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28United States District Court
For the Northern District of CaliforniaIN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MEDTRONIC, INC., et al.,

No. C-07-0567 MMC

Plaintiffs,

**ORDER GRANTING IN PART AND
DENYING IN PART DEFENDANT'S
MOTION TO SHORTEN TIME; SETTING
BRIEFING SCHEDULE AND HEARING
DATE FOR DEFENDANT'S MOTION
FOR LEAVE**

v.

AGA MEDICAL CORPORATION,

Defendant.

Before the Court is defendant AGA Medical Corporation's ("AGA") "Motion to Shorten Time on AGA's Motion for Leave to Amend Its Answer and Counterclaims," filed January 20, 2009. Plaintiffs Medtronic, Inc., Medtronic USA, Inc., and Medtronic Vascular, Inc. (collectively, "Medtronic") have filed opposition. Having read and considered the papers filed in support of and in opposition to the motion, the Court rules as follows.

AGA requests that the Court hear AGA's Motion for Leave to Amend Its Answer and Counterclaims ("Motion for Leave") on February 13, 2009. AGA asserts it will "suffer serious harm" if its Motion for Leave is heard on regular time,¹ for the reason that the

¹Contrary to AGA's assertion, its Motion for Leave would not regularly be heard on February 24, 2009. Such motion was filed on January 20, 2009, and, consequently, would regularly be noticed for hearing no earlier than February 27, 2009. See Civ. L.R. 7-2(a) (providing motion must be noticed for hearing "not less than 35 days after service of the motion"); Standing Orders For Civil Cases Assigned to The Honorable Maxine M. Chesney ¶ 3(b) (providing "Civil Law and Motion Calendar is conducted on Fridays at 9:00 a.m.").


1 Court's ruling on such motion will "directly and significantly affect[] AGA's ability to prepare
2 for and conduct expert depositions" (see Mot. at 2:7-9), which must be completed before
3 the close of expert discovery on February 27, 2009. Medtronic, in its opposition to the
4 instant motion, requests a deadline of January 30, 2009 for the filing of its opposition to the
5 Motion for Leave but does not oppose AGA's proposed hearing date.² The schedules
6 proposed by both parties, however, seek to place the hearing on the Motion for Leave on a
7 date fewer than 14 days after the deadline for the filing of AGA's reply.³ The Court declines
8 to hear the Motion for Leave on such a date. See Civ. L.R. 7-3(c) (providing "[a]ny reply to
9 an opposition must be served and filed by the moving party not less than 14 days before
10 the hearing date").

11 Accordingly, the instant motion is hereby GRANTED in part and DENIED in part, and
12 the Court sets the following schedule:

- 13 1. Medtronic's opposition to the Motion for Leave shall be filed no later than January
14 30, 2009.
- 15 2. AGA's reply shall be filed no later than February 6, 2009.
- 16 3. The hearing on the Motion for Leave shall be on February 20, 2009.

17 **IT IS SO ORDERED.**

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19 Dated: January 23, 2009


MAXINE M. CHESNEY
United States District Judge

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27 ²AGA requests that Medtronic's opposition be due no later than January 27, 2009.

28 ³Both parties request that AGA's reply be due on February 3, 2009.