /s/ Eric A. Grover
Eric A. Grover
Attorneys for Plaintiff Dwight Whitaker

DATED: June 10, 2011

AHDOOT & WOLFSON

By /s/ Tina Wolfson
Tina Wolfson
Attorneys for Plaintiffs Jennifer Kirk, David
Donnell, and A. Y.

DATED: June 10, 2011

**LIEFF, CABRASER, HEIMANN &
BERNSTEIN, LLP**

By /s/ Jahan C. Sagafi
Jahan C. Sagafi
Attorneys for Plaintiff Alana Bournas

DATED: June 10, 2011

CROWELL & MORING LLP

By /s/ Ethan P. Schulman
Ethan P. Schulman
Attorneys for Defendants Health Net of California
Inc. and health Net, Inc.

DATED: June 10, 2011

**QUINN EMANUEL URQHART & SULLIVAN,
LLP**

By /s/ Karin Kramer
Karin Kramer
Attorneys for Defendant International Business
Machines Corporation

1 **ORDER**

2 Based on the stipulation of the parties, it is hereby ORDERED that:

- 3 1. *Eandi v. Health Net, Inc. of California*, 2:11-cv-01449-JAM-GGH, is reassigned from Judge
- 4 Mendez and Magistrate Judge Hollows to Judge Mueller and Magistrate Judge Drozd. The
- 5 caption on documents filed in the reassigned case shall be Civ. No. S-11-01449 KJM DAD.
- 6 2. *Eandi v. Health Net, Inc. of California*, 2:11-cv-01451-FCD-GGH, is reassigned from Judge
- 7 Damrell and Magistrate Judge Hollows to Judge Mueller and Magistrate Judge Drozd. The
- 8 caption on documents filed in the reassigned case shall be Civ. No. S-11-01451 KJM DAD.
- 9 3. *Green v. Health Net, Inc.*, 2:11-cv-01447-JAM-GGH, is reassigned from Judge Mendez and
- 10 Magistrate Judge Hollows to Judge Mueller and Magistrate Judge Drozd. The caption on
- 11 documents filed in the reassigned case shall be Civ. No. S-11-01447 KJM DAD.
- 12 4. The Clerk of the Court is directed to make appropriate adjustments in the assignment of civil
- 13 cases to compensate for the reassignments.

14 It is further ORDERED that:

- 15 1. The actions listed in Section I of the above stipulation are consolidated.
- 16 2. All orders, pleadings, motions, and other documents in the consolidated action shall be filed
- 17 and docketed in 2:11-cv-00910-KJM-DAD.
- 18 3. Plaintiffs shall file a Consolidated Complaint within 30 days of the Court’s entry of this
- 19 Order.
- 20 4. Defendants shall file any responsive pleading or motion within 45 days of the filing of
- 21 Plaintiffs’ Consolidated Complaint.
- 22 5. Should defendants file a motion, Plaintiffs shall have 30 days to respond, and Defendants
- 23 shall have 15 days to reply.
- 24 6. Except for the Consolidated Complaint, Defendants need not answer or respond to any
- 25 complaint or amended complaint filed in any related action.

26 IT IS SO ORDERED.

27 Dated: June 14, 2011.

28 

 UNITED STATES DISTRICT JUDGE