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11 Attorneys for Defendants and Third-
Party Plaintiffs Healthsmart Pacific, Inc.;
12 Healthsmart Pacific, Inc. d/b/a Pacific
Hospital of Long Beach; Michael D.
13 Drobot, Sr.; Long Beach Pain Center
Medical Clinic, Inc.; International
14 Implants, LLC; Pacific Specialty
Physician Management, Inc.; and First
15 Medical Management, Inc.

16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA
18 SOUTHERN DIVISION

19 STATE COMPENSATION
20 INSURANCE FUND

21 Plaintiff,

22 v.

23 MICHAEL D. DROBOT, SR., an
individual; MICHAEL R. DROBOT,
24 JR, an individual; HEALTHSMART
PACIFIC INC., a California
25 corporation; HEALTHSMART
PACIFIC INC. d/b/a PACIFIC
26 HOSPITAL OF LONG BEACH, a
California corporation; LONG BEACH
27 PAIN CENTER MEDICAL CLINIC,
INC., a California corporation;
28 INTERNATIONAL IMPLANTS, LLC,

Case No.: CV 13- 00956-AG (CWx)

THIRD-PARTY COMPLAINT FOR:
1) EQUITABLE INDEMNITY
2) DECLARATORY RELIEF
[Fed. R. Civ. P. 14(a)]

[JURY TRIAL DEMANDED]

1 a California limited liability company;
2 PACIFIC SPECIALTY PHYSICIAN
3 MANAGEMENT, INC., a California
4 corporation; FIRST MEDICAL
5 MANAGEMENT, INC., a California
6 corporation; INDUSTRIAL
7 PHARMACY MANAGEMENT LLC, a
8 California limited liability company;
9 CALIFORNIA PHARMACY
10 MANAGEMENT LLC, a California
11 limited liability company; COASTAL
12 EXPRESS PHARMACY, INC., a
13 California corporation; LONG BEACH
14 PRESCRIPTION PHARMACY, a
15 California corporation; MEDS
16 MANAGEMENT GROUP, LLC, a
17 California limited liability company;

18 Defendants.

19 HEALTHSMART PACIFIC INC., a
20 California corporation;
21 HEALTHSMART PACIFIC INC. d/b/a
22 PACIFIC HOSPITAL OF LONG
23 BEACH, a California corporation;
24 MICHAEL D. DROBOT, SR., an
25 individual; LONG BEACH PAIN
26 CENTER MEDICAL CLINIC, INC., a
27 California corporation;
28 INTERNATIONAL IMPLANTS, LLC,
a California corporation; PACIFIC
SPECIALTY PHYSICIAN
MANAGEMENT, INC., a California
corporation; FIRST MEDICAL
MANAGEMENT, INC., a California
corporation;

Third-Party Plaintiffs

v.

MITCHELL G. COHEN, an individual;
MITCHELL G. COHEN, M.D., INC., a
California corporation; PHILIP A.
SOBOL, an individual; SOBOL
ORTHOPEDIC MEDICAL GROUP,
INC., a California corporation; ALAN
C. IVAR, an individual; GRIFFIN
MEDICAL GROUP, INC., a California
corporation; SOUTH COAST
REHABILITATION CENTER, INC., a
California corporation; PAUL
RANDALL, an individual; ANDY
NAVID, an individual; JASON
BERNARD, an individual; MICHAEL

1 E. BARRI, an individual; JOJASO
2 MANAGEMENT, INC., a California
3 corporation; WILLIAM PARKER, an
4 individual; UNION CHOICE
5 THERAPY NETWORK, a California
6 corporation; SAMUEL VIDAURRETA,
7 an individual; PROSPICE GROUP,
8 INC., a California corporation; JACOB
9 E. TAUBER, an individual; JACOB E.
10 TAUBER, M.D., A PROFESSIONAL
11 CORPORATION, a California
12 corporation; ASSAD MICHAEL
13 MOHEIMANI, an individual;
14 JEFFERY D. GROSS, an individual;
15 TIMOTHY J. HUNT, an individual;
16 ALLIED MEDICAL GROUP, INC., a
17 California corporation; RANDY S.
18 ROSEN, an individual; GERALD A.
19 ALEXANDER, an individual;
20 GURVINDER S. UPPAL, an
21 individual; IAN I. ARMSTRONG, an
22 individual; IAN I.T. ARMSTRONG,
23 M.D., INC., A MEDICAL
24 CORPORATION, a California
25 corporation; SEAN E. O'KEEFE, an
26 individual; FAUSTINO BERNADETT,
27 an individual; JACK H.
28 ACKMAKJIAN, an individual; JACK
H. ACKMAKJIAN, M.D., INC., a
California corporation; THOMAS T.
HAIDER, an individual; HAIDER
SPINE CENTRAL MEDICAL
GROUP, INC., a California corporation;
LOKESH S. TANTUWAYA, an
individual; DR. LOKESH S.
TANTUWAYA, M.D., INC., a
California corporation; EDWARD
KOMBERG, an individual; and
DOES 1 through 25, inclusive;

Third-Party Defendants

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1 Defendants and Third-Party Plaintiffs Healthsmart Pacific, Inc. and
2 Healthsmart Pacific, Inc. d/b/a Pacific Hospital of Long Beach (together,
3 “Healthsmart”); Michael D. Drobot, Sr. (“Drobot, Sr.”); Long Beach Pain Center
4 Medical Clinic, Inc. (“LBPC”); International Implants, LLC (“I2”); Pacific
5 Specialty Physician Management, Inc. (“PSPM”); and First Medical Management,
6 Inc. (“FMM”) (collectively, the “Third-Party Plaintiffs”) allege as follows:

7 JURISDICTION AND VENUE

8 1. Plaintiff State Compensation Insurance Fund (“State Fund”) has filed a
9 Second Amended Complaint (“SAC”) against, along with other parties, the Third-
10 Party Plaintiffs, a copy of which is attached hereto as Exhibit A.¹ The SAC includes
11 claims arising under the Racketeering Influenced and Corrupt Organizations Act
12 (“RICO”), 18 U.S.C. § 1961 *et seq.*, and claims arising under California law.

13 2. This Court has federal question jurisdiction over the RICO claims
14 between Plaintiff and the Third-Party Plaintiffs, and has supplemental jurisdiction
15 over the California law claims between them.

16 3. The claims asserted in this Third-Party Complaint arise out of the same
17 facts and circumstances as those of State Fund’s SAC so that the Court may exercise
18 supplemental jurisdiction over it under 28 U.S.C. § 1367(a).

19 4. Venue is proper under 42 U.S.C. § 1391(b), as a substantial portion of
20 the facts and circumstances giving rise to the claims herein occurred within this
21 judicial district, and at least one Third-Party Defendant resides in this district.

22 5. The Third-Party Complaint is properly brought under Federal Rule of
23 Civil Procedure 14(a).

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27 ¹ The redacted version of the SAC is attached hereto. An unredacted version,
28 which was filed under seal, will be provided to the Third-Party Defendants upon
their agreement to the Protective Order issued in this action by the Court.

THE PARTIES

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2 6. At all relevant times, Healthsmart was a California corporation, with its
3 principal place of business in Newport Beach, California, that operated and did
4 business as Pacific Hospital of Long Beach.

5 7. Drobot, Sr. is an individual residing in Orange County, California.

6 8. At all relevant times, LBPC was a California corporation.

7 9. At all relevant times, I2 was a California limited liability company.

8 10. At all relevant times, PSPM was a California corporation.

9 11. At all relevant times, FMM was a California corporation.

10 12. At all relevant times Third-Party Defendant Faustino Bernadett
11 (“Bernadett”) was a physician duly licensed to practice medicine in the state of
12 California, and did business in Long Beach, California. In 2005, Bernadett
13 purchased the shares of Healthsmart through Abrazos Healthcare, Inc., a Delaware
14 corporation, which ownership interest continued until a date in the year 2010. At all
15 times, Abrazos Healthcare was in turn owned by the Bernadett Family Trust, a trust
16 as to which, on information and belief, Bernadett and his wife were the trustees
17 and/or beneficiaries. In 2005, Bernadett also acquired through Abrazos Healthcare,
18 Inc. a fifty percent ownership interest in both PSPM and FMM.

19 13. At all relevant times through and including his sale of Healthsmart in
20 2010, Bernadett was chairman of the board of directors of Healthsmart. During said
21 time period, Bernadett was at all times party to, knowledgeable of, and authorized,
22 ratified and approved the acts and omissions of Healthsmart, PSPM, and FMM
23 alleged in the SAC to be unlawful, including the acts and omissions alleged in the
24 SAC as to the transactions between said entities and I2.

25 14. From in or about 2001 to date, Bernadett has owned, directly or
26 indirectly, and been president of, LBPC. As such, Bernadett was at all times party
27 to, knowledgeable of, and authorized, ratified and approved the acts and omissions
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1 of LBPC, including the acts and omissions alleged in the SAC to be unlawful as to
2 LBPC.

3 15. On information and belief, at all relevant times Third-Party Defendant
4 Mitchell G. Cohen was a physician licensed to practice medicine in the state of
5 California and doing business in Orange County, California. On information and
6 belief, at all relevant times Third-Party Defendant Mitchell G. Cohen was the
7 principal of, and did business as Third-Party Defendant Mitchell G. Cohen, M.D.,
8 Inc., a California corporation. On information and belief, said Third-Party
9 Defendants engaged in acts and omissions alleged in the SAC to be unlawful.

10 16. On information and belief, at all relevant times Third-Party Defendant
11 Philip A. Sobol was a physician licensed to practice medicine in the state of
12 California and doing business in Los Angeles County, California. On information
13 and belief, at all relevant times Third-Party Defendant Philip A. Sobol was the
14 principal of, and did business as Third-Party Defendant Sobol Orthopedic Medical
15 Group, Inc., a California corporation. On information and belief, said Third-Party
16 Defendants engaged in acts and omissions alleged in the SAC to be unlawful.

17 17. On information and belief, at all relevant times Third-Party Defendant
18 Alan C. Ivar was a chiropractor licensed to practice in the state of California and
19 doing business in Orange County, California. On information and belief, at all
20 relevant times Third-Party Defendant Alan C. Ivar was a principal of, and did
21 business as Third-Party Defendant Griffin Medical Group, Inc., a California
22 corporation, and Third-Party Defendant South Coast Rehabilitation Center, Inc., a
23 California corporation. On information and belief, said Third-Party Defendants
24 engaged in acts and omissions alleged in the SAC to be unlawful.

25 18. On information and belief, at all relevant times Third-Party Defendant
26 Paul Randall was engaged in marketing to physicians, marketing of spinal implant
27 hardware, and other activity regarding matters alleged in the SAC to be unlawful.
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1 19. On information and belief, at all relevant times Third-Party Defendant
2 Andy Navid was engaged in marketing of implants and other activity regarding
3 matters alleged in the SAC to be unlawful.

4 20. On information and belief, at all relevant times Third-Party Defendant
5 Jason Bernard was engaged in marketing and other activity regarding matters
6 alleged in the SAC to be unlawful.

7 21. On information and belief, at all relevant times Third-Party Defendant
8 Michael E. Barri was a chiropractor licensed to practice in the state of California
9 doing business in Orange County, California. On information and belief, at all
10 relevant times Third-Party Defendant Michael E. Barri was a principal of, and did
11 business as Third-Party Defendant Jojaso Management, Inc., a California
12 corporation. On information and belief, said Third-Party Defendants engaged in acts
13 and omissions alleged in the SAC to be unlawful.

14 22. On information and belief, at all relevant times Third-Party Defendant
15 William Parker was a chiropractor licensed to practice in the state of California until
16 March 31, 2011. On information and belief, at all relevant times Third-Party
17 Defendant William Parker was a principal of, and did business as Third-Party
18 Defendant Union Choice Therapy Network, a California corporation. On
19 information and belief, said Third-Party Defendants engaged in acts and omissions
20 alleged in the SAC to be unlawful.

21 23. On information and belief, at all relevant times Third-Party Defendant
22 Samuel Vidaureta was engaged in referring patients to PHLB, and other activity
23 regarding matters alleged to be unlawful in the SAC. On information and belief, at
24 all relevant times Third-Party Defendant Samuel Vidaureta was a principal of, and
25 did business as, Third-Party Defendant Prospice Group, Inc., a California
26 corporation. On information and belief, said Third-Party Defendants engaged in acts
27 and omissions alleged in the SAC to be unlawful.

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1 24. On information and belief, at all relevant times Third-Party Defendant
2 Jacob E. Tauber was a physician licensed to practice medicine in the state of
3 California, doing business in Los Angeles county, California. On information and
4 belief, at all relevant times Third-Party Defendant Jacob E. Tauber was a principal
5 of, and did business as Third-Party Defendant Jacob E. Tauber, M.D., a professional
6 corporation, a California corporation. On information and belief, said Third-Party
7 Defendants engaged in acts and omissions alleged in the SAC to be unlawful.

8 25. On information and belief, at all relevant times Third-Party Defendant
9 Assad Michael Moheimani was a physician licensed to practice medicine in the state
10 of California, doing business in Orange County, California. On information and
11 belief, said Third-Party Defendant engaged in acts and omissions alleged in the SAC
12 to be unlawful.

13 26. On information and belief, at all relevant times Third-Party Defendant
14 Jeffery D. Gross was a physician licensed to practice medicine in the state of
15 California, doing business in Orange County, California. On information and belief,
16 said Third-Party Defendant engaged in acts and omissions alleged in the SAC to be
17 unlawful.

18 27. On information and belief, at all relevant times Third-Party Defendant
19 Timothy J. Hunt was a physician licensed to practice medicine in the state of
20 California, doing business in Los Angeles County, California. On information and
21 belief, at all relevant times Third-Party Defendant Timothy J. Hunt was a principal
22 of, and did business as Third-Party Defendant Allied Medical Group, Inc., a
23 California corporation. On information and belief, said Third-Party Defendants
24 engaged in acts and omissions alleged in the SAC to be unlawful.

25 28. On information and belief, at all relevant times Third-Party Defendant
26 Randy S. Rosen was a physician licensed to practice medicine in the state of
27 California, doing business in Los Angeles County, California. On information and
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1 belief, said Third-Party Defendant engaged in acts and omissions alleged in the SAC
2 to be unlawful.

3 29. On information and belief, at all relevant times Third-Party Defendant
4 Gerald J. Alexander, was a physician licensed to practice medicine in the state of
5 California, doing business in Orange County, California. On information and belief,
6 said Third-Party Defendant engaged in acts and omissions alleged in the SAC to be
7 unlawful.

8 30. On information and belief, at all relevant times Third-Party Defendant
9 Gurvinder S. Uppal was a physician licensed to practice in the state of California,
10 doing business in the County of Riverside, California. On information and belief,
11 said Third-Party Defendant engaged in acts and omissions alleged in the SAC to be
12 unlawful.

13 31. On information and belief, at all relevant times Third-Party Defendant
14 Ian I. Armstrong was a physician licensed to practice medicine in the state of
15 California, doing business in the County of Los Angeles, California. On information
16 and belief, at all relevant times Third-Party Defendant Ian I. Armstrong was a
17 principal of, and did business as Ian I.T. Armstrong, M.D., Inc., a medical
18 corporation, a California corporation. On information and belief, said Third-Party
19 Defendants engaged in acts and omissions alleged in the SAC to be unlawful.

20 32. On information and belief, at all relevant times Third-Party Defendant
21 Sean E. O’Keefe was an individual who referred patients to PHLB and engaged in
22 acts and omissions alleged in the SAC to be unlawful.

23 33. On information and belief, at all relevant times Third-Party Defendant
24 Jack H. Akmakjian was a physician licensed to practice medicine in the state of
25 California, doing business in the county of Riverside, California. On information
26 and belief, at all relevant times Third-Party Defendant Jack H. Akmakjian was a
27 principal of, and did business as Jack H. Akmakjian, M.D., Inc., a California
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1 corporation. On information and belief, said Third-Party Defendants engaged in acts
2 and omissions alleged in the SAC to be unlawful.

3 34. On information and belief, at all relevant times Third-Party Defendant
4 Thomas T. Haider was a physician licensed to practice medicine in the state of
5 California, doing business in the county of Riverside, California. On information
6 and belief, at all relevant times Third-Party Defendant Thomas T. Haider was a
7 principal of, and did business as Haider Spine Central Medical Group, Inc., a
8 California corporation. On information and belief, said Third-Party Defendants
9 engaged in acts and omissions alleged in the SAC to be unlawful.

10 35. On information and belief, at all relevant times Third-Party Defendant
11 Lokesh S. Tantuwaya was a physician licensed to practice medicine in the state of
12 California, doing business in San Diego, California. On information and belief, at all
13 relevant times Third-Party Defendant Lokesh S. Tantuwaya was a principal of, and
14 did business as Dr. Lokesh S. Tantuwaya, M.D., Inc., a California corporation. On
15 information and belief, said Third-Party Defendants engaged in acts and omissions
16 alleged in the SAC to be unlawful.

17 36. On information and belief, at all relevant times Third-Party Defendant
18 Edward Komberg was a chiropractor licensed to practice in the state of California,
19 doing business in Orange County, California. On information and belief, said Third-
20 Party Defendant engaged in acts and omissions alleged in the SAC to be unlawful.

21 37. At all relevant times Third-Party Defendants Does 1 through 25,
22 inclusive, were individuals or entities who engaged in acts or omissions alleged in
23 the SAC to be unlawful, or are otherwise liable for said acts and omissions and the
24 harm, if any, caused by them. The true names and capacities of Third-Party
25 Defendants Does 1 through 25, inclusive are presently unknown to Third-Party
26 Plaintiffs, who therefore sue each of these Third-Party Defendants by such fictitious
27 name. Upon ascertaining the true identity of a Third-Party Defendant Doe, Third-
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1 Party Plaintiff will amend this complaint, or seek leave to do so, by inserting the
2 true name in lieu of the fictitious name.

3 38. The named and DOE defendants are referred to collectively as the
4 “Third-Party Defendants.”

5 FIRST CLAIM FOR RELIEF

6 (Equitable Indemnity against all Third-Party Defendants)

7 39. Third-Party Plaintiffs hereby incorporate by reference and reallege, as
8 though full set forth herein, the allegations contained in paragraphs 1 through 38
9 above.

10 40. In the SAC State Fund alleges, among other things, that the Third-Party
11 Plaintiffs “conspired with dozens of doctors, chiropractors, marketers and others to
12 pay kickbacks” in exchange for referrals of patients to PHLB “for spinal surgeries
13 and other medical services” or for “agreeing to use certain equipment or devices.”
14 State Fund specifically alleges that doctors performing spinal surgeries at PHLB
15 used spinal implant hardware provided by I2 to PHLB at grossly inflated prices.
16 Moreover, the SAC alleges that in paying the kickbacks, inflating the medical
17 hardware costs, and submitting the resulting claims for spinal surgeries and medical
18 services, Third-Party Plaintiffs and their co-conspirators acted with the intent to
19 defraud workers’ compensation insurance carriers and to deprive the patients of
20 their right to honest services. State Fund in the SAC further alleges that the Third-
21 Party Plaintiffs and their alleged co-conspirators attempted to conceal payment of
22 kickbacks by entering into “fraudulent contracts” and other unlawful arrangements.

23 41. In the SAC State Fund further alleges that Defendants California
24 Pharmacy Management LLC, Industrial Pharmacy Management LLC, and Meds
25 Management Group LLC conspired to enter into and did enter into sham
26 arrangements and agreements with physicians involving the payment of kickbacks
27 and violated the prohibitions against the corporate practice of medicine. The SAC
28 further alleges that these allegedly fraudulent schemes were coordinated by PSPM

1 and FMM, and were part of an overarching fraudulent enterprise involving the
2 Third-Party Plaintiffs herein.

3 42. In the SAC State Fund further alleges that, due to the conduct of the the
4 Third-Party Plaintiffs and their co-conspirators, State Fund suffered injury to its
5 business and property, and was otherwise damaged.

6 43. As set forth in their Answer to the SAC, the Third-Party Plaintiffs deny
7 the actionable allegations in the SAC, and further deny that they are responsible or
8 liable for any costs and damages, or that they are in any way subject to any of the
9 relief requested in the SAC.

10 44. However, should the Third-Party Plaintiffs be found liable for any
11 injury and/or damages arising from the allegations in the SAC that they conspired
12 with physicians, chiropractors, marketers and others or otherwise fraudulently
13 caused injury to State Fund's business and property through the wrongful acts
14 alleged therein, the Third-Party Defendants are each at fault, fully or in part, for any
15 such injury and/or damages as alleged co-conspirators and/or joint tortfeasors with
16 Third-Party Plaintiffs.

17 45. By reason of the above, the Third-Party Defendants are each partially
18 or fully responsible for any and all claims, losses, damages, attorney's fees, or costs
19 that the Third-Party Plaintiffs are required to pay as a result of the facts and
20 circumstances raised in the SAC, and the Third-Party Plaintiffs are entitled to
21 equitable indemnification in full or in part from each of the Third-Party Defendants
22 for any and all claims, losses, damages, attorney's fees, or costs that the Third-Party
23 Plaintiffs are required to pay as a result of the facts and circumstances raised in the
24 SAC.

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1 SECOND CLAIM FOR RELIEF

2 (Declaratory Relief)

3 46. The Third-Party Plaintiffs hereby incorporate by reference and reallege,
4 as though full set forth herein, the allegations contained in paragraphs 1 through 45
5 above.

6 47. An actual controversy exists between the Third-Party Plaintiffs and
7 each of the Third-Party Defendants, in that the Third-Party Plaintiffs contend that, if
8 they are required to pay any claims, losses, damages, attorney’s fees, or costs as a
9 result of the facts and circumstances raised in the SAC, each of the Third-Party
10 Defendants are joint tortfeasors and must indemnify the Third-Party Plaintiffs for
11 any such amounts, in whole or in part.

12 48. Without a judicial declaration setting forth the parties’ respective rights
13 and obligations concerning these obligations and legal duties, a multiplicity of
14 actions may result. Therefore, the Third-Party Plaintiffs request a determination of
15 the obligations of each of the Third-Party Defendants to indemnify the Third-Party
16 Plaintiffs for any and all claims, losses, damages, attorney’s fees, or costs that the
17 Third-Party Plaintiffs are required to pay as a result of the facts and circumstances
18 raised in the SAC.

19 PRAYER

20 WHEREFORE, the Third-Party Plaintiffs pray for judgment ordering,
21 adjudging and decreeing as follows:

22 1. For a judgment that the Third-Party Defendants indemnify the Third-
23 Party Plaintiffs, jointly and severally, for all or part of any and all claims, losses,
24 damages, attorney’s fees or costs that the Third-Party Plaintiffs may be required to
25 pay as a result of the facts and circumstances raised in Plaintiff State Compensation
26 Insurance Fund’s Second Amended Complaint; and for a Declaration as to the same;

27 2. For costs of suit herein; and

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3. For such other relief as the Court may deem just and proper.

Dated: March 23, 2015

NORRIS & GALANTER LLP
DONALD G. NORRIS

LOEB & LOEB LLP
DANIEL A. PLATT
WILLIAMS M. BRODY

BY: S/ Daniel A. Platt
Daniel A. Platt

Attorneys for Defendants and Third-Party Plaintiffs Healthsmart Pacific Inc.; Healthsmart Pacific, Inc. d/b/a Pacific Hospital of Long Beach; Michael D. Drobot, Sr.; Long Beach Pain Medical Clinic, Inc.; International Implants, LLC; Pacific Specialty Physician Management, Inc.; and First Medical Management, Inc.

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DEMAND FOR JURY TRIAL

Defendants and Third-Party Plaintiffs Healthsmart Pacific Inc.; Healthsmart Pacific, Inc. d/b/a Pacific Hospital of Long Beach; Michael D. Drobot, Sr.; Long Beach Pain Medical Clinic, Inc.; International Implants, LLC; Pacific Specialty Physician Management, Inc.; and First Medical Management, Inc. hereby demand trial by jury in this action.

Dated: March 23, 2015

NORRIS & GALANTER LLP
DONALD G. NORRIS

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DANIEL A. PLATT
WILLIAMS M. BRODY

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Attorneys for Defendants and Third-Party Plaintiffs Healthsmart Pacific Inc.; Healthsmart Pacific, Inc. d/b/a Pacific Hospital of Long Beach; Michael D. Drobot, Sr.; Long Beach Pain Medical Clinic, Inc.; International Implants, LLC; Pacific Specialty Physician Management, Inc.; and First Medical Management, Inc.