

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

---

MEDTRONIC SOFAMOR DANEK, INC., )  
 )  
 Plaintiff/ )  
 Counterclaim Defendant.)  
 )  
 vs. ) No. 01-2373-M1V  
 )  
 GARY KARLIN MICHELSON, M.D. )  
 and KARLIN TECHNOLOGY, INC., )  
 )  
 Defendants/ )  
 Counterclaimants, )  
 )  
 and )  
 )  
 GARY K. MICHELSON, M.D., )  
 )  
 Third-Party Plaintiff,) )  
 )  
 vs. )  
 )  
 SOFAMOR DANEK HOLDINGS, INC., )  
 Third-Party Defendant.)

---

ORDER DENYING PLAINTIFF'S MOTIONS FOR LEAVE TO FILE REPLIES TO  
DEFENDANTS' RESPONSES TO PLAINTIFF'S SECOND RENEWED MOTION TO  
COMPEL DEFENDANTS TO RESPOND TO INTERROGATORY NO. 1 AND TO  
PLAINTIFF'S MOTION TO COMPEL DEFENDANTS TO RESPOND TO PLAINTIFF'S  
FOURTH REQUEST FOR PRODUCTION OF DOCUMENTS

---

Before the court are the motions of the plaintiff, Medtronic Sofamor Danek, for leave to file replies to the responses of the defendants to Medtronic's second renewed motion to compel the defendants to respond to Interrogatory No. 1 and to the plaintiff's motion to compel the defendants to respond to the plaintiff's

fourth request for production of documents.

On August 4, 2003, Medtronic filed its motion to compel the defendants to respond to the plaintiff's fourth request for production of documents. Its motion was accompanied by a nineteen-page memorandum, which is one page short of the permissible limit under Local Rule 7.2. The defendants filed an eighteen-page memorandum in opposition to Medtronic's motion on September 4, 2003. Medtronic did not file the instant motion for permission to file a reply until September 18, 2003, fourteen days later.

Similarly, Medtronic filed its second renewed motion to compel the defendants to respond to Interrogatory No. 1 on August 19, 2003, and the defendants responded on September 5, 2003. Again, Medtronic did not file the instant motion for permission to file a reply until September 18, 2003, fourteen days after the defendants filed their response.

The court has already devoted considerable time to ruling on Medtronic's motions. To grant Medtronic additional time to file a reply would almost certainly result in the defendants requesting permission to file a sur-reply which would only delay disposition of these motions. In the meantime, the parties have filed additional discovery motions to which the court must devote its immediate attention to the exclusion of pending motions in other cases in light of the rapidly approaching discovery deadline in

this case.

Moreover, Medtronic has not demonstrated why the matters it seeks to address in a reply could not have been addressed initially in its motion. Although Medtronic claims that the defendants' expert reports containing new information were recently filed, Medtronic fails to indicate the date it received the information. The omission of the date makes the court question whether this information was not available to Medtronic at the time it filed its motion. Nor do these motions involve complicated legal issues which require extensive briefing by the parties for the benefit of the court.

In addition, Medtronic has maximized its twenty-page local rule limit with its initial memorandum in support of its motion to compel the defendants to respond to Interrogatory No. 1. Finally, the motion practice in this case appears to have become a matter of gamesmanship in which each side is determined to have the final say. The court does not look favorably on such a practice.

For these reasons, Medtronic's motions for leave to file replies are denied. The court will rule as expeditiously as possible on the pending motions.

IT IS SO ORDERED this 23rd day of September, 2003.

---

DIANE K. VESCOVO  
U.S. MAGISTRATE JUDGE

