

) 9. Violation of Welf. & Inst. Code
) §15600 et seq. (Financial Elder
) Abuse)
)
) Judge: Hon. Anthony J. Battaglia
) Dept: 3B (3rd Floor-Schwartz)

This case originated in the Superior Court for the State of California, County of San Diego. The First Amended Complaint was filed in State Court before service and before any appearances were made by any Defendants. The matter was then removed to Federal Court by Defendants.

This SECOND Amended Complaint is filed in response to Defendants' Notice of Motion and Motion to Dismiss First Amended Complaint under FRCP 8(a), 9(b) and 12(b), which was filed with the Federal Court and served *by mail* on Plaintiffs, who had not yet made an appearance in the Federal Court, on November 22, 2016. This Second Amended Complaint addresses the challenges made by that motion. It dismisses the following parties, and a separate joint stipulation as agreed will be filed with the court dismissing these parties *without prejudice*: **SCOTT SESSIONS, M.D.; Doe 1: STEM CELLS...THE HUMAN REPAIR KIT, a California Business Entity, Form Unknown; Doe 2: STEMGENEX BIOLOGIC LABORATORIES, a California Limited Liability Corporation; and Doe 3: STEM GENETIC, a California Business Entity, Form Unknown.**

This SECOND Amended Complaint adds a new Plaintiff putative class representative to this action, **ALEXANDRA GARDNER** ("Ms. GARDNER"). Ms. GARDNER will join STEPHEN GINSBERG, who appeared in the First Amended Complaint as a Plaintiff and who will particularly represent the putative Elder Subclass, as well as the original Plaintiff, SELENA MOORER (collectively, "The Plaintiffs").

The Plaintiffs, on behalf of themselves and all others similarly situated, hereby allege as follows:

NATURE OF ACTION

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2 1. This is a class action against STEMGENEX MEDICAL GROUP, INC.,
3 and related persons and entities (collectively, “Defendants” or “StemGenex”). This
4 action arises out of StemGenex’s scheme to wrongfully market and sell “stem cell
5 treatments” at their La Jolla, California location to consumers nationwide.

6 2. StemGenex’s consumers are often sick or disabled, suffering from
7 incurable diseases and a dearth of hope. StemGenex’s marketing makes claims to
8 these consumers that by performing liposuction of a person’s adult fat cells,
9 processing them, and injecting them back into a person as stem cells (the “Stem Cell
10 Treatments”), they effectively treat a multitude of diseases. StemGenex claims that
11 100% of its prior consumers are satisfied with its service. StemGenex has no
12 reasonable basis to make either of these claims. StemGenex omits material
13 information from all marketing about the Stem Cell Treatments and the dissatisfaction
14 and complaints of ineffectiveness from people who have purchased the treatments.

15 3. Plaintiff, SELENA MOORER, relied on StemGenex’s false and
16 misleading marketing and purchased a Stem Cell Treatment for \$14,900.00. Ms.
17 Moorer brings this action on behalf of herself and a putative Class of wronged
18 consumers, to seek remedies from this Court.

19 4. Plaintiff, STEPHEN GINSBERG, also relied on StemGenex’s false and
20 misleading marketing and purchased a Stem Cell Treatment for at or about
21 \$14,900.00. Mr. Ginsberg brings this action on behalf of himself and a putative Class
22 of wronged consumers, as well as a subclass of “elders” under the law who have been
23 harmed due to elder abuse, to seek remedies from this Court.

24 4A. Plaintiff, ALEXANDRA GARDNER, also relied on StemGenex’s false
25 and misleading marketing and purchased a Stem Cell Treatment for \$14,900.00.
26 Ms. GARDNER brings this action on behalf of herself and a putative Class of
27 wronged consumers, to seek remedies from this court.
28

JURISDICTION AND VENUE

5. This matter has been removed from San Diego Superior Court to the United States District Court for the Southern District of California by Defendants. Jurisdiction and venue are proper in this Court because the actions at issue involves federal question and diversity, under 28 USC. Sections §§1331 and 1332(d).

6. Jurisdiction of this Court is appropriate over the subject matter of this claim and the Defendants' marketing and sale of the Stem Cell Treatments. StemGenex's website represents that their services are not subject to evaluation or approval by the U.S. Food and Drug Administration (FDA), and that no approval has been sought by, or provided to, StemGenex, for its treatments, studies or research by the FDA.

7. This Court has original jurisdiction to enforce this civil RICO action under 18 U.S.C. §1961 et seq.

PARTIES

A. Plaintiffs

8. Plaintiff, Selena Moorero ("Ms. Moorero") is a resident of the State of Florida who traveled to San Diego, California after relying on StemGenex's website, in order to have Stem Cell Treatment. She was led by StemGenex to believe it would greatly improve her condition, lupus, an autoimmune disorder. Ms. Moorero was greatly impressed by StemGenex's website (www.stemgenex.com), including indications on that site that all consumers were pleased with the outcomes of their treatments, statistics on the site showing no dissatisfaction by any consumers, and by video testimonials on the site. Based on Defendants' misrepresentations and material omissions, Plaintiff took money she could ill-afford to spend and paid a non-refundable deposit of thousands of dollars to StemGenex, and thereafter flew to California with family members to undergo the treatment. The total payment by Ms. Moorero to StemGenex, including the deposit, was \$14,900. This was the same base price paid to StemGenex by all other similarly situated consumers for each and every

1 Stem Cell Treatment. Those consumers that had multiple treatments on different
2 dates, again paid an additional minimum base price of \$14,900 each time they
3 returned to the company for a Stem Cell Treatment. Ms. Moorer underwent the Stem
4 Cell Treatment with StemGenex on or about April 5, 2016. She did not benefit and
5 also told the company she did not benefit and that she blamed them for a worsening of
6 her condition.

7 9. Plaintiff, Stephen Ginsberg (“Mr. Ginsberg”) is a resident of the State of
8 California, who traveled south to San Diego, California after relying on StemGenex’s
9 website, in order to have Stem Cell Treatment. Mr. Ginsberg was at all times
10 relevant over 65 years of age. He was led by StemGenex to believe it would greatly
11 improve his condition, diabetes, and other related conditions. Mr. Ginsberg was
12 greatly impressed by StemGenex’s website (www.stemgenex.com), including but not
13 limited to the statements about the number and percentage of satisfied consumers.
14 Mr. Ginsberg paid StemGenex at or around \$14,900 to get treatments in different
15 parts of his body. Mr. Ginsberg was given Stem Cell Treatment by StemGenex on or
16 about November of 2015. The treatment had no effect. Mr. Ginsberg told
17 StemGenex he received no effect from the treatment.

18 9A. Plaintiff, **ALEXANDRA GARDNER** (“Ms. Gardner”), who is added by
19 this SECOND Amended Complaint, is a resident of the State of Colorado, who
20 traveled to San Diego, California after relying on StemGenex website, in order
21 to have Stem Cell Treatment. Ms. GARDNER particularly relied on the
22 statistics of patient satisfaction ratings that appeared on the website at the time
23 she and her family searched for possible treatments for her condition, Diabetes,
24 which she has had since she was a baby. Impressed by the website and those
25 statistics, she and her family member made an appointment and traveled to San
26 Diego to undergo the treatment. Ms. GARDNER paid StemGenex \$14,900.00
27 to have the treatment. She underwent the treatment in July of 2015. She had
28 little to no effect from the treatment. When she reported this to StemGenex, she

1 was told that it could take months for the treatment to take effect. However, Ms.
2 Gardner never experienced any significant positive effect from the treatment.

3
4 10. Plaintiffs, and each of them, would not have paid for the Stem Cell
5 Treatment had they known that the statistics on the StemGenex website regarding
6 consumer satisfaction were false, and that StemGenex had no reasonable basis for its
7 marketing claim that the Stem Cell Treatments were effective to treat diseases as
8 advertised.

9 11. Neither Ms. Moorer nor Mr. Ginsberg nor Ms. Gardner received any
10 significant benefit or effect from the \$14,900 Stem Cell Treatment they purchased
11 from StemGenex. They reported this to StemGenex. StemGenex's website never
12 varied its 100% client satisfaction approval statistics even after Ms. Moorer, Mr.
13 Ginsberg, Ms. Gardner and others informed StemGenex of their dissatisfaction with
14 the Stem Cell Treatments. After StemGenex was informed of Ms. Moorer's
15 dissatisfaction, StemGenex actually offered to sell her an additional Stem Cell
16 Treatment for \$14,900.

17 **B. Defendants**

18 12. The Defendants who are liable to Ms. Moorer, Mr. Ginsberg, Ms.
19 Gardner, and all others similarly situated, and from whom an injunction and other
20 remedies are sought, are the following:

21 13. STEMGENEX, INC., is an active California Corporation, located in the
22 City of La Jolla, County of San Diego, State of California. Its products and services
23 are located in and it is doing business in the State of California.

24 14. STEMGENEX MEDICAL GROUP, INC. is an active California
25 Corporation, located in the City of La Jolla, County of San Diego, State of California.
26 Its products and services are located in and it is doing business in the State of
27 California.
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1 15. STEM CELL RESEARCH CENTRE, INC. is an active California
2 Corporation, located in the City of La Jolla, County of San Diego, State of California.
3 Its products and services are located in and it is doing business in the State of
4 California.

5 16. RITA ALEXANDER (“Ms. Alexander”) is an individual residing in the
6 County of San Diego, State of California. Ms. Alexander is an owner, operator
7 and/or controller of StemGenex, and its advertising, in whole or in part. Plaintiffs
8 also allege that Ms. Alexander is personally and directly liable to Plaintiffs and
9 members of the Class on all Causes of Action below. She is a Managing Agent who
10 has authorized and ratified the actions alleged.

11 17. ANDRE LALLANDE, D.O. (“Dr. Lallande”) is an individual residing in
12 the County of San Diego, State of California. Dr. Lallande owns, operates and/or
13 controls StemGenex and its advertising, in whole or in part. Plaintiffs also allege that
14 Dr. Lallande is personally and directly liable to Plaintiffs and members of the Class on
15 all Causes of Action below. He is a Managing Agent who has authorized and ratified
16 the actions alleged.

17 18. SCOTT SESSIONS, M.D. (“Dr. Sessions”) *is dismissed without*
18 *prejudice as of this SECOND AMENDED COMPLAINT, pending further discovery.*

19 19. DOE Defendants 1 through 100, inclusive, whether individuals,
20 corporations, partnerships or otherwise, are fictitious names of Defendants whose true
21 names are, at this time, unknown to Plaintiffs. Plaintiffs are informed, believe, and
22 thereon allege that each of said fictitiously-named Defendants contributed to the
23 damages herein alleged and Plaintiffs will name such Defendants when their identities
24 have been ascertained.

25 20. Plaintiffs amended the original Complaint to add the following
26 Defendants, initially identified as “DOES”:

27 a. DOE 1: “STEM CELLS... THE HUMAN REPAIR KIT, a California
28 Business Entity, Form Unknown”;

1 b. DOE 2: “STEMGENEX BIOLOGIC LABORATORIES, LLC, a
2 California

3 Limited Liability Corporation”; and

4 c. DOE 3: “STEM GENETIC, a California Business Entity, Form
5 Unknown.” *These three Defendants are dismissed without prejudice as of*
6 *this SECOND AMENDED COMPLAINT, pending further discovery. If it is*
7 *determined that Dr. Sessions or these entities are proper parties to this*
8 *litigation, Plaintiffs will seek to amend to bring them back in with relation back*
9 *to original filing.*

10 21. Furthermore, Plaintiffs allege that the DOE Defendants in this action
11 committed the same or similar acts alleged as the named Defendants in this cause of
12 action. Therefore, all acts alleged to have been committed by the named Defendants
13 are also alleged to have been committed by the DOE Defendants.

14 22. Plaintiffs are informed, believe and thereon allege that each of the
15 Defendants is the agent, joint venturer and/or employee of each of the remaining
16 Defendants and in doing the things hereinafter alleged, each was acting within the
17 course and scope of said agency, employment and/or joint venture with the advance
18 knowledge, acquiescence or subsequent ratification of each and every remaining
19 Defendant.

20 23. All Defendants above, including DOES 1-100, are collectively referred
21 to in this Complaint as “StemGenex.” Unless otherwise specified, “StemGenex”
22 includes STEMGENEX, INC. and STEMGENEX MEDICAL GROUP, INC., and
23 STEM CELL RESEARCH CENTRE, INC.

24 23A. Certain representations complained of in this Second Amended
25 Complaint continue to this day. The “**Putative Class Period**”, with regard to
26 misrepresentations and false and misleading information published to
27 prospective consumers by StemGenex begins on December 8, 2013, as further
28 described below. It continues through present.

ALTER EGO / PIERCE CORPORATE VEIL ALLEGATIONS

24. Plaintiffs allege that some of the corporations, limited liability companies, and entities named as Defendants herein, including but not limited to DOES 1 through 100, and each of them, were at all times relevant the alter ego corporations of individual Defendants Ms. Alexander and Dr. Lallande by reason of the following:

(a) Plaintiffs allege that said individual defendants, at all times herein mentioned, dominated, influenced and controlled each of StemGenex Defendants and DOES and the officers thereof as well as the business, property, and affairs of each of said corporations.

(b) Plaintiffs allege that, at all times herein mentioned, there existed and now exists a unity of interest and ownership between said individual defendants and each of the StemGenex Defendants and DOES; the individuality and separateness of said individual defendants and each of the STEMGENEX entity Defendants and DOES have ceased.

(c) Plaintiffs allege that, at all times since the incorporation of each, each StemGenex entity Defendant and each DOE has been and now is a mere shell and naked framework which said individual defendants used as a conduit for the conduct of their personal business, property and affairs.

(d) Plaintiffs allege that, at all times herein mentioned, each of the StemGenex entity Defendants and each DOE was created and continued pursuant to a fraudulent plan, scheme and device conceived and operated by said individual Defendants Ms. Alexander and Dr. Lallande, whereby the income, revenue and profits of each of the StemGenex entities were diverted by said individual Defendants to themselves. Plaintiffs allege that STEM CELL RESEARCH CENTRE, INC., is a company formed in order to provide backing to previously published and published claims of clinical trials. Plaintiffs allege that STEM CELL RESEARCH CENTRE, INC., is a company formed by RITA ALEXANDER for the purpose of avoiding liability of STEMGENEX and/or STEMGENEX MEDICAL GROUP.

1 (e) Plaintiffs allege that, at all times herein mentioned, each of the StemGenex
2 entities and each DOE was organized by said individual defendants as a device to
3 avoid individual liability and for the purpose of substituting financially irresponsible
4 corporations in the place and stead of said individual defendants, and each of them,
5 and accordingly, formed the entities and published the website Document about those
6 entities hosted at www.stemgenex.com.

7 (f) Plaintiffs are informed and believe that the StemGenex entities and DOES
8 were formed with capitalization totally inadequate for the business in which said
9 corporation(s) were engaged.

10 (g) By virtue of the foregoing, adherence to the fiction of the separate corporate
11 existence of each of the StemGenex corporate entities and each DOE would, under the
12 circumstances, sanction a fraud and promote injustice in that Plaintiffs and members
13 of the Class would be unable to realize upon any judgment in their favor.

14 25. Plaintiffs allege that, at all times relevant hereto, the individual
15 defendants Ms. Alexander and Dr. Lallande and the StemGenex entity Defendants and
16 DOES acted for each other in connection with the conduct hereinafter alleged and that
17 each of them performed the acts complained of herein or breached the duties herein
18 complained of as agents of each other and each is therefore fully liable for the acts of
19 the other.

20 **COMMON FACTUAL ALLEGATIONS**

21 **A. What is StemGenex?**

22 26. StemGenex was founded by a non-physician, Ms. Alexander. It receives
23 profits and revenues through the sale of Stem Cell Treatments to persons who have
24 illnesses or medical conditions causing pain and/or disability. Ms. Alexander directs
25 and controls the businesses of STEMGENEX, STEMGENEX MEDICAL GROUP,
26 INC. and STEM CELL RESEARCH CENTRE, INC., and/or their advertising and
27 public representations.

28 27. StemGenex's Stem Cell Treatments are carried out by Andre Lallande,
D.O., and other individual physicians, with the assistance of other individuals who are

1 employees and/or agents of StemGenex. Dr. LALLANDE directs and controls the
2 businesses of STEMGENEX, STEMGENEX MEDICAL GROUP, INC. and STEM
3 CELL RESEARCH CENTRE, INC., and/or their advertising and public
4 representations, particularly statements of a medical nature in those publications.

5 28. Defendant, StemGenex, Inc. has been operating in La Jolla, California,
6 since 2011. The primary operating facility and headquarters of StemGenex is located
7 in La Jolla, California. STEMGENEX MEDICAL GROUP, INC., is a related
8 company which is owned, operated and/or controlled by RITA ALEXANDER and/or
9 Dr. LALLANDE, operating out of that same facility. STEM CELL RESEARCH
10 CENTRE, INC. is also noted in public filings to be operating out of that same
11 location. Unless otherwise noted below, “StemGenex” refers to all these entities, and
12 each of them. Representations relating to the website are published under the
13 authority, control and/or authorization of RITA ALEXANDER and/or Dr.
14 LALLANDE.

15 29. Through July 2016, StemGenex represented on its website that it was
16 accredited by the Accreditation Association for Ambulatory Care (AAAHC), which
17 provides seals of approval for outpatient surgical centers. The following logo was
18 published on StemGenex’s website, at the bottom of nearly every page:



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23 30. Plaintiffs are informed and believe that StemGenex was not, in fact,
24 accredited by AAAHC. Plaintiffs are informed and believe that the accreditation logo
25 was removed from StemGenex’s website in August 2016, when a newspaper reporter
26 from the Los Angeles Times confronted StemGenex about the false accreditation and
27 AAAHC issued a cease-and-desist letter to StemGenex.
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1 **B. What does StemGenex do?**

2 31. StemGenex holds itself out to consumers as a pioneer in research and
3 devoted to effective Stem Cell Treatments, making representations during the putative
4 Class Period such as the following on its website:

5 **StemGenex Medical Group has made great strides in the advancement of stem cell**
6 **therapy and is dedicated to providing patients access to safe and effective stem**
7 **cell treatments.**

8
9 32. Using its website and internet ads which direct consumers to that
10 website, StemGenex pitches its services at people with crippling diseases, including
11 Alzheimer's, Parkinson's disease, chronic lung disease, autoimmune conditions (such
12 as multiple sclerosis, lupus, and rheumatoid arthritis) as well as many other
13 debilitating conditions.

14 33. Ms. Moorer, Mr. Ginsberg, Ms. Gardner and all others similarly situated,
15 have been subject to StemGenex's repeated false advertising, deception, and
16 misrepresentation regarding the quality, character and efficacy of its Stem Cell
17 Treatment, as well as omissions of material fact regarding the truth about its services,
18 the lack of data supporting their efficacy, and dissatisfaction rates. StemGenex's
19 website highlights this variety of claimed Stem Cell Treatments (sometimes referred
20 to as "therapy") on its home page, with the following representations made during the
21 putative Class Period:
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Stem Cell Therapy Studies			
 <p>Alzheimer's Stem Cell Therapy</p> <p>With the onset of Alzheimer's disease, information transfer at the synapses (the connection between the nerve cells and extensions) starts to break down, and the number of synapses decreases significantly.</p> <p>LEARN MORE</p>	 <p>Autoimmune Stem Cell Therapy</p> <p>Autoimmune diseases are conditions in which the patient's immune system generates cellular and antibody responses to substances and tissues normally present in the body.</p> <p>LEARN MORE</p>	 <p>COPD Stem Cell Therapy</p> <p>In each condition there is chronic obstruction of the flow of air through the airways and out of the lungs, and the obstruction generally is permanent and may be progressive over time.</p> <p>LEARN MORE</p>	 <p>Rheumatoid Arthritis Stem Cell Therapy</p> <p>Rheumatoid Arthritis is an autoimmune disease that attacks the body's own tissues, specifically the synovium, a thin membrane lining the joints. As a result, joint fluid builds up, causing pain in the joints and inflammation that's systemic.</p> <p>LEARN MORE</p>
 <p>Parkinson's Stem Cell Treatment</p> <p>Parkinson's disease is a chronic progressive neurological disease that affects nerve cells (neurons) in an area of the brain known as the substantia nigra.</p> <p>LEARN MORE</p>	 <p>Osteoarthritis Stem Cell Therapy</p> <p>Osteoarthritis, or degenerative joint disease, is the most common type of arthritis. It is caused by the degradation of a joint's cartilage.</p> <p>LEARN MORE</p>	 <p>Multiple Sclerosis Stem Cell Treatment</p> <p>Multiple sclerosis (or MS) is a degenerative disease involving the deterioration of nerve cells. MS attacks the central nervous system (CNS), which is made up of the brain, spinal cord, and optic nerves.</p> <p>LEARN MORE</p>	 <p>Diabetes Stem Cell Therapy</p> <p>Diabetes is the condition in which the body does not properly process food for use as energy. When you have diabetes, your body either doesn't make enough insulin or can't use its own insulin as well as it should.</p> <p>LEARN MORE</p>

34. StemGenex represents that they can effectively treat degenerative diseases generally accepted by the relevant scientific community as incurable:

1 StemGenex Medical Group offers patients access to cutting-edge adipose stem cell therapy for many
2 degenerative diseases. We offer patients access to stem cell treatments with a level of quality and
3 patient-centric care that simply cannot be found elsewhere. StemGenex Medical Group utilizes board-
4 certified surgeons and a accredited surgical center along with our own PhD neuroscientist setting forth
5 and refining stem cell processing protocols. These cutting-edge protocols utilize targeted administration
6 methods and the latest activation methods to ensure the safest most effective stem cell treatments
7 possible. We believe in providing patients with IRB approved studies for stem cell treatments registered
8 through The National Institutes of Health. Through these stem cell therapy studies, we hope to provide
9 patients with options that may change the course of their lives as well as the course of their disease.

10 35. The StemGenex business is fueled by its robust website advertising
11 campaign, which reaches consumers nationwide and beyond. StemGenex represents
12 on its website that “over 70% of patients travel to StemGenex Medical Group from
13 out of state.” StemGenex directs internet traffic, including social media traffic, and
14 requests for information to its website, which Plaintiffs are informed and believe is
15 viewed by every prospective StemGenex Stem Cell Treatment purchaser throughout
16 the country. Through this advertising and subsequent direct contact made with the
17 company , StemGenex, including but not limited to STEMGENEX, STEMGENEX
18 MEDICAL GROUP and STEM CELL RESEARCH CENTRE, INC., received dozens
19 or more paying patients a month for stem cell treatments, during the Putative Class
20 Period.

21 36. StemGenex’s website represents that it’s “adult adipose-derived stem cell
22 therapy” is “effective” to “treat diseases”:
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The Future is Here

The StemGenex Medical Group prides itself in being the world-wide pioneers in providing stem cell therapy to patients throughout the world and is passionately committed to helping people with unmet clinical needs achieve optimum health and better quality of life through the healing benefits of their own stem cells.

As the premiere leader in the United States for regenerative medicine, StemGenex Medical Group is dedicated to providing stem cell therapy options to help individuals suffering with inflammatory and degenerative illnesses.

Board Certified Physicians administer safe and effective adult adipose-derived stem cell therapy, a minimally invasive procedure using an individual's own stem cells to treat diseases including Multiple Sclerosis, Parkinson's, Rheumatoid Arthritis, COPD and Osteoarthritis.

37. "Adipose-derived" means from the fatty tissue of the body. StemGenex' website offers treatments based on injecting consumers with stem cells supposedly drawn and created from their own adult body fat. The Stem Cell Treatments offered at StemGenex begin with liposuction – they take part of the consumer's belly fat and then, after minimal processing, inject the "stem cells" back into the same spot, and/or other spots on the body.

38. StemGenex appeals to consumers with the thought they will be receiving special attention, getting an approach that is not "cookie-cutter", and that this will increase the effectiveness of the treatment:

Customized Treatment Plans

Every patient treated through StemGenex Medical Group receives a customized treatment plan based upon the disease and complications they are experiencing. Stem cell treatment centers using a cookie-cutter approach to stem cell therapy undoubtedly limit the effectiveness of the patient's treatment. StemGenex Medical Group treatment plans consist of cutting edge protocols developed by top physicians over the years. Patients receiving treatment through StemGenex Medical Group can be confident they will always have access to the latest advancements in stem cell treatment.

39. StemGenex at various times represents its work as treatment, and at other times as “studies.” This is often done within the same paragraph. As an example, on its home page, StemGenex represents, “These cutting-edge protocols utilize targeted administration methods and the latest activation methods to ensure the safest **most effective** stem cell *treatments* possible.” (Emphasis added.) StemGenex offers at the end of the same paragraph: “Through these stem cell therapy *studies*, we hope to provide patients with options that may change the course of their lives as well as the course of their disease.” (Emphasis added.) In the recesses of its website, and completely contrary to its own promises and representations in all prominent portions of the website, StemGenex attempts to quietly disavow that “treatment using autologous stem cells [that is, cells drawn from the patient’s own body] are a cure for any condition, disease or injury.”

40. StemGenex apparently does not publish its research nor the results of its “studies” anywhere to the knowledge of Plaintiffs. Instead, it presents “anecdotal” video testimonials from clients. According to StemGenex’ website, its “principal purpose is helping people with unmet clinical needs achieve optimum health and better quality of life,” and that it has “**anecdotal feedback**.... from our patients that their symptoms have dramatically improved and their quality of life has substantially increased.” (Emphasis added). These anecdotal testimonials are in violation of the Federal Trade Commission’s guides for endorsements on social media, which

1 represent the applicable standard of care for these types of advertisements. The
2 testimonials do not reflect that the results are not typical nor does it disclose clearly
3 and conspicuously the generally expected circumstances. StemGenex does not have
4 adequate proof to back up the claims that the results shown in the ad are typical.
5 Additionally, endorsements by employees or paid or compensated individuals should
6 be identified as such. The video segments on the website are therefore further
7 misrepresentations published by StemGenex.

8 40A. In July of 2014, RITA ALEXANDER formed STEM CELL
9 RESEARCH CENTRE, INC. By that time, Defendant StemGenex, including
10 but not limited to STEMGENEX, STEMGENEX MEDICAL GROUP, Ms.
11 ALEXANDER and Dr. LALLANDE, had been advertising that STEMGENEX
12 was engaging in clinical trials. By that time, those same Defendants had also
13 been publishing patient statistics of satisfaction. RITA ALEXANDER formed
14 STEM CELL RESEARCH CENTRE, INC., in order to bolster publication of
15 false patient satisfaction statistics and false data collection for clinical “trials.”
16 Ms. ALEXANDER admitted during the Putative Class Period that STEM
17 CELL RESEARCH CENTRE, INC., was a corporation formed to avoid
18 liability of STEMGENEX and STEMGENEX MEDICAL GROUP. At all
19 times, RITA ALEXANDER, STEMGENEX, STEMGENEX MEDICAL
20 GROUP, Dr. LALLANDE and STEM CELL RESEARCH CENTRE, INC. (the
21 latter since its formation in 2014) were involved in the publication of false
22 information with regard to the involvement in clinical trials – particularly that
23 there was active participation and/or scientific gathering and/or reporting of
24 medical evidence – and that patients were 100% satisfied with the outcome of
25 their procedures.

26 41. StemGenex admits that its Stem Cell Treatment is ***not FDA approved***.
27 Indeed Plaintiffs can find no evidence that Defendants ever even submitted an
28 application for FDA approval. The ability of stem cells derived from adult body fat to

1 rebuild damaged tissue or neurons in the human body by injection is an unproven
2 hypothesis. At the present time, *no such therapy has shown its safety and efficacy in*
3 *clinical trials, as the FDA requires before approval.* During the pendency of this
4 action, Defendants have added a small print disclaimer, still non-prominent, to the
5 bottom of each page of their website that says, “Stem cell therapy is not FDA
6 approved and is not a cure for any medical condition.” This disclaimer was not
7 on the various pages of the website at the times Putative Class Members, and Putative
8 Class Representatives Ms. Moorer, Mr. Ginsberg and Ms. Gardner, saw and relied on
9 the website. It also contradicts other, more prominent claims on the website.

10 42. Experts will testify that the generally accepted scientific consensus is that
11 there is no treatment for degenerative diseases, or any disease, with a person’s own
12 adult adipose stem cells, that has been proven “effective” at any level. Yet StemGenex
13 promises consumers “the most effective stem cell treatments possible,” giving the
14 consumer the clear impression that some “effect” will occur if they pay for the
15 “treatment.”

16 43. Certain language is repeated over and over on its site, creating an echo of
17 benefit. StemGenex uses terms like “truly benefit” and “significantly improve one’s
18 quality of life.” On virtually every page of its website, StemGenex makes the
19 following claim:
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StemGenex Medical Group offers access to individualized stem cell treatment plans. Most stem cell treatment centers and clinics offer a standard treatment utilizing an IV or direct injections. We believe the key to the most effective stem cell treatment is through treatment plan customization. As each patient's disease is different, each treatment must be tailored around their specific disease related complications and symptoms. This is why StemGenex Medical Group offers access to individualized treatment plans which consist of targeted administration methods to hone in on each part of the body where the complications exist. Through customized, targeted stem cell treatment plans our goal is to offer patients access to stem cell treatment options a patient can truly benefit from to significantly improve one's quality of life.

44. StemGenex, including but not limited to RITA ALEXANDER, Dr. LALLANDE, STEMGENEX, STEMGENEX MEDICAL GROUP and STEM CELL RESEARCH CENTRE, INC. omits on these pages the information it knows to be true: **Aside from a possible placebo effect, it cannot make any supportable claims regarding this experimental therapy's ability to treat, cure, mitigate, relieve or impact ANY disease, condition or malady.**

C. **Who Buys StemGenex's Treatments?**

45. Many of StemGenex's consumers are ill and/or disabled from work. Most are seeking hope and some possibility of an effective and lasting treatment for their disease, or at least an improvement in their relative levels of disability. Many are in great financial hardship because of a preexisting disease.

46. StemGenex puts the consumers up in hotels and supplies them a car service to get to and from the clinic once they arrive in the San Diego area. Photos of

1 a lovely hotel and happy people entering a limo grace the pages of the site under the
2 section, “We Make Getting Here Easy.”

3 **D. How Much Money Do Consumers Pay StemGenex?**

4 47. Sadly, because of their desperation, many consumers with serious
5 conditions rely on their families to help them to pay StemGenex. All consumers must
6 pay a non-refundable initial deposit and then an additional payment for a total base
7 price of \$14,900 *per treatment*, exclusive of “add-ons.” This cost is not covered by
8 health insurance plans. This cost is not covered by government benefit programs such
9 as Medicare or Medicaid.

10 47A. Of interest, payments for the surgery must be made in advance, and
11 StemGenex requires all patients to pay in the form of a cashier’s check for the
12 balance after deposit. This is part of the scheme to avoid return of funds due to
13 dissatisfaction, and easier liquidity of funds.

14 48. Consumers are encouraged by StemGenex employees to begin crowd-
15 sourcing fundraising activities, such as “Go Fund Me” pages, in order to raise the
16 money to pay for StemGenex’s fees.

17 49. StemGenex promotes the idea that consumers should have more than one
18 Stem Cell Treatment. This is done both on its website, and in follow-up calls to
19 consumers, even those that are in the hospital undergoing other treatments. The
20 representation is made on StemGenex’ website: “*Could a stem cell therapy be*
21 *repeated?* Yes, a stem cell therapy may be repeated. **Current studies indicate the**
22 **strong possibility of a cumulative effect from multiple stem cell therapies a**
23 **consumer received for their condition.** Long-term studies will attempt to better
24 understand this detail.” RITA ALEXANDER and Dr. LALLANDE, on behalf of
25 themselves and StemGenex, and their employees at their direction sold the consumers
26 another treatment if they were unhappy with the outcome of the first treatment.
27 RITA ALEXANDER and Dr. LALLANDE, on behalf of themselves and StemGenex,
28 encouraged the manipulation of data to appear as if consumers were satisfied. RITA

1 ALEXANDER and Dr. LALLANDE, on behalf of themselves and StemGenex,
2 authorized and ratified that statements of dissatisfaction be kept out of the patients’
3 medical files. RITA ALEXANDER and DR. LALLANDE, on behalf of themselves
4 and StemGenex, authorized and ratified that statements of dissatisfaction be not
5 revealed to the public. RITA ALEXANDER and Dr. LALLANDE, on behalf of
6 themselves and StemGenex discouraged employees from speaking out about these
7 practices. Managers of StemGenex, on behalf of RITA ALEXANDER and DR.
8 LALLANDE, and with their authorization and ratification, changed the wording of
9 notes to make it appear that the patients were satisfied when they were not.

10 50. StemGenex, including RITA ALEXANDER, Dr. LALLANDE,
11 STEMGENEX, STEMGENEX MEDICAL GROUP and STEM CELL RESEARCH
12 CENTRE, INC., has no reasonable basis to make this claims of cumulative effect of
13 treatments making the patients better. Dissatisfied consumers are simply led to
14 believe that the first treatment did not ‘take’ and that the consumers should return for
15 more, expensive Stem Cell Treatments.

16 50A. The persons leading dissatisfied consumers to believe that the treatments
17 take more time to work are called “Patient Advocates”. These StemGenex
18 employees are under the control of RITA ALEXANDER and/or DR.
19 LALLANDE. Patient advocates often have no medical training, but make
20 statements of a medical nature to prospective consumers and also to those who
21 are calling back in with questions or statements of dissatisfaction. As an
22 example, they will qualify patients for treatment, telling them they can have
23 treatments and/or are telling them they need two treatments. Employees of
24 StemGenex make commissions for the sale of the treatments. Dr. Lallande also
25 often sells patients supplements or other costly treatments if their initial
26 treatment is reported to have not worked.

27 51. Consumers are told by StemGenex employees at the direction and control
28 of RITA ALEXANDER and DR. LALLANDE: “Some consumers have taken up to 6

1 months before seeing the full effect of the treatment.” And, StemGenex posts the
 2 following:

3
 4 **▼ How long will it take to see results?**

5 Each condition and patient is unique, and there is no guarantee of what results will be achieved or how
 6 quickly they may be observed. Most patients report the results become apparent over 1-3 months, but it
 7 can take as long as 6-9 months.

8
 9 **E. What About StemGenex’s 100% Satisfied “Patient Ratings”?**

10 52. On or about December 8, 2013, StemGenex, through the direction of
 11 RITA ALEXANDER and/or Dr. LALLANDE, began advertising “**Patient Ratings.**”
 12 On December 17, 2013, a Press Release was published by StemGenex through the
 13 direction of RITA ALEXANDER and/or Dr. LALLANDE, stating, “StemGenex®,
 14 the leading resource for adult adipose stem cell therapy in the US aimed at improving
 15 the lives of patients dealing with degenerative diseases today announced the public
 16 release of their satisfaction ratings for patients who have received stem cell therapy
 17 through StemGenex. Patients have trusted StemGenex for years to provide them with
 18 access to cutting edge stem cell therapies at the absolute highest levels of care.
 19 StemGenex believes this is something that has been lacking in the industry for some
 20 time now. These ratings now allow the public transparency into patient satisfaction in
 21 multiple categories which are now posted and updated monthly on the StemGenex
 22 website.”

23 53. As an example, at the time of drafting of this Complaint, the ratings
 24 appear on the home page of StemGenex’s website in the following format:
 25
 26
 27
 28

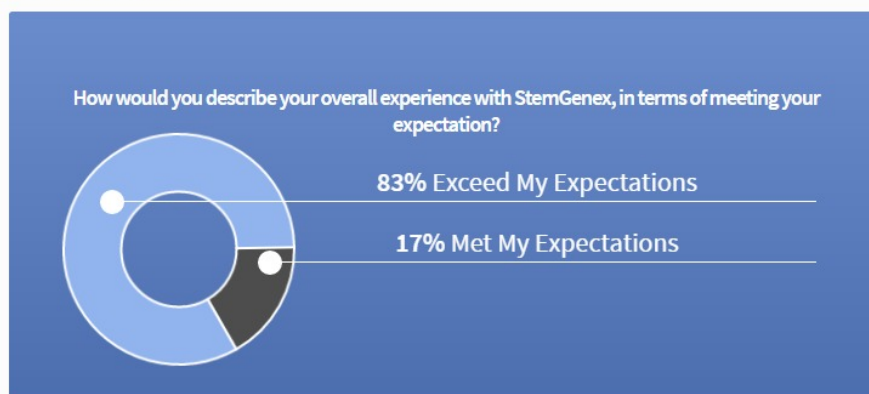
StemGenex Medical Group Patient Ratings

StemGenex Medical Group Patient Satisfaction Ratings

Patients trust our stem cell clinic, StemGenex, to provide them with access to cutting edge stem cell therapies and the absolute highest level of care. Our stem cell clinic takes this to a whole new level. Our mission with the benefits of stem cell research is to treat every patient with the same level of care that we would use when treating one of our own loved ones. We call this The StemGenex Medical Group Family Standard. Hope, support, compassion, and empowerment are what StemGenex Medical Group lives by. We monitor patient satisfaction in the following four categories of care and update them on a monthly basis.

StemGenex® Patient Satisfaction Ratings

Through August, 2016

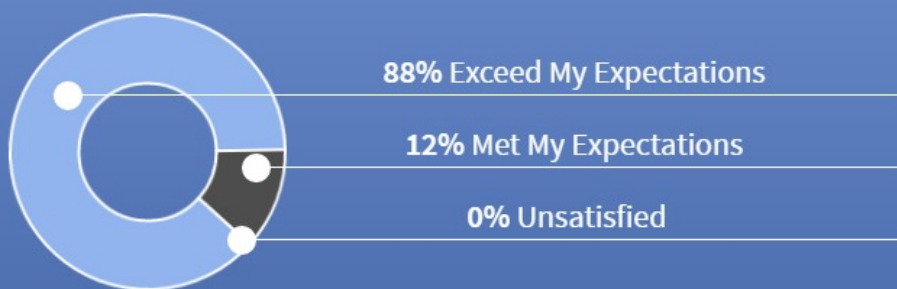


54. The “Patient Ratings” from July of 2016, on the home page of StemGenex’s website, read as follows:

StemGenex® Patient Satisfaction Ratings

Through July 8, 2016

How would you describe your overall experience with StemGenex, in terms of meeting your expectation?

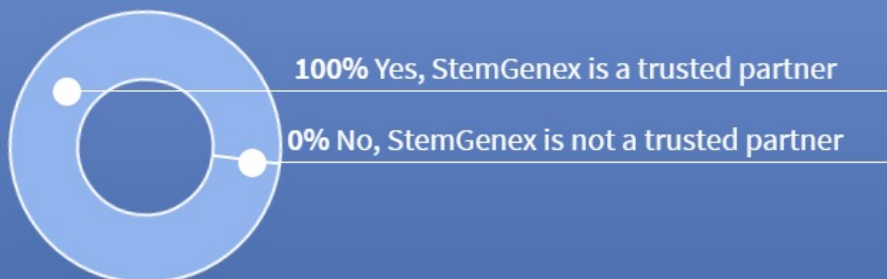


The patient satisfaction ratings above represent data received from patient exit surveys evaluating patient experience and care, accommodations, staff and facilities.

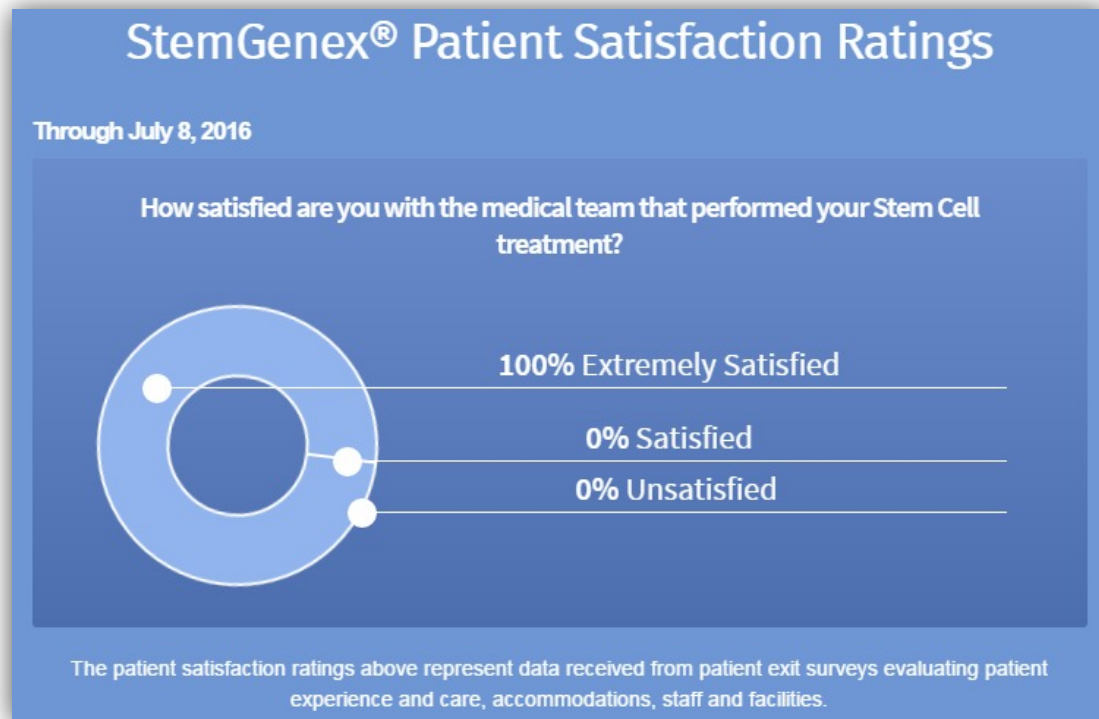
StemGenex® Patient Satisfaction Ratings

Through July 8, 2016

Do you consider StemGenex a trusted partner in treatment of your disease?



The patient satisfaction ratings above represent data received from patient exit surveys evaluating patient experience and care, accommodations, staff and facilities.



13 55. In all of StemGenex's representations to the public, for August of 2016
 14 through present, the satisfaction levels add up to **100% of consumers being satisfied.**
 15 StemGenex made these same or substantially similar representations of 100%
 16 consumer satisfaction all the way back to at least December 2013.

17 56. **StemGenex, including but not limited to STEMGENEX,**
 18 **STEMGENEX MEDICAL GROUP, RITA ALEXANDER and Dr. LALLANDE**
 19 **(and STEM CELL RESEARCH CENTRE, INC. since its inception) knows, and**
 20 **knew at all times of publication, the 100% satisfaction rate was and is not true**
 21 **and evidence available to StemGenex proves it was not true at the time the**
 22 **representations were made.** At the time of these publications of 100% satisfaction,
 23 and those earlier since December of 2013, StemGenex had received complaints,
 24 including but not limited to statements from consumers that no effect had been
 25 experienced, the promised effect had not been experienced, and/or that they wanted a
 26 refund because StemGenex did not live up to its promises. During the Putative Class
 27 Period, on multiple occasions, employees of StemGenex were directed by RITA
 28

ALEXANDER and DR. LALLANDE to not record, or to change records, about the **actual** satisfaction rates. Again, at all times during the Putative Class Period, it was falsely made to appear on the website by RITA ALEXANDER, DR. LALLANDE, STEMGENEX, STEMGENEX MEDICAL GROUP, and/or STEM CELL RESEARCH CENTRE, INC., that 100% of patients were at least satisfied, if not extremely satisfied. The express wording was used “0% Unsatisfied” at points in the Putative Class Period until this lawsuit was filed. Also, in an effort to bolster satisfaction rates, Dr. LALLANDE and/or a nurse under his direction or that of RITA ALEXANDER, during the Putative Class Period, would go to patients’ hotel rooms the day after their surgery and be there while patients filled out the patient survey and take the survey back from them at that time. This control of the “survey results” further ensured that they would be less likely to “rate” the experience as anything but satisfactory. This also had the effect of achieving a “rating” before the patients actually had time to truly and accurately report on the effects of the surgery or their satisfaction with this service/product. Also, when prospective consumers called, the StemGenex sales team was made to claim a high percentage of satisfaction, as is further reported in Exhibit “1”.

57. StemGenex knew that not all persons who receive or received its Stem Cell Treatment are benefited or satisfied and a significant portion are dissatisfied. Nevertheless, **StemGenex’s statements and representations to the public contain false and misleading information that misrepresent or omit this information and StemGenex is being, and has been, unjustly enriched as a result.** StemGenex’s marketing of its product is in violation of laws of the state of California and the United States. Plaintiffs and others have been harmed by reliance on StemGenex’s misrepresentations and omissions.

58. StemGenex’s methods for gathering information from former consumers follows no systemic protocol, is inaccurately recorded, and does not accurately measure consumer satisfaction. As a result, month after month, false and misleading

“consumer ratings” are posted anew in a prominent position on their website. These monthly false “statistics” give consumers a sense of comfort and willingness to go forward with the treatment. **They, STEMGENEX, STEMGENEX MEDICAL GROUP, STEM CELL RESEARCH CENTRE, INC., RITA ALEXANDER and Dr. LALLANDE, during the Putative Class Period, make the express statement that NO ONE was unsatisfied with the service at any time prior. After this action was on file, the language has changed to no longer show the exact quote “0% Unsatisfied”, although the graph shows 100% expectations met. The overall EFFECT of this statement still makes the same appearance to prospective consumers: that there are still no unsatisfied consumers.**

F. What About Positive Consumer Reviews On Other Websites?

59. **False reviews** have been posted by StemGenex on various consumer review websites, through the direction and authorization of RITA ALEXANDER and/or Dr. LALLANDE. At least prior to Nov. 2015, StemGenex requested its own employees to write reviews of the company as if they were actual consumers, and to give high ratings. These or other false ratings were then published by agents and/or employees of StemGenex, at the direction of RITA ALEXANDER and Dr. LALLANDE about StemGenex, which gave the public another further sense of security that the product/service they were purchasing was of high and effective quality. As evidence and support of this, Plaintiffs attach as “Exhibit 1” a review on the employment site Glassdoor.com, which appears even now on the website from a former employee. “StemGenex’s Response” from C.E.O. RITA ALEXANDER appears following it, indicating knowledge of the employee who posted that information publicly on Nov. 24, 2015.

G. What Can Be Done About It?

60. StemGenex has taken advantage of desperate consumers, particularly consumers that are sick with degenerative and incurable diseases, and has given false hope to consumers who can ill afford their fees, at times encouraging them to take out

1 loans or solicit funds from others in order to pay them. They have not told the truth to
 2 the public about their services, via false statements, misleading statements, and
 3 material omissions. They have taken large amounts of money from the Class
 4 members under false pretenses.

5 61. The false and misleading representations complained of in this lawsuit
 6 are made primarily via StemGenex's primary marketing tool, its website. Further,
 7 aside from StemGenex's website, this action is based upon the material omission of
 8 important information from any communication by StemGenex to its consumers:
 9 That StemGenex has no data or reasonable basis to support the efficacy of its Stem
 10 Cell Treatments, meaning, that they are different from a placebo effect in any
 11 significant way, at actually treating, curing, mitigating, relieving or impacting any
 12 disease, condition or malady.

13 62. While individual actions by consumers would be expensive, time
 14 consuming, and unlikely to support the cost of litigation, StemGenex's wronged
 15 consumers, as well as its prospective consumers and the public at large, would be
 16 benefited by the damages and injunctive relief requested here on a class-wide basis.

17 **CLASS ACTION ALLEGATIONS**

18 63. Plaintiffs bring this action on behalf of themselves and all others
 19 similarly situated as a class action pursuant to Rule 23(b)(3) of the Federal Rules of
 20 Civil Procedure.

21 64. The Class which Plaintiffs seek to represent is defined as follows: All
 22 persons, nationwide, who purchased Stem Cell Treatment from StemGenex between
 23 December 8, 2013 and present.

24 65. Plaintiff, Stephen Ginsberg, seeks to represent a subclass, defined as
 25 follows: *Elder Abuse Subclass*: All members of the Class aged 65 years or older at
 26 the time of purchase.

27 66. Excluded from the Class are (i) StemGenex, which includes
 28 STEMGENEX, STEMGENEX MEDICAL GROUP, STEM CELL RESEARCH

1 CENTRE, INC., RITA ALEXANDER and DR. LALLANDE, any entity in which
2 StemGenex has a controlling interest or which has a controlling interest in
3 StemGenex, and StemGenex's legal representatives, predecessors, successors and
4 assigns; (ii) governmental entities; (iii) StemGenex's employees, officers, directors,
5 agents, and representatives and their family members; and (iv) the Judge and staff to
6 whom this case is assigned, and any member of the Judge's immediate family.

7 67. Plaintiffs reserve the right to amend the Class definition if discovery
8 and/or further investigation reveal the Class should be expanded or otherwise
9 modified.

10 68. This action has been brought and may properly be maintained as a class
11 action, because there is a well-defined community of interest in the litigation in which
12 common issues predominate, the Class is so numerous as to make it impracticable to
13 bring all of its members before the Court, and the proposed class is easily
14 ascertainable.

15 69. **Numerosity.** StemGenex's Stem Cell Treatment is and was sold directly
16 by StemGenex in California, and was marketed through the internet to consumers
17 throughout the United States. Plaintiffs are informed and believe that the proposed
18 putative Class is made-up of at least several hundred, if not thousands, of residents of
19 California and other U.S. states.

20 70. **Common Issues Predominate.** Common questions of law and fact exist
21 as to all members of the Class and predominate over any questions which affect only
22 individual members of the Class. This action is based primarily upon false and
23 misleading statements made by StemGenex about consumer satisfaction and efficacy
24 of its Stem Cell Treatments via its primary point of contact with consumers, its
25 website (www.stemgenex.com), as well as material omissions. The StemGenex
26 website contained the false and misleading statements complained of in this action
27 from December 8, 2013 through the date of the filing of this complaint. Each class
28 member purchasing Stem Cell Treatments from StemGenex would have viewed

1 identical false and misleading statements as complained of in this action. Plaintiffs
2 are informed and believe that no Class member was provided the information alleged
3 as material omissions in this complaint, via the website or otherwise. The StemGenex
4 website and dissemination of information about StemGenex's Stem Cell Treatments
5 was within StemGenex's possession and control at all relevant times. There is a well-
6 defined community of interest in the questions of law and fact involved and that affect
7 consumers who purchased the Stem Cell Treatments. These questions of law and fact
8 predominate over questions that affect only individual Class members. The common
9 questions of law and fact include, without limitation:

10 i. Whether StemGenex's statements and statistics regarding prior consumer
11 satisfaction were false or misleading;

12 ii. Whether StemGenex's statements regarding the efficacy of its Stem Cell
13 Treatments were false or misleading;

14 iii. Whether StemGenex knew and/or recklessly disregarded the falsity or
15 misleading nature of their statements;

16 iv. Whether StemGenex concealed and failed to disclose material facts in its
17 communications and disclosures to Plaintiffs and Class members regarding its Stem
18 Cell Treatments;

19 v. Whether StemGenex has engaged in unfair methods of competition,
20 unconscionable acts or practices, and unfair or deceptive acts or practices in
21 connection with the marketing and sale of its Stem Cell Treatments;

22 vi. Whether StemGenex's conduct constitutes violations of law as alleged in
23 this Complaint;

24 vii. Whether consumers are and were likely to be deceived by StemGenex's
25 conduct;

26 viii. Whether, as a result of StemGenex's misconduct, Plaintiffs and the Class
27 members have suffered damages, and if so, the appropriate amount thereof; and
28

ix. Whether, as a result of StemGenex's misconduct, Plaintiffs and Class members are entitled to equitable relief and/or other relief, and, if so, the nature of such relief.

71. **Typicality**. Plaintiffs' claims are typical of the claims of the Class members in that Plaintiffs and the Class members made a direct purchase from StemGenex based upon identical, false and misleading marketing statements made by StemGenex. StemGenex made the same uniform omissions to all consumers. Therefore, the claims of Plaintiffs are and will be typical of Class members.

72. **The Class is Ascertainable**. Plaintiffs have adequately and objectively defined the Class, as detailed above, so the Court and Class members will be able to use the definition to determine Class membership.

73. **Adequacy**. Plaintiffs will fairly and adequately represent the interests of all Class members. Plaintiffs have purchased a stem cell treatment from StemGenex and are adequate representatives of the Class as they have no interests which are adverse to the interests of absent Class members. Plaintiffs have retained counsel with experience and success in the prosecution of complex medical and consumer class action litigation.

74. **Superiority**. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of effort and expense that numerous individual actions would engender. The disposition of their claims in this case and as part of a single class action lawsuit, rather than hundreds or thousands of individual lawsuits, will benefit the parties and greatly reduce the aggregate judicial resources that would be spent if this matter were handled as hundreds of separate lawsuits. Furthermore, given the extraordinary expenses and burden in conducting discovery and presentation of evidence, the burden of individual litigation would make it extremely difficult, if not impossible for

individual members of the Class to redress the wrongs asserted herein, while an important public interest will be served by addressing the matter as a class action. Moreover, separate prosecution by hundreds or thousands of individual members of the Class would likely establish inconsistent standards of conduct for the StemGenex and result in the impairment of and potential harm to, Class members' rights and the disposition of their interests through actions to which they were not parties. Plaintiffs are informed and believe that a great amount of time and expense will be saved by conducting the discovery and presentation of evidence in a single class action lawsuit, in contrast to the repeated discovery and presentation of evidence in hundreds or thousands of separate lawsuits brought on the common questions presented by the allegations of this complaint. Plaintiffs know of no difficulty that will be encountered in the management of this litigation which would preclude its maintenance as a class action.

FIRST CAUSE OF ACTION

(Violations of Cal. Bus. & Prof. Code § 17200 et seq.)

Against All Defendants

75. Plaintiffs repeat and re-allege all paragraphs within this SECOND AMENDED COMPLAINT and incorporate them as if fully set forth herein.

76. Plaintiffs bring this cause of action on behalf of themselves and the Class, pursuant to California Business and Professions Code, §17200, et seq. specifically making allegations as particularly stated in Paragraphs 8 through 23A and 26 through 62

77. StemGenex's conduct constitutes unfair, unlawful and fraudulent business acts and/or practices because StemGenex's practices have caused and are likely to cause substantial injury to Plaintiffs and the Class, which injury is not reasonably avoidable by Plaintiffs and the Class in light of StemGenex's exclusive knowledge of the truth about its Stem Cell Treatments, its consumer satisfaction rates, and the basis for claims about the efficacy of its Stem Cell Treatments, though it

1 misrepresented, concealed and omitted this truth. Such conduct is ongoing and
2 continues to this date.

3 78. StemGenex's acts and practices are unlawful because they violate the
4 Consumer Legal Remedies Act, Civil Code 1750 et seq., Bus. & Prof. Code § 17500,
5 and the Racketeer Influenced and Corrupt Organizations Act 18 U.S.C. §1961 et seq.,
6 as alleged in this Complaint and incorporated here by reference.

7 79. StemGenex's acts and practices are fraudulent in that they have deceived
8 and/or are "likely to deceive" Plaintiffs and a significant portion of the consuming
9 public and/or of targeted consumers. StemGenex sold Plaintiffs and Class members
10 Stem Cell Treatments and/or induced them to make deposits for such treatments, for
11 which they made false and misleading statements, and omitted material information,
12 in order to induce reliance and encourage deposits and purchases by Plaintiffs and
13 members of the Class.

14 80. StemGenex was obliged to disclose the material facts because: a)
15 StemGenex had exclusive knowledge of the material facts not known to Plaintiffs and
16 Class members, since only StemGenex had access to the aggregate data from its
17 consumers, its own research and tests, and complaints from its consumers; and b)
18 StemGenex actively concealed and suppressed the material facts from Plaintiffs and
19 Class members in regard to the true facts available on those subjects.

20 81. The injury to consumers is substantial, particularly due to the substantial
21 cost of the Stem Cell Treatments. Plaintiffs and Class members paid thousands of
22 dollars for Stem Cell Treatments that they would not otherwise have spent, had they
23 known the truth about the Stem Cell Treatments. The Stem Cell Treatments are worth
24 substantially less than Plaintiffs and Class members paid for them, if anything at all.

25 82. The injury to consumers is not outweighed by any countervailing benefits
26 to consumers or competition. Any purported benefits to consumers are negated by
27 consumers' interests in knowing the true facts regarding services offered for purchase,
28 particularly medical or pseudo-medical treatments they are purchasing at substantial

1 cost. Consumers have an important interest in being informed of this information at
2 an adequate time and location remote from purchase and performance of the service,
3 in order to make an intelligent and informed decision about whether to purchase the
4 service.

5 83. The injury to consumers is not an injury that consumers themselves could
6 reasonably have avoided because consumers did not know the true facts regarding the
7 Stem Cell Treatments and had no reason to believe that StemGenex's statements were
8 false, misleading, or omitted material information.

9 84. StemGenex's acts and practices offend established public policy and are
10 immoral, unethical, oppressive, unscrupulous and/or substantially injurious to
11 consumers.

12 85. Plaintiffs and Class members relied on StemGenex's unfair, unlawful and
13 fraudulent conduct and would not have purchased the Stem Cell Treatments or would
14 have paid less for the Stem Cell Treatments had StemGenex conducted itself fairly
15 with respect to the transactions. StemGenex's conduct caused Plaintiffs' and Class
16 members' injuries in that Plaintiffs and Class members would not have purchased the
17 Stem Cell Treatments, would have paid less for them, or would not have paid deposits
18 for them, had StemGenex conducted itself fairly during the transactions.

19 86. StemGenex's unfair, unlawful and fraudulent business acts and practices
20 directly and proximately caused Plaintiffs' and Class members' injuries as
21 complained of in this complaint. StemGenex's omissions and misrepresentations
22 have a tendency to deceive a significant portion of the consuming public and/or of
23 targeted consumers.

24 87. Plaintiffs and Class members seek an order of this Court awarding
25 restitution, injunctive relief and all other relief allowed under Section 17200, et seq.,
26 plus interest, attorneys' fees, and costs.

27 /

28 /

SECOND CAUSE OF ACTION

(Violations of Cal. Bus. & Prof. Code § 17500 et seq.)

Against All Defendants

88. Plaintiffs repeat and re-allege all paragraphs within this SECOND AMENDED COMPLAINT and incorporate them as if fully set forth herein.

89. Plaintiffs bring this cause of action on behalf of themselves and the Class pursuant to California Business and Professions Code, §17500, et seq., with more specific allegations as particularly stated in Paragraphs 8 through 23A and 26 through 62

90. StemGenex is a “person” as defined by Cal. Bus. & Prof. Code § 17506.

91. StemGenex falsely advertised the Stem Cell Treatments by making partial, false and misleading representations, while omitting material information, as alleged in this complaint.

92. StemGenex’s false advertising has deceived and is “likely to deceive” Plaintiffs and Class members.

93. Plaintiffs and Class members relied on StemGenex’s false advertising to their detriment in that they would not have purchased the Stem Cell Treatments or made non-refundable deposits on the same, had StemGenex disclosed the true facts.

94. StemGenex’s false advertising directly and proximately caused Plaintiffs’ and Class members’ injuries in that StemGenex’s false statements, misleading statements and omissions were a substantial factor in their deposits and purchases of the Stem Cell Treatments and at the significant amount that was charged, and that but for StemGenex’s failures to disclose material information, Plaintiffs and Class members would not have put deposits upon, paid for and/or overpaid for the treatments.

95. Plaintiffs and Class members have suffered injury in fact and have lost money as a result of StemGenex’s false advertising as above.

96. Pursuant to Cal. Bus. & Prof. Code §§ 17203 and 17535, Plaintiffs seek an order 1) requiring StemGenex to immediately cease the unlawful, unfair, and or fraudulent business acts and/or practices and false and misleading advertising complained of herein; 2) enjoining StemGenex from continuing to falsely advertise the Stem Cell Treatments; and 3) requiring StemGenex to provide full restitution to Plaintiffs and Class members, plus interest and attorneys' fees.

THIRD CAUSE OF ACTION

(Violations of the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750 et seq. – Seeking Injunctive Relief and Damages)

Against All Defendants

97. Plaintiffs repeat and re-allege all paragraphs within the SECOND AMENDED COMPLAINT and incorporate them as if fully set forth herein.

98. Plaintiffs seek to enjoin StemGenex's violation of the California Consumers Legal Remedies Act ("CLRA"), California Civil Code §§ 1750 et seq. Plaintiffs also seek damages on behalf of themselves and the Class, specifically alleging as particularly already stated in Paragraphs 8 through 23A and 26 through 62.

99. At all times relevant hereto, Plaintiffs and Class members were "consumer[s]" as that term is defined in Civ. Code § 1761(d).

100. At all times relevant hereto, StemGenex constituted a "person" as that term is defined in Civ. Code § 1761(c).

101. StemGenex's false statements, misleading statements and omissions as detailed in this complaint represented that their services had sponsorship, approval, characteristics, ingredients, uses, benefits or qualities that they do not have and that their personnel has sponsorship, approval, status, affiliation or connection that they do not have, in violation of Cal. Civ. Code §1770 (a)(5).

102. StemGenex's false statements, misleading statements and omissions as detailed in this complaint represented that their services are of a particular standard, quality or grade when they are not, in violation of Cal. Civ. Code §1770 (a)(7).

1 103. StemGenex's false statements, misleading statements and omissions as
2 detailed in this complaint advertised services with intent not to sell them as
3 advertised, in violation of Cal. Civ. Code §1770 (a)(9).

4 104. At all times relevant hereto, Plaintiffs' and Class members' purchases of
5 StemGenex's Stem Cell Treatments and deposits for the same constituted a
6 "transaction" as that term is defined in Civ. Code § 1761(e).

7 105. At all times relevant hereto, StemGenex provided "services" to Plaintiffs
8 and members of the Class within the meaning of Civil Code § 1761(b).

9 106. Plaintiffs and Class members would have behaved differently by not
10 purchasing the Stem Cell Treatments from StemGenex, or paying deposits toward
11 them, and/or by paying less for the Stem Cell Treatments, had they been aware of the
12 true facts.

13 107. StemGenex was obliged to disclose the material facts because: a)
14 StemGenex had exclusive knowledge of the material facts not known to Plaintiffs and
15 Class members, since only StemGenex had access to the aggregate data from its
16 consumers, its own research and tests, and complaints from its consumers; and b)
17 StemGenex actively concealed and suppressed the material facts from Plaintiffs and
18 Class members in regard to the true facts available on those subjects.

19 108. Plaintiffs and Class members justifiably acted or relied to their detriment
20 upon the false statements, misleading statements, and concealment and/or non-
21 disclosure of material facts as evidenced by their purchases of the Stem Cell
22 Treatments. Had StemGenex disclosed the true material facts, Plaintiffs and the Class
23 members would have behaved differently by not buying the service, not paying
24 deposits, and/or paying less.

25 109. StemGenex's false statements, misleading statements, and omissions of
26 material facts directly and proximately caused Plaintiffs' and Class members' injuries
27 in that Plaintiffs and Class members would not have overpaid for the Stem Cell
28

1 Treatments, or purchased them at all. As such, Plaintiffs and Class members did not
2 receive the benefit of the bargain.

3 110. Cal. Civ. Code § 1780 (a)(2) permits any court of competent jurisdiction
4 to enjoin practices that violate Civil Code § 1770. Pursuant to Cal. Civ. Code §
5 1782(d), Plaintiffs seek injunctive relief under this cause of action.

6 111. Plaintiff Selena Moorner, on behalf of herself and all others similarly
7 situated, sent StemGenex a notice letter that complies with Cal. Civ. Code § 1782(a).
8 On August 30, 2016, the notice period of that letter expired. At the time of this filing,
9 StemGenex has not satisfied any of the elements of Cal. Civ. Code § 1782(c)(1)-(4),
10 on indicated its agreement to satisfy those elements. Plaintiffs now amend this
11 complaint to include a claim for damages under the CLRA:

12 (a) As a result of such conduct in violation of California Civil Code §§1770, et
13 seq., Plaintiffs and members of the Class have suffered damages. Plaintiffs
14 and members of the Class had actual reliance on Defendants'
15 misrepresentations and suffered actual injury as a result of those
16 misrepresentations.

17 (b) Pursuant to California Civil Code §1780, et seq., Plaintiffs and members of
18 the Class are entitled to actual damages, punitive damages, court costs and
19 attorneys fees.

20 (c) The aforesaid acts of Defendants, and each of them, which were performed,
21 authorized and/or ratified by Defendants' officers, directors and/or managing
22 agents were malicious, fraudulent and/or oppressive, as defined by Civil
23 Code Section 3294, therefore justifying an award of exemplary and punitive
24 damages.

25 /
26 /
27 /
28 /

FOURTH CAUSE OF ACTION

(Violation of Human Experimentation Law –
Cal. Health & Safety Code § 24170, et seq.)

Against All Defendants

112. Plaintiffs repeat and re-allege all paragraphs within the SECOND AMENDED COMPLAINT and incorporate them as if fully set forth herein.

113. Pursuant to *California Health & Safety Code* Section 24175(a), no person shall be subjected to a medical experimentation. The practice of administering adipose derived stem cell therapy to treat, prevent, or mitigate various diseases is not FDA approved and remains classified experimental in nature. Ms. Moorer and Mr. Ginsberg, including others similarly situated, were misled **particularly into believing that StemGenex had no unsatisfied other patients**, and did not give informed consent to be part of a medical experiment in which there had been previously unsatisfied participants. This claim for illegal human experimentation via the Stem Cell Treatments arises under Section 24175 (a)(1), requiring that a patient be properly informed of investigational research. Plaintiffs specifically plead as particularly alleged in Paragraphs 8 through 23A and 26 through 62.

114. The wording of the StemGenex website and other materials runs directly counter to the notification requirements of human experimentation law. StemGenex was required to inform its patients in accord with 21 CFR 50.27(a), as well as California Health & Safety Code Section 24172(a) and (b), which also requires the patient be informed and consent.

115. Under Health & Safety Code Section 24173, "informed consent" means the authorization given pursuant to Section 24175 to have a medical experiment performed after **each** of the following conditions, and others in the code, have been satisfied:

(c) The subject or subject's conservator or guardian, or other representative, as specified in Section 24175, is informed both verbally and within the written

consent form, in nontechnical terms and in a language in which the subject or the subject's conservator or guardian, or other representative, as specified in Section 24175, is fluent, of the following facts of the proposed medical experiment, which might influence the decision to undergo the experiment, including, but not limited to:

(1) An explanation of the procedures to be followed in the medical experiment and any drug or device to be utilized, including the purposes of the procedures, drugs, or devices. **If a placebo is to be administered** or dispensed to a portion of the subjects involved in a medical experiment, all subjects of the experiment shall be informed of that fact; however, they need not be informed as to whether they will actually be administered or dispensed a placebo.

(2) A description of any attendant discomfort and risks to the subject reasonably to be expected.

(3) **An explanation of any benefits to the subject reasonably to be expected, if applicable.**

(4) A disclosure of **any appropriate alternative procedures**, drugs, or devices that might be advantageous to the subject, and their relative risks and benefits.

....

(11) The material financial stake or interest, if any, that the investigator or research institution has in the outcome of the medical experiment. For purposes of this section, "material" means ten thousand dollars (\$10,000) or more in securities or other assets valued at the date of disclosure, or in relevant cumulative salary or other income, regardless of when it is earned or expected to be earned.

116. Consent under this code must be voluntarily and freely given by the human subject or the conservator or guardian, or other representative, as specified by Section 24175, without the intervention of any element of force, **fraud, deceit, duress, coercion, or undue influence.** Plaintiff and members of the Class were defrauded and did not voluntarily and freely give consent.

117. The Stem Cell Treatments to Plaintiffs and members of the Class fall under Section 24174 "medical experiment", which means: (a) The severance or penetration or damaging of tissues of a human subject or the use of a drug or device, as defined in Section 109920 or 109925, electromagnetic radiation, heat or cold, or a biological substance or organism, in or upon a human subject in the practice or

1 research of medicine in a manner not reasonably related to maintaining or improving
2 the health of the subject or otherwise directly benefiting the subject.

3 118. Under Section 24175 (a) no person shall be subjected to any medical
4 experiment unless the informed consent of such person is obtained. Informed consent
5 was not obtained from Plaintiffs nor any of the other Class Members.

6 119. As a result of the negligent failure to obtain informed consent on
7 these experiments, StemGenex and all Defendants are liable for damages under
8 Section 24176 (a) Any person who is primarily responsible for conduct of a medical
9 experiment and who **negligently** allows the experiment to be conducted without a
10 subject's informed consent, as provided in this chapter, shall be liable to the subject in
11 an amount not to exceed ten thousand dollars (\$10,000), as determined by the court.
12 The minimum amount of damages awarded shall be five hundred dollars (\$500).

13 120. Plaintiffs allege in the alternative that the failure to obtain informed
14 consent was intentional. As a result of the intentional failure to obtain informed
15 consent on these experiments, StemGenex and all Defendants are liable for damages
16 under Section 24176 (b) Any person who is primarily responsible for the conduct of a
17 medical experiment and who **willfully** fails to obtain the subject's informed consent,
18 as provided in this chapter, shall be liable to the subject in an amount not to exceed
19 twenty-five thousand dollars (\$25,000) as determined by the court. The minimum
20 amount of damages awarded shall be one thousand dollars (\$1,000).

21 121. Each and every medical experiment performed in violation of any
22 provision of this chapter is a separate and actionable offense.

23 122. **Any attempted or purported waiver** of the rights guaranteed, or
24 requirements prescribed by this chapter, whether by a subject or by a subject's
25 conservator or guardian, or other representative, as specified in Section 24175, **is**
26 **void.**

27 123. Plaintiffs and the members of the Class pray for all damages available
28 under *Cal. Health & Safety Code* § 24170, et seq.

FIFTH CAUSE OF ACTION

(Violation of the Racketeer Influenced and Corrupt Organizations Act (RICO) –

18 U.S.C. §1961 et seq.)

Against All Defendants

124. Plaintiffs repeat and re-allege all paragraphs within this SECOND AMENDED COMPLAINT and incorporate them as if fully set forth herein.

125. At all relevant times, RITA ALEXANDER and DR. LALLANDE, individual and through StemGenex employees acting at their direction, used StemGenex to conduct substantial business in the State of California, including marketing, advertising, and performing its treatments in the State and in the County of San Diego.

126. StemGenex is an “enterprise” within the meaning of 18 U.S.C. §1961(4), through which Defendants conducted the pattern of racketeering described in this Complaint.

127. RITA ALEXANDER and Dr. LALLANDE, individually and through StemGenex employees acting at their direction used StemGenex, STEMGENEX, STEMGENEX MEDICAL GROUP, STEM CELL RESEARCH CENTRE, INC. (collectively “StemGenex”) to engage in, and perform activities affecting interstate commerce through a business enterprise involving activities across state lines, including, but not limited to, a national internet marketing campaign and direct solicitation of consumers in other states by telephone, including Plaintiffs. StemGenex’s business activities with other members of the Class involved communication, solicitation of business, requests for payments and transfer of payments by Class members to StemGenex, in exchange for Stem Cell Treatments, via its website, mail, email, telephone, and bank wires. For example, members of the Class, including Plaintiffs Ms. Moorner, Mr. Ginsberg and/or Ms. Gardner were routinely directed to and did give credit card information over the phone to StemGenex employees in the amount of \$2,500.00 as a *nonrefundable* deposit, and

1 class members were told on the telephone words to the effect to hand carry across
2 state lines to California, a cashier's check for the remaining balance owed to
3 StemGenex which the consumer then delivered to StemGenex employees upon arrival
4 in California. With the specific intent to defraud, RITA ALEXANDER and Dr.
5 LALLLANDE, individually and through StemGenex employees acting at their
6 direction, used these methods of payment in furtherance of their scheme to commit
7 fraud knowing both the deposit and the cashier's check were nonrefundable. This
8 method of payment involving nonrefundable credit card deposits required to be given
9 over the telephone and nonrefundable cashier's checks hand carried over state lines to
10 California were routinely required for members of the Class again and again, and as
11 such formed a pattern of racketeering by these Defendants.

12 128. With the specific intent to defraud, Defendants, and each of them,
13 including RITA ALEXANDER and DR. LALLLANDE, individually and through
14 StemGenex employees acting at their direction, exercised substantial control over the
15 affairs of the StemGenex enterprise, through creation and approval of its marketing
16 materials and scheme to defraud consumers, providing capital, collateral and/or
17 guarantees to fund the scheme, providing services to perform the Stem Cell
18 Treatments and further the scheme, instructing, encouraging and incentivizing
19 StemGenex employees and personnel to participate in the fraudulent scheme,
20 including by posting positive, false consumer reviews on multiple internet websites,
21 and other means.

22 129. The StemGenex enterprise has an ascertainable structure separate and
23 apart from the pattern of racketeering activity in which Defendants, and each of them,
24 have engaged. The StemGenex enterprise is separate and distinct from each
25 Defendant alone.

26 130. Defendants, including RITA ALEXANDER and DR. LALLLANDE,
27 STEMGENEX, STEMGENEX MEDICAL GROUP, STEM CELL RESEARCH
28 CENTRE, INC., and each of them, were knowing and willing participants in the

1 scheme, and reaped revenues and/or profits from it. StemGenex Defendants, and each
2 of them, knowingly, willfully and unlawfully conducted or participated, directly or
3 indirectly, in the affairs of the enterprise through a pattern of racketeering activity
4 within the meaning of 18 U.S.C. §§1961(1), 1961(5) and 1962(c), as described in this
5 Complaint. The racketeering activity was made possible by the regular and repeated
6 use of the facilities, services, distribution channels and employees of the StemGenex
7 enterprise.

8 131. The racketeering acts were not isolated, but rather were related in that
9 they had the same or similar purposes and results, participants, victims and methods
10 of commission. Further, the racketeering acts were continuous, occurring on a regular
11 basis beginning by at least December 8, 2013, when Defendants, including RITA
12 ALEXANDER, Dr. LALLANDE, STEMGENEX, STEMGENEX MEDICAL
13 GROUP, (and STEM CELL RESEARCH CENTRE, INC. upon its inception) began
14 advertising its false patient satisfaction review statistics, and continuing through the
15 present.

16 132. In devising and executing the Scheme, StemGenex, its personnel,
17 Defendants and each of them, committed acts constituting indictable offenses under
18 18 U.S.C. §§1341 and 1343, in that Defendants RITA ALEXANDER, DR.
19 LALLANDE, directed employees of STEMGENEX, STEMGENEX MEDICAL
20 GROUP and/or STEM CELL RESEARCH CENTRE, INC. to devise and knowingly
21 carry out a material scheme or artifice to defraud or to obtain money by means of
22 materially false or fraudulent pretenses, representations, promises, or omissions of
23 material facts. For the purpose of executing the scheme, Defendants committed these
24 racketeering acts, which number in the hundreds or thousands, intentionally and
25 knowingly, with the specific intent to advance the illegal scheme.

26 133. StemGenex, Defendants, and each of them, used hundreds or thousands
27 of mail and interstate wire communications throughout the Class period to create and
28

1 perpetuate the Scheme through virtually uniform misrepresentations, concealments
2 and material omissions.

3 134. Plaintiffs and members of the Class relied on the fraudulent
4 misrepresentations and omissions by StemGenex, Defendants, and each of them, were
5 harmed by the scheme, and are entitled to treble damages, attorney's fees, and other
6 relief authorized by 18 U.S.C. §1964(c) and the RICO Act.

7 **SIXTH CAUSE OF ACTION**

8 (Fraud)

9 *Against All Defendants*

10 135. Plaintiffs repeat and re-allege all paragraphs in this SECOND
11 AMENDED COMPLAINT and incorporate them as if fully set forth herein.

12 136. StemGenex, by and through its managing agents RITA ALEXANDER
13 and/or Dr. LALLANDE intentionally misrepresented or caused to be intentionally
14 misrepresented to Plaintiffs and members of the Class that it had no dissatisfied
15 consumers, when in fact that was not true. StemGenex repeatedly published
16 charts/pie charts/diagrams that showed 100% of its consumers' expectations were met
17 and that 0% were satisfied. This was untrue and StemGenex knew it at the time of
18 StemGenex's publication. As used in this cause of action, "StemGenex" includes
19 STEMGENEX, STEMGENEX MEDICAL GROUP, INC., STEM CELL
20 RESEARCH CENTRE, INC., RITA ALEXANDER and Dr. LALLANDE. All
21 allegations in this cause of action were done by RITA ALEXANDER and/or Dr.
22 LALLANDE on behalf of themselves and StemGenex, as if individually set forth
23 herein, and with incorporation of the detailed specific allegations above. As to each
24 of the allegations in this Cause of Action, please see the incorporated specific
25 allegations of Paragraphs 8 through 23A and 26 through 62, herein.

26 137. Additionally, as particularly alleged in Paragraphs 8 through 23A and 26
27 through 62, StemGenex intentionally misrepresented to Plaintiffs and members of the
28 Class that they would truly benefit from the StemGenex Stem Cell Treatment when in

1 fact StemGenex had no reasonable supporting data or other reasonable basis to claim
2 that this was true.

3 138. Additionally, as particularly alleged in Paragraphs 8 through 23A and 26
4 through 62, StemGenex intentionally misrepresented to Plaintiffs and members of the
5 Class that they would significantly improve from the StemGenex Stem Cell Treatment
6 when in fact StemGenex had no reasonable supporting data or other reasonable basis
7 to claim that this was true.

8 139. These intentional misrepresentations constitute fraud. StemGenex
9 perpetrated this fraud on Plaintiffs and members of the Class by purveying these false
10 statements on its website at www.stemgenex.com.

11 140. StemGenex also perpetrated this fraud on Plaintiffs and members of the
12 Class by making similar verbal false statements to them. When Plaintiffs called
13 StemGenex as a result of being drawn in through the website during the Putative
14 Class Period, Patient Advocates would repeat the statements as particularly alleged in
15 Paragraphs 8 through 23A and 26 through 62

16 141. StemGenex also perpetrated this fraud on Plaintiffs and members of the
17 Class by publishing or directing to be published false and fabricated reviews of its
18 services on the internet. Plaintiffs will provide supporting evidence related to this, as
19 shown in Exhibit "1".

20 142. StemGenex knowingly concealed and omitted material information from
21 its consumers as described in this Complaint, as particularly alleged in Paragraphs 8
22 through 23A and 26 through 62, despite a duty to disclose the information.

23 143. StemGenex knew that the representations above were false when they
24 made them or StemGenex made the representations recklessly and without regard for
25 their truth, as particularly alleged in Paragraphs 8 through 23A and 26 through 62.

26 144. StemGenex intended that Plaintiffs and the members of the Class rely on
27 StemGenex' representation. StemGenex knew that by putting out information that all
28 consumers, 100%, were satisfied or extremely satisfied with its services that

1 consumers would be more apt to go forward with this expensive full payment and
2 service, as particularly alleged in Paragraphs 8 through 23A and 26 through 62.

3 145. Plaintiffs and the members of the Class relied on the false representations
4 and material omissions. Their reliance upon StemGenex's representations was
5 justified because of the manner in which StemGenex made the representations. This
6 included an impressive website with not just a statement about the statistics, but round
7 graphic representations. These statistics were simply "cooked up" and were not
8 based on actual and complete consumer feedback. In fact, at the time, StemGenex
9 knew that some consumers were dissatisfied, had had no effects and/or wanted their
10 money back. RITA ALEXANDER and DR. LALLANDE knew this, but took steps
11 to conceal this from the public, for the benefit of themselves and StemGenex entities,
12 and each of them. But, Plaintiffs and members of the Class had no reasonable way to
13 know this. The reasonable reliance also came about because of powerful and
14 persuasive on-line reviews which were actually manufactured by StemGenex itself
15 through direction to its agents and employees. This also included firm and repeated
16 verbal false statements about the nature, quality and efficacy of the StemGenex's
17 Stem Cell Treatment.

18 146. Plaintiffs and the members of the Class were harmed. Defendants have
19 taken money from them on false pretenses.

20 147. Plaintiffs' and Class members' reliance on StemGenex's false
21 representations and material omissions was a substantial factor in causing their harm.
22 Plaintiffs pray for damages for intentional misrepresentation/fraud as below, and
23 exemplary and punitive damages to punish and make an example of Defendants.

24 **SEVENTH CAUSE OF ACTION**

25 (Negligent Misrepresentation)

26 *Against All Defendants*

27 148. Plaintiffs repeat and re-allege all paragraphs within this SECOND
28 AMENDED COMPLAINT and incorporate them as if fully set forth herein.

1 149. StemGenex, including misrepresented to the Plaintiffs and members of
2 the Class that it had no dissatisfied consumers, when in fact that was not true. As
3 used in this cause of action, “StemGenex” includes STEMGENEX, STEMGENEX
4 MEDICAL GROUP, INC., STEM CELL RESEARCH CENTRE, INC., RITA
5 ALEXANDER and Dr. LALLANDE. All allegations in this cause of action were
6 done by RITA ALEXANDER and/or Dr. LALLANDE on behalf of themselves and
7 StemGenex, as if individually set forth herein, and with incorporation of the detailed
8 specific allegations above. As to each of the allegations in this Cause of Action,
9 please see the incorporated specific allegations of Paragraphs 8 through 23A and 26
10 through 62, herein.

11 150. StemGenex misrepresented to Plaintiffs and members of the Class that
12 they would truly benefit from the StemGenex Stem Cell Treatment when in fact
13 StemGenex had no reasonable supporting data or other reasonable basis to claim that
14 this was true.

15 151. StemGenex misrepresented to Plaintiffs and members of the Class that
16 they would significantly improve from the StemGenex Stem Cell Treatment when in
17 fact StemGenex had no reasonable supporting data or other reasonable basis to claim
18 that this was true.

19 152. StemGenex omitted material information from disclosure to Plaintiffs
20 and the members of the Class, though it had a duty to disclose it.

21 153. StemGenex may have believed its representations were reasonably made
22 and omitted information was reasonably concealed or not disclosed, but its belief was
23 unreasonable and fell below the applicable duty of care.

24 154. StemGenex intended Plaintiffs and members of the Class to rely on these
25 representations and its disclosures.

26 155. Plaintiffs and the members of the Class reasonably relied on StemGenex’
27 representations.

28 156. Plaintiffs and the members of the Class were harmed.

1 157. Plaintiffs and the members of the Class' reliance on the representations
2 and material omissions, and each of them, was a substantial factor in causing their
3 harm.

4 **EIGHTH CAUSE OF ACTION**

5 (Unjust Enrichment) - WITHDRAWN

6 *Against All Defendants*

7 158-163. [RESERVED]

8 **NINTH CAUSE OF ACTION**

9 (Financial Elder Abuse; Violation of Welfare & Institutions Code §15600, et seq.)

10 *By Plaintiff, STEPHEN GINSBERG, and All Others Similarly Situated, Against All*

11 *DEFENDANTS*

12 164. Plaintiffs repeat and re-allege all paragraphs within this SECOND
13 AMENDED COMPLAINT and incorporate them as if fully set forth herein.

14 165. At all times herein mentioned, Plaintiff Stephen Ginsberg and all other
15 members of the Putative Class who reside in the State of California and are
16 over the age of 65 are "elders" as defined by California Welfare &
17 Institutions Code Section 15610.27. These persons are referred to in this
18 Complaint as "the Elder Subclass." At all relevant times mentioned,
19 Defendants stood in a position of trust to the Elder Subclass. Elder Subclass
20 Representative, Stephen Ginsberg, was over the age of 65 at the time of his
21 Stem Cell Treatment and at all times has resided in California.

22 166. As set forth above, the Defendants made false representations to Stephen
23 Ginsberg and the Elder Subclass, took advantage of their conditions and
24 unduly influenced them to give money in exchange for no real consideration.
25 Further, Defendants have not returned to Stephen Ginsberg and the Elder
26 Subclass the money taken.
27
28

1 167. The above-described false representations, taking advantage of elderly
2 persons and undue influence were wrongful and in bad faith, and Defendants
3 engaged in such conduct for their sole economic gain to the detriment of
4 Stephen Ginsberg and the Elder Subclass. Defendants' conduct constitutes
5 "financial abuse" of elders as defined by California Welfare & Institutions
6 Code §§ 15610.30 and 15610.07(a).

7 167A. StemGenex, including but not limited to STEMGENEX,
8 STEMGENEX MEDICAL GROUP, STEM CELL RESEARCH CENTRE,
9 INC., RITA ALEXANDER and Dr. LALLANDE, took, secreted,
10 appropriated or retained funds from elderly individuals such as STEPHEN
11 GINSBERG and they knew or should have known that their conduct as
12 alleged herein was harmed. They knew or should have known that their
13 conduct was harmful to elderly adults. They took, secreted, appropriated,
14 obtained and/or retained money from elders for their wrongful use and with
15 intent to defraud as particularly alleged in Paragraphs 8 through 23A and 26
16 through 62.

17 167B. StemGenex, including but not limited to STEMGENEX,
18 STEMGENEX MEDICAL GROUP, STEM CELL RESEARCH CENTRE,
19 INC., RITA ALEXANDER and Dr. LALLANDE took, secreted,
20 appropriated, obtained and/or retained money from Mr. GINSBERG and
21 other elders by undue influence as particularly alleged in Paragraphs 8
22 through 23A and 26 through 62.

23 167C. StemGenex, including but not limited to STEMGENEX,
24 STEMGENEX MEDICAL GROUP, STEM CELL RESEARCH CENTRE,
25 INC., RITA ALEXANDER and Dr. LALLANDE took and retained this
26 money for their own use and profit, which was their wrongful use of the
27 elders' money.
28

1 167D. The misrepresentations and efforts to defraud as particularly alleged
2 in Paragraphs 8 through 23A and 26 through 62, did not take place simply
3 through the website. Rather, as to each and every of the elders in this
4 subclass, after they were drawn in to StemGenex through its marketing, they
5 were then further sold on the service through the further misrepresentations
6 of the “Patient Advocates”, who were under the direction and control of
7 RITA ALEXANDER, Dr. LALLANDE, and other managing agents of
8 StemGenex.

9 167E. These elders were vulnerable, in that they all had conditions which
10 StemGenex claimed to treat. They were in need of relief for their
11 conditions, and were retirees and/or on limited incomes. They were
12 influenced by the aggressive campaign of StemGenex, and the false statistics
13 and graphs making it appear that there were no unsatisfied consumers. The
14 influencer, StemGenex and its managing agents and employees, and
15 particularly the “Patient Advocates”, drew the elders in with their
16 representations, particularly about the high number of people this had
17 worked for/large number of satisfied consumers, as further alleged in
18 Paragraph 56, and as further shown in Exhibit “1”. The result was highly
19 inequitable, with the subclass spending large sums of money for the
20 unproven and usually ineffective treatment.

21 168. As a proximate result of Defendants’ conduct and the facts herein alleged
22 that Plaintiffs have suffered damages in the jurisdictional limits of this court,
23 the exact amount to be determined according to proof at trial.

24 169. Under the circumstances set forth above, Defendants’ false and
25 fraudulent representations to Stephen Ginsberg and the Elder Subclass, their
26 taking advantage of Stephen Ginsberg and the Elder Subclass’ age and
27 weakened physical and mental states, and their undue influence to obtain
28 money from Plaintiffs, constitutes unfair and deceptive acts against elders.

1 169A. Control, falsehoods and secrecy was used to gain the respect and
2 payments of these elders. They used excessive persuasion filled with
3 inaccurate information that caused the elders to choose this method of
4 treatment over others. Defendants occupied a position of trust when they
5 began to give them medical advice over the website and the phone. They
6 were then in a position of trust and were able to exert undue influence. Also,
7 when the Elder Subclass went to lengths to come to San Diego to undergo
8 these treatments, they were further in a position where they were vulnerable
9 to Defendants and their tactics.

10 170. In summary, Defendants knew and specifically directed their conduct at
11 elders. Defendants' conduct caused Plaintiff, Stephen Ginsberg to sustain a
12 substantial loss of money which could have better been used for other
13 important expenses, assets/funds essential to the health and welfare of the
14 Plaintiffs. Moreover, Stephen Ginsberg and the Elder Subclass were more
15 vulnerable to Defendants' wrongful conduct than other members of the
16 public because of, among other things, their age, ill health and the trust and
17 confidence placed in Defendants. Stephen Ginsberg and the Elder Subclass
18 actually suffered substantial damage resulting from Defendants' conduct.
19 **Therefore, Stephen Ginsberg and the Elder Subclass are also entitled to**
20 **treble damages pursuant to California Civil Code §3345(b).**

21 171. The above conduct of Defendants was despicable, willful, malicious,
22 fraudulent, and oppressive conduct which subjected Stephen Ginsberg and
23 the Elder Subclass to cruel and unjust hardships in conscious disregard of
24 their rights, so as to justify an award of exemplary and punitive damages in
25 an amount to be determined by the trier of fact.

26 172. Pursuant to California Welfare & Institutions Code §15657, Stephen
27 Ginsberg and the Elder Subclass are entitled to recover their attorneys' fees
28 and costs.

PRAYER

WHEREFORE, Plaintiffs, individually, on behalf of the Class and on behalf of the public, pray for judgment against Defendants as follows:

1. That this action be certified as a class action, pursuant to Code of Civil Procedure §382 and/or the Consumer Legal Remedies Act, Civil Code §1781;

2. That this law firm be appointed as counsel for the Class;

3. That Plaintiffs be appointed Class Representatives as requested in this Complaint;

4. That Plaintiffs be afforded a jury trial on behalf of themselves and the Class, and a jury trial is demanded;

5. That pursuant to the CLRA, UCL and False Advertising Law, all defendants, their officers, directors, principals, assignees, successors, agents, representatives, employees, subsidiaries, affiliates, and all persons, corporations and other entities acting by, through, under, or on behalf of said defendants, or acting in concert or participation with them, be permanently enjoined from directly or indirectly making any illegal, untrue or misleading statements in violation of the CLRA, Business and Professions Code §§ 17200 et seq. and 17500 et seq., including, but not limited to, the untrue or misleading statements alleged in this complaint;

6. Awarding Plaintiffs and members of the Class, pursuant to California Civil Code §1750, et seq., actual damages, punitive damages, court costs and attorneys' fees.

7. Awarding Plaintiffs and members of the Class treble damages and attorney's fees as authorized by 18 U.S.C. §1964(c).

8. Ordering the disgorgement of all sums unjustly obtained from Plaintiffs, the members of the Class and the public;

9. Ordering defendants to make restitution to Plaintiffs, the members of the Class and the public;

1 10. Awarding Plaintiff, Stephen Ginsberg, and members of the Elder
2 Subclass treble damages pursuant to Civil Code §3345, in an amount according to
3 proof at trial;

4 11. Awarding Plaintiff, Stephen Ginsberg, and members of the Elder
5 Subclass attorney's fees and costs under Welfare and Institutions Code §15657;

6 12. Awarding Plaintiff, Stephen Ginsberg, and members of the Elder
7 Subclass statutory penalties, attorney fees and costs, and injunctive relief under
8 California Health & Safety Code §1430(b);

9 13. Awarding Plaintiffs and the members of the Class compensatory
10 damages according to proof;

11 14. Awarding Plaintiffs and the members of the Class general damages
12 according to proof;

13 15. Awarding Plaintiffs and the members of the Class economic damages
14 according to proof;

15 16. Awarding Plaintiffs and the members of the Class damages for
16 violation of Cal. Health & Safety Code § 24170, et seq.

17 17. Awarding Plaintiffs and members of the Class and Elder Subclass
18 punitive and exemplary damages according to proof;

19 18. Awarding prejudgment and post-judgment interest at the maximum
20 legal rate;

21 19. Awarding attorneys' fees according to proof;

22 20. Awarding costs of suit; and

23 21. All such other and further relief as the Court deems just and proper.

24 Dated: December 13, 2016

MULLIGAN, BANHAM, & FINDLEY
/s/ Brian K. Findley

Brian K. Findley, Esq.

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Attorneys for Plaintiff and the Putative Class