

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
HONORABLE MARCIA S. KRIEGER**

Courtroom Deputy: Patricia Glover  
Court Reporter: Paul Zuckerman

Date: September 17, 2010

Civil Action No. 08-cv-02103-MSK-CBS

Parties:

ADVANTGARDE SURGICAL, INC., a Colorado  
corporation, and  
ADVANCED SURGICAL SUPPORT, INC., a Colorado  
corporation,

Plaintiff,

v.

ROCKY MOUNTAIN HOSPITAL AND MEDICAL  
SERVICE, INC., a Colorado corporation, d/b/a  
Anthem Blue Cross and Blue Shield, and  
HMO COLORADO, INC., a Colorado corporation,

Defendant.

Counsel Appearing:

Timothy Schutz  
Lisha Sorensen

Dean McConnell

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**COURTROOM MINUTES**

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HEARING: Motion

**3:29 p.m. Court in session.**

The Court addresses the Motion to Remand (**Doc. #36**)

The Court confirms with plaintiff's counsel that they are not asserting a claim as an assignee or beneficiary or participant under any of these plans that may be EIRSA subject plans.

Plaintiff's counsel Schultz concurs with the Court's statement.

Oral findings are made of record and incorporated herein.

**ORDER:** The Motion to Remand (**Doc. #36**) is **GRANTED**. Based upon the representations made by the plaintiffs in this case, they may not make any claim under ERISA or as a third-party beneficiary to rights asserted by insureds under ERISA plans in the state court action. They are estopped from asserting such claims. **The Clerk will remand the case.**

Argument by counsel Schutz for attorneys fees.

**ORDER:** Plaintiff's request for attorney's fees is **DENIED**.

**4:00 p.m.** Court in recess.

**Total Time: 31 minutes.**

**Hearing concluded.**