

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

JERRY BEEMAN AND PHARMACY SERVICES, INC., doing business as Beemans Pharmacy; ANTHONY HUTCHINSON AND ROCIDA INC., doing business as Finleys Rexall Drug; CHARLES MILLER, doing business as Yucaipai Valley Pharmacy; JIM MORISOLI AND AMERICAN SURGICAL PHARMACY INC., doing business as American Surgical Pharmacy; BILL PEARSON AND PEARSON AND HOUSE, doing business as Pearson Medical Group Pharmacy; on behalf of themselves and all others similarly situated and on behalf of the general public
Plaintiffs-Appellees,

v.

ANTHEM PRESCRIPTION MANAGEMENT, LLC; ARGUS HEALTH SYSTEMS, INC.; BENESCRIP SERVICES, INC.; FFI RX MANAGED CARE; FIRST HEALTH SERVICES CORPORATION; MANAGED PHARMACY BENEFITS, INC., formerly known as Cardinal Health MPB Inc.; NATIONAL MEDICAL HEALTH CARD

No. 07-56692

D.C. No.
CV-04-00407-
VAP

SYSTEMS, INC.; PHARMACARE
MANAGEMENT SERVICES, INC.;
PRIME THERAPEUTICS; RESTAT
CORPORATION; RX SOLUTIONS, INC.;
TMESYS, INC.; WHP HEALTH
INITIATIVES, INC.; MEDE AMERICA
CORP.,

Defendants-Appellants.

JERRY BEEMAN AND PHARMACY
SERVICES, INC., doing business as
Beemans Pharmacy; ANTHONY
HUTCHINSON AND ROCIDA INC.,
doing business as Finleys Rexall
Drug; CHARLES MILLER, doing
business as Yucaipai Valley
Pharmacy; JIM MORISOLI AND
AMERICAN SURGICAL PHARMACY
INC., doing business as American
Surgical Pharmacy; BILL PEARSON
AND PEARSON AND HOUSE, doing
business as Pearson Medical Group
Pharmacy; on behalf of themselves
and all others similarly situated and
on behalf of the general public,

Plaintiffs-Appellees,

v.

TDI MANAGED CARE SERVICES,
INC., doing business as ECKERD
HEALTH SERVICES; MEDCO

No. 07-56693

D.C. No.
CV-02-01327-
VAP

ORDER

HEALTH SOLUTIONS, INC.; EXPRESS SCRIPTS, INC.; ADVANCE PCS, Advance PCS Health, L.P.; RX SOLUTIONS, INC., <i>Defendants-Appellants.</i>

Filed January 29, 2014

Before: Alex Kozinski, Chief Judge, Harry Pregerson,
Diarmuid F. O'Scannlain, Sidney R. Thomas, Kim McLane
Wardlaw, William A. Fletcher, Ronald M. Gould, Marsha
S. Berzon, Johnnie B. Rawlinson, Richard R. Clifton and
N. Randy Smith, Circuit Judges.

ORDER

The case is remanded to the three-judge panel for consideration in light of the California Supreme Court's opinion in *Beeman v. Anthem Prescription Management, LLC*, No. S203124 (Cal. Dec. 19, 2013). The prior panel opinion, 652 F.3d 1085 (9th Cir. 2011), is vacated.