

1 Steven D. Hemminger (Bar No. 110665)  
 ALSTON & BIRD LLP  
 2 Two Palo Alto Square  
 3000 El Camino Real, Suite 400  
 3 Palo Alto, California 94306-2112  
 Telephone: (650) 838-2000  
 4 Facsimile: (650) 838-2001  
 steve.hemminger@alston.com

5  
 6 Michael S. Connor (admitted *pro hac vice*)  
 Lance A. Lawson (admitted *pro hac vice*)  
 Brian F. McMahon (Bar No. 235373)  
 7 ALSTON & BIRD LLP  
 101 South Tryon Street, Suite 4000  
 8 Charlotte, North Carolina 28280-4000  
 Telephone: (704) 444-1000  
 9 Facsimile: (704) 444-1111  
 mike.connor@alston.com  
 lance.lawson@alston.com  
 10 brian.mcmahon@alston.com

11  
 12 Marissa R. Ducca (admitted *pro hac vice*)  
 ALSTON & BIRD LLP  
 950 F Street, N.W.  
 13 Washington, DC 20004-1404  
 Telephone: (202) 756-3369  
 14 Facsimile: (202) 654-4982  
 marissa.ducca@alston.com

15 Attorneys for Defendant AGA MEDICAL CORPORATION

16  
 17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 SAN FRANCISCO DIVISION

20 MEDTRONIC, INC., a Minnesota corporation,  
 21 MEDTRONIC USA, INC., a Minnesota  
 corporation, and MEDTRONIC VASCULAR,  
 22 INC., a Delaware corporation,

23 Plaintiffs,

24 v.

25 AGA MEDICAL CORPORATION, a  
 26 Minnesota corporation,

27 Defendant.

Case No. 3:07-cv-00567 MMC (EMC)

**~~PROPOSED~~ ORDER GRANTING IN  
 PART AND DENYING IN PART  
 MEDTRONIC'S ADMINISTRATIVE  
 MOTION TO FILE DOCUMENTS UNDER  
 SEAL PURSUANT TO CIV. L.R. 79-5(C)  
 AND (D) IN SUPPORT OF THE  
 DECLARATION OF ROBERT SINCLAIR,  
 Ph.D. RESPONDING TO QUESTIONS  
 RAISED AT JUNE 19, 2009 HEARING**

[PROPOSED] ORDER GRANTING IN PART AND  
 DENYING IN PART MEDTRONIC'S ADMINISTRATIVE  
 REQUEST TO FILE DOCUMENTS UNDER SEAL  
 CASE No. 3:07-cv-00567 MMC (EMC)

1 Before this Court is Medtronic's Administrative Motion to File Documents Under Seal  
2 Pursuant to Civ. L. R. 79-5 (c), and (d) in Support of the Declaration of Robert Sinclair, Ph.D.  
3 Responding to Questions Raised at June 19, 2009 Hearing. Having considered Medtronic's Request,  
4 the Declaration of Noemi C. Espinosa in Support of Medtronic's Administrative Motion to File  
5 Documents Under Seal Pursuant to Civ. L.R. 79-5(c) and (d) in Support of the Declaration of Robert  
6 Sinclair, Ph.D. Responding to Questions Raised at June 19, 2009 Hearing, and the Declaration of  
7 Marissa R. Ducca in Support of Medtronic's Administrative Motion to File Documents Under Seal  
8 Pursuant to Civ. L.R. 79-5(c) and (d) in Support of the Declaration of Robert Sinclair, Ph.D.  
9 Responding to Questions Raised at June 19, 2009 Hearing, and good cause appearing, the Court  
10 hereby GRANTS Medtronic's request to file the following documents under seal:

- 11 • The entirety of Exhibit Nos. 3 and 4 to the Declaration of Robert Sinclair, Ph.D.  
12 Responding to Questions Raised at June 19, 2009 Hearing ("Sinclair Dec.").
- 13 • The unredacted version of the Sinclair Dec., with the exception of <sup>the material</sup> ~~the portion~~  
14 sought to be redacted at page 5, lines 10-13, 18, 23, and 26-27.  
~~from the Deposition of Robert Sinclair, Ph.D., February 11, 2009.~~  
15 <sup>above-referenced</sup>

16 With respect to exhibit 1 to the Sinclair Dec., and the <sup>above-referenced</sup> portions of the Sinclair Dec. citing to  
17 that exhibit, AGA has indicated that they do not seek to seal these documents. Therefore, with  
18 respect to Exhibit 1 to the Sinclair Dec., and the <sup>above-referenced</sup> portions of the Sinclair Dec. citing to Exhibit 1,  
19 Medtronic's request is DENIED. Medtronic shall file in the public record, no later than July 2, 2009,  
20 Exhibit 1 to the Sinclair Decl. and a redacted version of the Sinclair Decl., redacting only the  
21 material found to be sealable herein.

22 IT IS SO ORDERED.

23 Dated: June 30 \_\_\_\_\_, 2009

24   
25 HONORABLE MAXINE M. CHESNEY  
26 UNITED STATES DISTRICT JUDGE  
27