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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  
 16

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 FOR DEFENSE  
 MEDICAL EXAMINATION AND  
~~PROPOSED~~ ORDER**

25  
 26 **IT IS HEREBY STIPULATED AND AGREED** to by plaintiffs Ellen Ambroff and  
 27 Terry Ambroff (“plaintiffs”) and defendant American Medical Systems, Inc. (“AMS”), who  
 28 provide their consent through their attorneys of record, that plaintiff Ellen Ambroff shall submit to

Kenny  
 &  
 Markowitz  
 L.L.P.

1 a defense medical examination (“DME”) as follows:

2 1. A DME will be conducted by Craig V. Comiter, M.D. a Board-certified urologist,  
3 on **July 9, 2010, at 8:30 a.m.**, at Dr. Comiter’s office at Stanford University Medical Center,  
4 Urology Clinic, 900 Blake Wilbur Drive, 2nd Floor, Palo Alto, California 94304, Tel:  
5 650.723.3391.

6 2. The examination will consist of the taking of a medical and personal history of  
7 plaintiff Ellen Ambroff, including past and present complaints and/or symptoms, and a physical  
8 examination. The physical examination, which will be chaperoned by a nurse, will be comprised  
9 of the following: the taking of plaintiff Ellen Ambroff’s vital signs (blood pressure, heart rate,  
10 temperature and respiratory rate) and a general physical examination which will include a  
11 bimanual vaginal examination, a rectal examination, and such other means of physical  
12 examination to fully evaluate plaintiff Ellen Ambroff’s complaints in this case. Plaintiff will not  
13 be required to submit to any testing during the examination. The anticipated length of the entire  
14 DME, including patient history and physical examination, is approximately 45 minutes. The  
15 anticipated length of the internal physical examination (vaginal and rectal) is approximately three  
16 minutes.

17 3. Breaks during the DME will be accommodated, as necessary.

18 4. No one other than examinee plaintiff Ellen Ambroff and her attorney, Amy Eskin,  
19 is entitled to be present during the examination, though Ms. Eskin is to remain silent and may not  
20 participate in, interrupt and/or otherwise intervene during the DME, so long as the DME is  
21 conducted within the parameters of this Stipulation. The examination may be tape recorded by  
22 plaintiff Ellen Ambroff and her attorney. If it is, AMS is entitled to receive a true and correct  
23 copy of said tape recording from plaintiffs, or AMS may similarly and simultaneously tape record  
24 the DME with its own tape recorder.

25 5. AMS shall be responsible for Dr. Comiter’s fees for administering the DME.

26 6. The fact that plaintiffs stipulated that plaintiff Ellen Ambroff would appear for the  
27 DME shall not be admissible at the trial of this action. The fact that plaintiffs stipulated that  
28 plaintiff Ellen Ambroff would appear for the DME shall not be deemed as a waiver of any

1 challenges or objections to Dr. Comiter or his testimony, including, but not limited to objections  
2 as to Dr. Comiter's qualifications, bias, conclusions, methodology, or opinions derived from the  
3 examination, nor do plaintiffs waive any challenges to the scientific basis, methodology or general  
4 acceptance in the community of any of Dr. Comiter's methodology or opinions. The fact that  
5 plaintiffs stipulated that plaintiff Ellen Ambroff would appear for the DME shall not be deemed as  
6 an admission that the examination was not invasive, or painful. Plaintiffs do not concede that the  
7 examination was not invasive, or painful and do not waive any objections to the admissibility of  
8 any written material relied upon or produced by Dr. Comiter.

9 **IT IS SO STIPULATED.**

11 DATED: June 29, 2010

**HERSH AND HERSH**

13 By: /s/ Amy Eskin  
14 AMY ESKIN  
15 Attorney for Plaintiff  
ELLEN AND TERRY AMBROFF

16 DATED: June 29, 2010

**KENNEY & MARKOWITZ L.L.P**

18 By: /s/ Kimberly I. McIntyre  
19 KEN M. MARKOWITZ  
20 KIMBERLY I. MCINTYRE  
Attorneys for Defendant  
AMERICAN MEDICAL SYSTEMS INC.

21 **[PROPOSED] ORDER**

22 Based on the foregoing stipulation of the parties, **IT IS SO ORDERED.**

24 DATED: June 30, 2010

26   
27 JAMES LARSON  
28 UNITED STATES MAGISTRATE JUDGE

Kenney  
&  
Markowitz  
L.L.P.