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11 Attorneys for Defendant
 Medtronic, Inc.

12
 13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA

15 JEFFREY SPICER,

16 Plaintiff,

17 vs.

18 MEDTRONIC, INC., MEDTRONIC PS
 MEDICAL, INC. dba MEDTRONIC
 19 NEUROLOGIC TECHNOLOGIES, and Does 1
 to 50,

20 Defendants.
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No.: C08-02789 MEJ

**STIPULATION AND ~~PROPOSED~~
 ORDER TO CORRECT JULY 21, 2008
 ORDER DISMISSING ENTIRE CASE AND
 TO REINSTATE CASE AS TO
 DEFENDANT MEDTRONIC, INC. ONLY**

REED SMITH LLP
 A limited liability partnership formed in the State of Delaware

STIPULATION AND ~~PROPOSED~~ ORDER TO CORRECT JULY 22, 2008 ORDER DISMISSING ENTIRE CASE
 AND TO REINSTATE CASE AS TO DEFENDANT MEDTRONIC, INC. ONLY

1 Plaintiff Jeffrey Spicer filed a complaint against Medtronic, Inc. and Medtronic PS Medical,
 2 Inc. in San Mateo County Superior Court on May 2, 2008. On June 4, 2008, defendants timely
 3 removed the action to this Court. The parties subsequently met and conferred and determined that
 4 Medtronic PS Medical, Inc. was not a properly named and joined defendant to this action, and
 5 agreed to stipulate to dismiss Medtronic PS Medical, Inc. from the action without prejudice. The
 6 parties drafted and agreed upon a stipulation to dismiss only Medtronic PS Medical, Inc. and filed
 7 the same on June 19, 2008. The Court signed the stipulation and proposed order on July 21, 2008.
 8 Though the stipulation filed by the parties sought only to dismiss Medtronic PS Medical, Inc. from
 9 the action, the Court inadvertently dismissed the entire action against both named defendants.

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 11 Accordingly, the parties seek through this stipulation and proposed order to reinstate the
 12 action against Medtronic, Inc. only and to have the Court reset a pretrial scheduling order so the
 13 parties may proceed with the action.

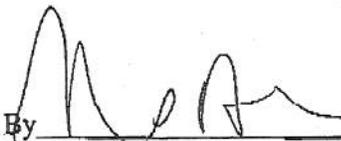
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 15 THE PARTIES HEREBY STIPULATE and respectfully request that the Court enter an order
 16 correcting its July 21, 2008 order dismissing the entire case, and clarify that the case is dismissed
 17 with regard to Medtronic PS Medical, Inc., only, and further clarify that the action still stands as
 18 against Medtronic, Inc. Further the parties respectfully request that the Court set a pretrial schedule
 19 that will allow the parties to proceed expeditiously with this case while also allowing the parties time
 20 to prepare the necessary pleadings and reports required for the first case management conference.
 21 The parties respectfully suggest that the Court set the informal Rule 26 meeting no later than
 22 October 15, 2008, and set the Initial Case Management Conference for no later than November 15,
 23 2008, and all related dates in accordance with the designated date for that event.

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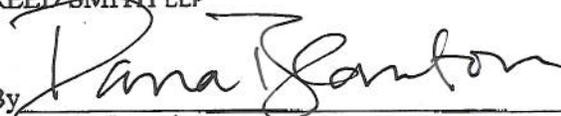
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DATED: September 22, 2008.

By 
Thomas A. Cohen
Attorney for Plaintiff Jeffrey Spicer

DATED: September 22, 2008.

REED SMITH LLP
By 
Sonja S. Weissman
Dana A. Blanton
Attorneys for Defendant
Medtronic Inc.

ORDER

PURSUANT TO STIPULATION, IT IS ORDERED THAT the parties in this action stipulated to dismiss only Medtronic PS Medical, Inc. from this action and that the July 21, 2008 Order dismissing the case in its entirety against both Medtronic PS Medical, Inc. and Medtronic, Inc. was entered in error. The Court hereby clarifies and corrects it July 21, 2008 Order to dismiss defendant Medtronic PS Medical, Inc. only, and to reinstate the case as it stands against Medtronic, Inc. only. The Court will accordingly set a pretrial schedule in a separate Order at its convenience.

DATED: September 24, 2008

MARIA-EL
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
IT IS SO ORDERED

Judge Maria-Elena James
MAGISTRATE

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