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11	Attorneys for Defendant Anthem Blue Cross Life and Health Ins. Co.			
12	UNITED STATES DISTRICT COURT			
13	NORTHERN DISTRICT OF CALIFORNIA			
14	SAN JOSE DIVISION			
15	BAY AREA SURGICAL MANAGEMENT,	Case No.: CV 12-02123 LHK		
16	LLP, a limited liability company,	STIPULATED REQUEST FOR ORDER DISMISSING PLAINTIFF'S ERISA		
17	Plaintiff,	CLAIMS WITH PREJUDICE AND REMANDING PLAINTIFF'S SECOND		
18		AMENDED COMPLAINT TO STATE COURT		
19	ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY; and DOES 1-25,	CUURI		
20	inclusive,	Compl. Filed: February 21, 2012 (Santa Clara County Superio		
21	Defendants.	Court, Case No. 112-CV- 218474)		
22		Trial Date: Not Yet Set		
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Stipulated Request for Order Dismissing Plaintiff's ERISA Claims With Prejudice and Remanding Plaintiff's Second Amended Complaint to State Court

1	This Stipulation is entered into between Plaintiff Bay Area Surgical Management LLP		
2	("BASM") and Defendant Anthem Blue Cross Life and Health Insurance Company ("Anthem Blue		
3	Cross Life and Health") (collectively the "Parties"), through their undersigned counsel of record.		
4	RECITALS		
5	WHEREAS, BASM filed its First Amended Complaint in this action in the Superior Court of		
6	California, County of Santa Clara, on February 17, 2012, and served Anthem Blue Cross Life and		
7	Health on March 28, 2012;		
8	WHEREAS, BASM alleged in its First Amended Complaint that Anthem Blue Cross Life		
9	and Health underpaid BASM for a surgical procedure it performed on a patient (the "Patient") who		
10	is allegedly insured by Anthem Blue Cross Life and Health under an insurance policy (the "Benefits		
11	Agreement");		
12	WHEREAS, BASM's First Amended Complaint asserted claims against Anthem Blue Cross		
13	Life and Health based on an alleged assignment to it from the Patient, of the Patient's rights under		
14	the Benefits Agreement;		
15	WHEREAS, the Benefits Agreement is subject to the Employee Retirement Income Security		
16	Act of 1974, as amended, 29 U.S.C. §§ 1001 et. seq. ("ERISA");		
17	WHEREAS, BASM's First Amended Complaint therefore raised questions of federal law;		
18	WHEREAS, Anthem Blue Cross Life and Health timely removed the original Complaint to		
19	this Court on April 27, 2012;		
20	WHEREAS, on May 7, 2012, Anthem Blue Cross Life and Health moved to dismiss		
21	Plaintiff's claims as preempted by ERISA under 29 U.S.C. § 1132, and as articulated by Cedars-		
22	Sinai Med. Ctr. v. Nat'l League of Postmasters of United States, 497 F.3d 972, 978 (9th Cir. 2007),		
23	and on various other state law grounds;		
24	WHEREAS, BASM did not oppose Anthem Blue Cross Life and Health's motion to dismiss,		
25	and instead filed its Second Amended Complaint on May 18, 2012;		
26	WHEREAS, BASM's Second Amended Complaint asserts that BASM is now alleging		
27	claims based only on an oral contract and the breach of other state law duties that exist directly		
28	between Anthem Blue Cross Life and Health and BASM;		
	- 1 -		

Stipulated Request for Order Dismissing Plaintiff's ERISA Claims With Prejudice and Remanding Plaintiff's Second Amended Complaint to State Court

WHERAS, Anthem Blue Cross Life and Health asserts that BASM's claims are preempted by ERISA under 29 U.S.C. § 1132, to the extent they are based on an assignment of rights from the Patient to BASM under the Benefits Agreement;

WHEREAS, BASM disagrees that any such claims are preempted and also asserts that its claims in the First Amended Complaint are not based on an assignment of rights to it under the Benefits Agreement from the Patient;

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WHEREAS, BASM filed a motion to remand the case on May 30, 2012;

8 WHEREAS, Anthem Blue Cross Life and Health desires to ensure that BASM will not try to
9 reassert claims in state court that are preempted by federal law; and

WHEREAS, on June 4, 2012, Anthem Blue Cross Life and Health filed a motion to dismiss the Second Amended Complaint based, in part, on federal preemption in order to prevent BASM from reviving claims assigned to it from the Patient in a state court proceeding, and based, in part, on other state law grounds.

STIPULATION

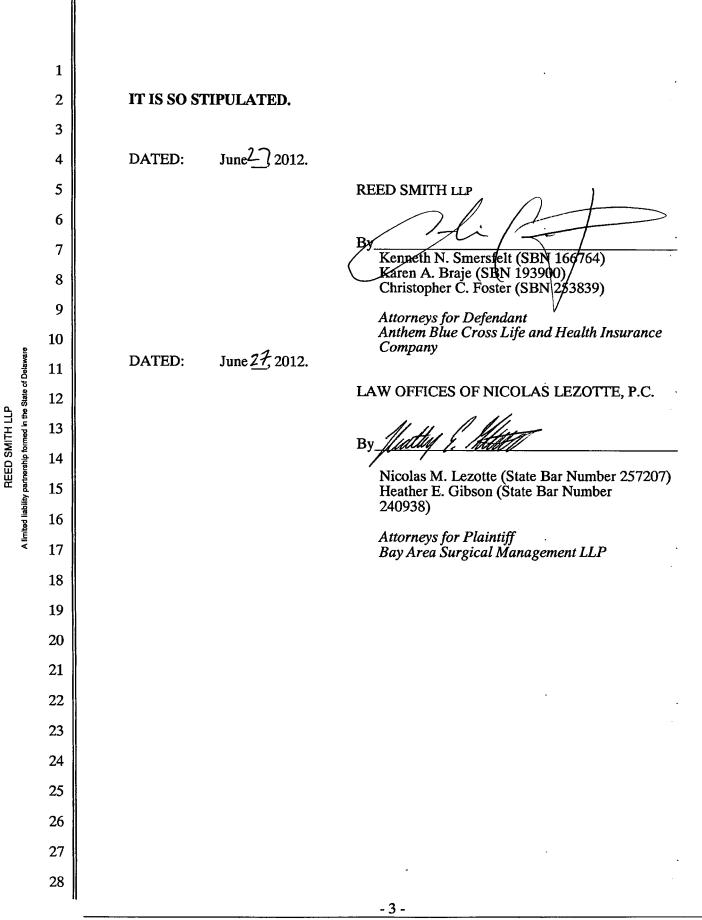
NOW THEREFORE, the parties hereby stipulate as follows:

(1) That Plaintiff Bay Area Surgery Management LLP's claims against Anthem Blue
Cross Life and Health Insurance Company ("Anthem Blue Cross Life and Health") shall be
dismissed with prejudice, to the extent they are based on any assignment of rights from the Patient to
it under the Benefits Agreement, on the basis of federal preemption as provided in 29 U.S.C. § 1132
and as articulated in *Cedars-Sinai Med. Ctr. v. Nat'l League of Postmasters of United States*, 497
F.3d 972, 978 (9th Cir. 2007).

(2) That Plaintiff's case shall be remanded to the Superior Court of California, County of
23 Santa Clara.

(3) That Anthem Blue Cross Life and Health shall have fourteen (14) days from the date
of the Court's remand order to file its responsive pleading to the Second Amended Complaint in
Superior Court.

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Stipulated Request for Order Dismissing Plaintiff's ERISA Claims With Prejudice and Remanding Plaintiff's Second Amended Complaint to State Court

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10	Telephone: +1 415 543 8700 Facsimile: +1 415 391 8269					
11	Attorneys for Defendant Anthem Blue Cross Life and Health Ins. Co.					
12	UNITED STATES DISTRICT COURT					
13	NORTHERN DISTRICT OF CALIFORNIA					
14	SAN JOSE DIVISION					
15		Case No.: CV 12	021221111			
16	BAY AREA SURGICAL MANAGEMENT, LLP, a limited liability company,					
17	Plaintiff,	PLAINTIFF'S I	ORDER DISMISSING ERISA CLAIMS WITH			
18	vs.	PLAINTIFF'S S	ND REMANDING SECOND AMENDED FO STATE COURT			
19	ANTHEM BLUE CROSS LIFE AND HEALTH INSURANCE COMPANY; and DOES 1-25,					
20	inclusive,	Compl. Filed:	February 21, 2012 (Santa Clara County Superior			
21	Defendants.		Court, Case No. 112-CV-			
22		Trial Date:	218474) Not Yet Set			
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Before the Court is a Stipulated Request between the Parties, Plaintiff Bay Area Surgical 1 Management LLP ("BASM") and Defendant Anthem Blue Cross Life and Health Insurance 2 3 Company ("Anthem Blue Cross Life and Health"). BASM's state court First Amended Complaint asserted claims against Anthem Blue Cross Life and Health based on an alleged assignment of rights 4 from a patient (the "Patient") under the Benefits Agreement between the Patient and Anthem Blue 5 Cross Life and Health. BASM's Second Amended Complaint purports to assert only claims that 6 7 exist directly between BASM and Anthem Blue Cross Life and Health, and not on any assignment of rights to BASM by the Patient. BASM has moved to remand the case to state court, though the 8 Parties agree that the Benefits Agreement are subject to the Employee Retirement Income Security 9 Act of 1974, as amended, 29 U.S.C. §§ 1001 et. seq. ("ERISA") and Anthem Blue Cross Life and 10 Health asserts that any claims by BASM against Anthem Blue Cross Life and Health based on an 11 assignment of rights under the Benefits Agreement are preempted by federal law. 12

Having considered the papers and GOOD CAUSE APPEARING, the Court hereby ORDERS as follows:

(1) Plaintiff BASM's claims against Anthem Blue Cross Life and Health are hereby
 DISMISSED WITH PREJUDICE, to the extent the claims are based on any assignment of rights
 from the Patient to BASM under the Benefits Agreement, on the basis of federal preemption as
 provided by ERISA under 29 U.S.C. § 502, and as articulated in *Cedars-Sinai Med. Ctr. v. Nat'l League of Postmasters of United States*, 497 F.3d 972, 978 (9th Cir. 2007).

20 (2) Plaintiff's case is hereby remanded to the Superior Court of California, County of
21 Santa Clara.

(3) Anthem Blue Cross Life and Health shall have fourteen (14) days from the date of this Order to file a responsive pleading to the Second Amended Complaint in state court.

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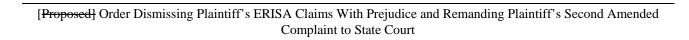
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	1	IT IS SO ORDERED. The Clerk shall close the file.					
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	4	DATED: July 3, 2012.					
	5	The Honor ble Lucy H. Koh					
	6	The Honor ble Lucy H. Koh U.S. District Court Judge for the Northern District of California					
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[Proposed] Order Dismissing Plaintiff's ERISA Claims With Prejudice and Remanding Plaintiff's Second Amended Complaint to State Court