

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

MARK A. BARRY, M.D.,

Plaintiff,

v.

MEDTRONIC, INC.,

Defendant.

Civil Action No. 1:14-cv-104

JUDGE RON CLARK

ORDER REGARDING CASE RESOLUTION

Before the court, are the joint filings at Docket Nos. 501 and 502, which deal with the resolution of issues between Plaintiff, Mark A. Barry, M.D. and Defendant, Medtronic, Inc. concerning possible future infringement and damages that remained open after the jury trial and entry of the Final Judgment. (Docket No. 452). Because the current epidemic caused difficulties in arranging for a hearing, either live or by telephone or video, recorded by a court reporter, the court communicated with counsel for both parties by email to clarify exactly what the parties were requesting by these two agreed motions. The responses of the parties confirmed their intent and resolved what might have been interpreted as possible conflicts. The parties also submitted an agreed order that the court finds provides for final disposition of the issues remaining in this case, and which the court will grant as follows:

WHEREAS on May 16, 2017, after trial to a jury the court, in accordance with the verdict and the court's rulings on the post-trial motions, the court entered a Final Judgment which awarded to Plaintiff damages with an enhancement, prejudgment interest, and costs, together with post-judgment interest (Docket No. 452);

WHEREAS on May 16, 2017, the court entered an Order addressing post-trial accounting and deposit of funds into an escrow account to preserve Dr. Barry's rights while Medtronic, Inc. took its appeals (Docket No. 451);

WHEREAS on January 24, 2019, the Court of Appeals for the Federal Circuit affirmed the Judgment (Docket No. 493);

WHEREAS on January 13, 2020, the Supreme Court of the United States denied Medtronic's petition for a writ of certiorari;

WHEREAS on January 23, 2020, Medtronic satisfied the Judgment, Docket No. 452, including the jury's award, the court's enhancement, interest, and costs;

WHEREAS the parties have informed the court that they have reached an Agreement to resolve any and all remaining issues between the parties, including, but not limited to post-trial infringement and damages; and

WHEREAS, the court has released to Medtronic, Inc. the escrow funds deposited by Medtronic Inc. (Docket No. 503);

THEREFORE, the court ORDERS that:

The agreed motions (Docket Nos. 501 and 502) are GRANTED and all remaining claims, counterclaims, and affirmative defenses between Plaintiff and Defendant are DISMISSED WITH PREJUDICE pursuant to the terms of the Parties' Agreement;

The supersedeas bond posted by Medtronic for taking its appeal is released;

Any costs or fees incurred that were not addressed by the court's Final Judgment (Docket No. 452), shall be borne by the Party incurring the same; and

This Order is not intended to withdraw, and has no effect on the precedential value of, any order or opinion issued by any court of competent jurisdiction concerning this litigation.

It is further ORDERED that all motions that are still pending, and all requests for relief that have not been granted are DENIED, and that this ORDER is a final judgment and is appealable.

So **ORDERED** and **SIGNED** April 22, 2020.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, Senior District Judge