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11 Attorneys for Defendant
 12 AMERICAN MEDICAL SYSTEMS, INC.

13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO – ECF PROGRAM

18 ELLEN AMBROFF and TERRY
 19 AMBROFF,

20 Plaintiffs,

21 v.

22 AMERICAN MEDICAL SYSTEMS, INC.,
 and DOES ONE through TWENTY-FIVE,
 23 inclusive,

24 Defendants.

CASE NO. C08-04289 JL

**STIPULATION AND ~~PROPOSED~~
 ORDER TO MODIFY PRE-TRIAL
 ORDER**

Civ.L.R. 7-12

25
 26 This Stipulation is entered into between plaintiffs Ellen Ambroff and Terry Ambroff, by
 27 and through their counsel of record, Hersh & Hersh, and defendant American Medical Systems,

28 Kenney
 &
 Markowitz
 L.L.P.

1 Inc., by and through its counsel of record, Kenney & Markowitz, L.L.P. The parties stipulate as
2 follows:

3 1. On June 29, 2009, this Court issued its first Case Management and Pretrial Order in
4 this case with a trial date of December 6, 2010, and other dates set by the Court accordingly,
5 including a factual discovery cut-off date of April 5, 2010;

6 2. On February 1, 2010, the parties stipulated to a modification of the June 29 Pretrial
7 Order to extend discovery and related cut-off dates because additional time was required to
8 schedule plaintiffs' Rule 30(b)(6) depositions. The court approved the parties' stipulation for
9 modification of the Pretrial Order on February 3, 2010. The current fact discovery cut-off date is
10 June 4, 2010.

11 3. Some of plaintiffs' Rule 30(b)(6) depositions were taken during the week of March
12 1, 2010 at AMS' corporate office in Minnesota, however, not all AMS' designated witnesses were
13 available during the scheduled week. Furthermore, plaintiff has requested to take the depositions
14 of six additional AMS employees in Minnesota.

15 4. During March and April of this year, counsel for AMS experienced difficulty
16 scheduling the deposition of plaintiff's treating physician, Dr. Carter, due to Dr. Carter's
17 unavailability. Dr. Carter's deposition is now scheduled on May 18, 2010 in Placerville,
18 California.

19 5. The parties have stipulated to participate in mediation before court-appointed
20 neutral, Jacqueline Corley, on May 19, 2010, in San Francisco.

21 6. Lead trial counsel for AMS is unavailable for several weeks in May due to a
22 previously scheduled vacation making it difficult to schedule the additional AMS employee
23 depositions in Minnesota prior to the current fact discovery cut-off date June 4, 2010.

24 7. Finally, associate counsel for AMS is unexpectedly relocating to Australia by the
25 end of May and therefore a new associate will need to become familiar with the facts and
26 procedural status of this action prior to taking over the handling of this action.

27 8. For all the above reasons, the parties stipulate to modify the current Pretrial Order
28 to extend the fact discovery cut-off date by one month to July 6, 2010 in order to complete the

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1 additional depositions and remaining discovery.

2 9. Finally, the parties stipulate to modify the Pretrial Order to move the trial of this
3 action from January 31, 2011 to March 28, 2011 because counsel for AMS will be unavailable
4 from October 2010 through December 2010 due to scheduled maternity leave.

5 10. Counsel for plaintiff does not oppose the requested modifications to the June 29
6 Pretrial Order, however, it is not the intention of the parties to waive any rights to object to
7 discovery requests by this Stipulation.

8 11. For good cause, the parties stipulate to and respectfully request that the Court
9 continue the discovery dates within the Pretrial Order and accompanying dates as follows;

10 DISCOVERY

11 Non-Expert Discovery Cutoff	July 6, 2010
12 Designation of Plaintiffs' Experts with Reports	August 6, 2010
13 Designation of Defendant's Experts with Reports	August 20, 2010
14 Designation of Rebuttal Experts with Reports	September 3, 2010
15 Expert Discovery Cutoff	October 1, 2010

16 DISPOSITIVE MOTIONS

17 Last Day to hear Case Dispositive Motions January 19, 2011

18 PRETRIAL CONFERENCE

19 Final Pretrial Conference at 11:00AM March 16, 2011

20 TRIAL DATE

21 Jury Trial to begin at 9:00AM March 28, 2011

23 DATED: May 10, 2010

KENNEY & MARKOWITZ L.L.P

24
25 By: /s/ Samantha D. Hilton
KEN M. MARKOWITZ
SAMANTHA D. HILTON
26 Attorneys for Defendant
AMERICAN MEDICAL SYSTEMS,
27 INC.

28
Kenney
&
Markowitz
L.L.P.

1 DATED: May 10, 2010

HERSH AND HERSH

2
3 By: /s/ Amy Eskin
4 AMY ESKIN
5 Attorneys for Plaintiffs
6 ELLEN AMBROFF AND TERRY
7 AMBROFF
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27 Kenney
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28 Markowitz
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[PROPOSED] ORDER

Pursuant to the parties' stipulation and request for modification of the Court's Case Management Order and Pretrial Order, the following schedule shall apply to this case:

DISCOVERY

Non-Expert Discovery Cutoff	July 6, 2010
Designation of Plaintiffs' Experts with Reports	August 6, 2010
Designation of Defendant's Experts with Reports	August 20, 2010
Designation of Rebuttal Experts with Reports	September 3, 2010
Expert Discovery Cutoff	October 1, 2010

DISPOSITIVE MOTIONS

Last Day to hear Case Dispositive Motions	January 19, 2011
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PRETRIAL CONFERENCE

Final Pretrial Conference at 11:00AM	March 16, 2011
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TRIAL DATE

Jury Trial to begin at 9:00AM	March 28, 2011
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IT IS SO ORDERED.

DATED: May 12, 2010



 JAMES LARSON
 UNITED STATES MAGISTRATE JUDGE

**Kenney
&
Markowitz
L.L.P.**