IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ELLEN AMBROFF and TERRY AMBROFF,

Plaintiffs,

v.

AMERICAN MEDICAL SYSTEMS, INC.,

Defendant.

Case Number 08-cv-04289 NC

ORDER RE: JOINT CASE MANAGEMENT STATEMENT

Re: Docket No. 111

Upon reviewing the Joint Case Management Statement, Dkt. No. 111, the Court rules on the following issues presented in the Statement:

1. Plaintiffs' request to re-open expert discovery in order to supplement the report of Dr. Parisian is DENIED, as the time period for expert discovery in this 2008 case arising from 2006 events has expired and the Court is not convinced of the relevance of the FDA hearings held in September 2011.

2. The parties' agreement to extend the time period to depose AMS's expert Dr. Comiter is DENIED. Dkt. 111 at 6. The parties lack the authority to change Court-ordered deadlines without Court order and have not presented good cause to extend the discovery deadline. If the parties wish to present good cause for a short extension, the Court will consider that information at the Case Management Conference. Given the other deadlines proposed by Plaintiffs, Dkt. No.

111 at 12, the Court queries why Plaintiffs would agree to postpone the Comiter deposition until December 9.

3. As to the unresolved discovery issue concerning the inadvertent production of documents, Dkt. No. 111 at 4, the parties are ordered to meet and confer further and to propose a remedy at the Case Management Conference. AMS should be prepared to identify the privilege asserted for any inadvertently produced documents. A discovery dispute from January 2011 should not slow down the trial preparations in this case.

4. As to the motion and trial schedule, the Court is inclined to accept the schedule proposed by Plaintiffs and to set hearings on summary judgment and *Daubert* motions for January 2012, with a jury trial in March 2012. At the Case Management Conference, the Court will ask AMS to explain the trial phases it proposes and why trial of this case is expected to last at least four weeks.

IT IS SO ORDERED.

DATED: October 13, 2011

NATHANAEL M. COUSINS
United States Magistrate Judge