INVIVO CORP
Form 10-Q
November 14, 2002

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U.S. Securities and Exchange Commission
Washington, D.C. 20549

FORM 10-Q

[X] QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2002

OR

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

COMMISSION FILE NUMBER 0-15963

INVIVO CORPORATION

(Exact name of Registrant as specified in its charter)

DELAWARE	77-0115161
(State or other jurisdiction Of incorporation)	(IRS Employer Identification No.)

4900 HOPYARD RD. SUITE 210, PLEASANTON, CALIFORNIA 94588
(Address of principal executive offices) (Zip Code)

TELEPHONE: (925) 468-7600
(Registrant s telephone number)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No [ ]

The number of shares outstanding of the issuer s Common Stock, par value $.01 per share, at November 11, 2002 was 4,477,399 shares.

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ITEM 1. FINANCIAL STATEMENTS

INVIVO CORPORATION AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS

	(UNAUDITED) September 30, 2002	June 30, 2002
Assets		
Current assets:		
Cash and cash equivalents	$ 1,386,700	1,005,700
Restricted cash	1,437,400	1,520,900
Short-term investments	25,545,800	27,344,400
Trade receivables, less allowance for doubtful accounts of $460,200 as of September 30, 2002 and $330,500 as of June 30, 2002	10,746,200	10,724,600
Inventories	6,768,900	6,430,400
Deferred income taxes	945,200	837,800
Prepaid expenses and other current assets	579,700	236,700
Total current assets	47,409,900	48,100,500
Property and equipment, net	5,572,700	5,476,000
Intangible assets	7,037,000	7,037,000
Other assets	144,200	144,200
	$60,163,800	60,757,700
Liabilities and Stockholders Equity		
Current liabilities:		
Accounts payable	$ 2,040,200	1,778,300
Accrued expenses	4,778,100	6,045,900
Current portion of long-term debt and capital leases	113,300	113,300
Income taxes payable	577,900	1,325,100
Total current liabilities	7,509,500	9,262,600
Long-term debt and capital leases, excluding current portion	1,435,500	1,463,900
Deferred income taxes	550,400	550,400
Total liabilities	9,495,400	11,276,900
Commitments and contingencies		
Stockholders equity:		
Common stock, $.01 par value; authorized shares totaling 20,000,000; issued and outstanding shares totaling 4,477,399 as of September 30, 2002 and 4,434,899 as of June 30, 2002	44,800	44,300
Additional paid-in capital	27,171,500	26,701,800
Retained earnings	23,403,200	22,720,400
Accumulated other comprehensive income	48,900	14,300
Total stockholders equity	50,668,400	49,480,800
	$60,163,800	60,757,700

See accompanying notes to consolidated financial statements.

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INVIVO CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF INCOME
(UNAUDITED)

For the Three Months Ended September 30, 2002 and 2001

	2002	2001
Sales	$11,050,900	9,572,700
Cost of goods sold	5,260,400	4,544,900
Gross profit	5,790,500	5,027,800
Operating expenses:		
Selling, general, and administrative	4,149,800	3,642,300
Research and experimental	799,600	710,800
Total operating expenses	4,949,400	4,353,100
Income from operations	841,100	674,700
Other income (expense):		
Interest income	151,500	71,300
Interest expense	(17,100)	(38,400)
Income from continuing operations before income taxes	975,500	707,600
Income tax expense	292,700	239,900
Net income from continuing operations	$ 682,800	467,700
Discontinued operations:		
Income from discontinued operations net of income tax of $0 and $138,000		234,800
Net income	$ 682,800	702,500
Basic net income per share data:		
Continuing operations	$ 0.15	0.11
Discontinued operations		0.05
Basic net income per common share	$ 0.15	0.16
Weighted-average common shares outstanding (basic)	4,463,911	4,423,249
Diluted net income per share data:		
Continuing operations	0.15	0.11
Discontinued operations		0.05
Diluted net income per common share	$ 0.15	0.16
Weighted-average common shares outstanding (diluted)	4,696,712	4,511,655

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CONSOLIDATED STATEMENTS OF CASH FLOW
(UNAUDITED)

For the Three Months Ended September 30, 2002 and 2001

	2002	2001
Cash flows from operating activities:		
Net Income	$ 682,800	702,700
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	289,700	242,600
Deferred income taxes	(107,500)	
Changes in operating assets and liabilities:		
Trade receivables	(14,100)	443,300
Inventories	(313,900)	(244,100)
Prepaid expenses and other current assets	(343,000)	(53,000)
Accrued expenses	(1,267,800)	(730,800)
Accounts payable	261,900	(594,300)
Income taxes payable	(747,200)	252,000
Current assets of discontinued operation		(97,100)
Current liabilities of discontinued operations		5,200
Net cash used in continuing operating activities	(1,559,100)	(73,500)
Cash flows from investing activities:		
Sale of short-term investments, net	1,825,700	1,217,500
Restricted cash	83,500	
Capital expenditures	(411,000)	(316,300)
Net investing activities of discontinued operations		5,300
Net cash provided by investing activities	1,498,200	906,500
Cash flows from financing activities:		
Exercise of stock options	470,200	
Payments under long-term debt and capital leases	(28,300)	(27,000)
Net cash provided by (used in) financing activities	441,900	(27,000)
Net increase in cash and cash equivalents	381,000	806,000
Cash and cash equivalents at beginning of period	1,005,700	270,100
Cash and cash equivalents at end of period	$ 1,386,700	1,076,100
Supplemental disclosure of cash flow information:		
Cash paid during the period for:		
Income taxes	$ 1,147,400	126,600
Interest	$ 17,100	38,300

See accompanying notes to consolidated financial statements.

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INVIVO CORPORATION

NOTE TO CONSOLIDATED FINANCIAL STATEMENTS

1. GENERAL

The consolidated balance sheet as of September 30, 2002 and the related consolidated statements of income for the three-month periods ended September 30, 2002 and 2001; and the consolidated statements of cash flows for the three month periods ended September 30, 2002 and 2001 are unaudited. The consolidated financial statements reflect, in the opinion of management, all adjustments necessary to present fairly the financial position and results of operations as of the end of and for the periods indicated. Interim results are not necessarily indicative of results for a full year.

The financial statements and notes are presented as permitted by Form 10-Q, and do not contain certain information included in the Company s annual consolidated financial statements and notes.

2. SEGMENT INFORMATION

The Company has adopted the provisions of Statement of Financial Accounting Standards (SFAS) No. 131, Disclosure About Segments of an Enterprise and Related Information. SFAS 131 establishes standards for the reporting by public business enterprises of information about operating segments, products and services, geographic areas, and major customers. The method for determining what information to report is based on the way that management organizes the operating segments within the Company for making operating decisions and assessing financial performance. As a result of the sales of Sierra Precision and Lumidor Safety in the Company s industrial instrumentation segment, the Company currently operates in one segment.

3. DEBT AND BANK BORROWINGS

The Company s bank line of credit of $1,000,000 expires on December 1, 2002. The Company expects to renew the line of credit. The Company s revolving bank line of credit is collateralized by the Company s accounts receivable, inventory, and equipment. At September 30, 2002, $1,000,000 was available under the line of credit.

4. COMPREHENSIVE INCOME

The components of comprehensive income, net of tax, are as follows:

	THREE MONTHS ENDED SEPTEMBER 30,	
	2002	2001
Net income	$682,800	$702,500
Change in unrealized gain on short-term investments	28,000	
Change in foreign currency translation	6,600	32,600
Comprehensive Income	$717,400	$735,100

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5. NET INCOME PER COMMON SHARE

The following table presents the calculation for basic and diluted net income per common share:

	THREE MONTHS ENDED SEPTEMBER 30,	
	2002	2001
BASIC:		
Weighted average common Shares outstanding	4,463,911	4,423,249
Net Income	$ 682,800	$ 702,500
Basic net income per common share	$ 0.15	$ 0.16
DILUTED:		
Weighted average common Shares outstanding (basic)	4,463,911	4,423,249
Dilutive stock options	232,801	88,406
Weighted average common Shares outstanding (diluted)	4,696,712	4,511,655
Net Income	$ 682,800	$ 702,500
Diluted net income per common share	$ 0.15	$ 0.16

6. DISCONTINUED OPERATIONS

Sierra Precision

On May 10, 2002, the Company completed its sale of substantially all of the assets and the transfer of certain liabilities of Sierra Precision, a wholly-owned subsidiary of the Company. The final sales price was approximately $4.9 million, of which $170,000 is being held in escrow as collateral with respect to the satisfaction of certain conditions. Excluded from the transaction were substantially all the liabilities of Sierra Precision. In addition, the Company entered into an agreement to not compete with the business of Sierra Precision for a period of three years. Sierra Precision s operating results have been segregated and reported as discontinued operations in the accompanying consolidated statements of income and cash flows, and related notes for the three months ended September 30, 2001. Revenue from the discontinued operations of Sierra Precision for the three months ended September 30, 2001 was $1,898,600. Income from the discontinued operations of Sierra Precision for the three months ended September 30, 2001 was $141,800.

Lumidor Safety Corporation

On May 30, 2002, the Company sold substantially all of the assets and transferred certain liabilities of Lumidor Safety Corporation (Lumidor), a wholly-owned subsidiary of the Company. The final sales price was approximately $12 million, of which $1.35 million is being held in escrow for a period of one year to secure indemnification obligations of Lumidor. In addition, the Company entered into an agreement not to compete with the business of Lumidor for a period of five years. Lumidor s operating results have been segregated and reported as discontinued operations in the accompanying consolidated statements of income and cash flows, and related notes for the three months ended September 30, 2001. Revenue from the discontinued operations of Lumidor for the three months ended September 30, 2001 was $1,892,100. Income from the discontinued operations of Lumidor for the three months ended September 30, 2001 was $93,000.

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ITEM 2. MANAGEMENT S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

RESULTS OF OPERATIONS

THREE MONTH PERIODS ENDED SEPTEMBER 30, 2002 AND 2001

Sales

Sales for the quarter ended September 30, 2002 were $11,050,900, an increase of 15.4% over sales of $9,572,700 for the same period in fiscal 2002. The increase was due to continued growth in sales of the Company s magnetic resonance imaging, MRI, vital signs monitor along with an increase in sales of general patient monitoring products. The increase in sales of general patient monitoring products was primarily due to sales of the new M12 bedside monitor introduced in the first quarter of fiscal 2003 and sales of the Centurion 2000 central station monitoring system introduced in the fourth quarter of fiscal 2002.

Gross Profit

The gross profit margin remained stable at 52.4% for the three-month period ended September 30, 2002 as compared to 52.5% for the same period of fiscal 2002 as the Company was able to maintain its gross profit margin on the MRI vital signs monitor and general patient monitoring equipment.

Operating Expenses

Selling, general and administrative expenses for the first quarter of fiscal 2003 increased 13.9% or $507,500 as compared to the same period in fiscal 2002. Selling, general and administrative expenses were 37.6% of sales for the three months ended September 30, 2002 as compared with 38.0% for the same period in fiscal 2002. The increase in these expenditures for the three months ended September 30, 2002 was primarily due to increased selling expenses, as sales commissions increased on the higher sales volume, along with higher administrative expenses in support of the increase in sales.

Research and experimental expenses were $799,600 or 7.2% of sales for the first quarter of fiscal 2003 compared to $710,800 or 7.4% for the same period in fiscal 2002. The increase in these expenses in aggregate in the first quarter of fiscal 2003 was due to increased expenditures on next generation vital sign monitors. The Company plans to continue its efforts in developing new products and enhancing its existing ones and expects future research and experimental expenditures as a percentage of sales to be in the range of the first quarter of fiscal 2003 levels.

Other Income and Expense

Interest income was $151,500 for the first quarter of fiscal 2003 as compared to $71,300 for the comparable prior year period. The increase was due to the larger cash and short-term investment balances in the quarter as compared to the prior year.

Provision for Income Taxes

The effective tax rate for the first quarter of fiscal 2003 was 30.0% as compared to 33.9% for the comparable prior year period. The decrease in the effective rate was primarily due to the effect of federal tax-exempt interest income from short-term investments.

LIQUIDITY AND CAPITAL RESOURCES

Working capital at September 30, 2002 increased to $39,900,400 from $38,837,900 at June 30, 2002. Net cash used in operating activities was $1,559,100 for the three months ended September 30, 2002 compared with $73,500 used in operating activities for the three months ended September 30, 2001. This increase in net cash used in operating activities was largely the result of changes in operating assets and liabilities, particularly accrued expenses and income taxes payable.

Capital expenditures were $411,000 for the first three months of fiscal 2003 compared to $316,300 for the prior year period. Capital expenditures were primarily related to sales demonstration equipment for the medical business sales force.

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The Company believes that its cash resources and cash flow from operations are adequate to meet its ongoing cash needs for working capital and capital expenditures. The Company s line of credit expires on December 1, 2001. The Company expects to renew the line of credit. The Company s revolving bank line of credit is collateralized by the Company s accounts receivable, inventory, and equipment. At September 30, 2002, $1,000,000 was available under the line of credit.

The Company will continue to explore opportunities for the possible acquisitions of technologies or businesses, which may require the Company to seek additional financing.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires the Company to make estimates and judgments that affect its reported amounts of assets and liabilities, revenues and expenses and related disclosures of contingent assets and liabilities. On an ongoing basis the Company evaluates its estimates, including those related to allowance for doubtful accounts, inventory reserves, warranty obligations, intangible assets, income taxes, revenue recognition and contingencies and litigation. The estimates are based on the information that is currently available to the Company and on various other assumptions that management believes to be reasonable under the circumstances. Actual results could vary from those estimates under different assumptions or conditions.

For a discussion of the Company critical accounting policies, please see Critical Accounting Policies and Estimates in Item 7 of the Company s Annual Report on Form 10-K for the year ended June 30, 2002.

RECENT ACCOUNTING PRONOUNCEMENTS

In August 2001, the FASB issued Statement No. 144, Accounting for the Impairment or Disposal of Long-Lived Assets (SFAS 144). SFAS 144 supersedes SFAS 121, Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to Be Disposed Of , and provides new rules on asset impairment and a single accounting model for long-lived assets to be disposed of. Although retaining many of the fundamental recognition and measurement provisions of SFAS 121, the new rules significantly change the criteria that would have to be met to classify an asset as held-for-sale. The new rules also supersede the provisions of Accounting Principles Board Opinion No. 30, Reporting the Results of Operations-Reporting the Effects of Disposal of a Segment of a Business, and Extraordinary, Unusual and Infrequently Occurring Events and Transactions, with regard to reporting the effects of a disposal of a segment of a business and require expected future operating losses from discontinued operations to be displayed in discontinued operations in the period(s) in which the losses are incurred. SFAS 144 is effective in fiscal 2003, and is not expected to have a material impact on the Company s consolidated financial statements.

In April 2002, the FASB issued SFAS No. 145, Recision of SFAS Nos. 4, 44 and 64, Amendment of SFAS 13, and Technical Corrections as of April 2000 (SFAS 145). SFAS 145 revises the criteria for classifying the extinguishments of debt as extraordinary and the accounting treatment of certain lease modifications. SFAS 145 is effective in fiscal 2003, and is not expected to have a material impact on the Company s consolidated financial statements.

On July 30, 2002, the FASB issued SFAS No. 146, Accounting for Costs Associated with Exit or Disposal Activities (SFAS 146). SFAS 146 establishes accounting guidelines for the recognition and measurement of a liability for the cost associated with an exit or disposal activity initially at its fair value in the period in which the liability is incurred, rather than at the date of a commitment to an exit or disposal plan. This standard is effective January 1, 2003 for all exit or disposal activities initiated after that date and is not expected to have a material impact on the Company s consolidated financial statements.

NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements regarding the Company s plans, expectations, estimates and beliefs. Actual results could differ materially from those discussed in, or implied by, these forward-looking statements. Forward-looking statements are identified by words such as believe, anticipate, expect, intend, plan, will, may and other similar expressions. In addition, any statement refer to expectations, projections or other characterizations of future events or circumstances are forward-looking statements. The Company is not obligated to update or revise these forward-looking statements to reflect new events or circumstances. Factors that could cause actual results, events or circumstances to differ from forward-looking statements made in this report include those set forth in the following Risk Factors section.

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RISK FACTORS

THE COMPANY IS DEPENDENT ON A CONCENTRATED LINE OF PRODUCTS

The Company s future financial performance will be dependent on its patient monitor product line, which includes a limited number of products. In the MRI monitoring market, the growth of the market for its MRI monitors is heavily dependent on the continued acceptance of MRI technology as a diagnostic tool. In the general patient monitoring market, future growth of the Company s Millennia and M12 monitors is dependent on its ability to further penetrate an already competitive market.

In addition, the recent consolidation in the medical care provider market has resulted in a number of very large purchasers of medical devices. These large purchasers typically prefer to establish relationships with medical device manufacturers that have broad and diverse product lines.

The failure of the Company s products to continue to gain market acceptance or a continued consolidation of the medical care provider market could have a material adverse effect on its business and results of operations.

THE COMPANY FACES SUBSTANTIAL LEVELS OF COMPETITION

The Company has encountered and will continue to encounter significant competition in the sale of its products. The Company s general patient monitoring competitors include a number of large multinational corporations. Some of these competitors may be able to adapt more quickly to new or emerging technologies and changes in customer requirements, or to devote greater resources to the development, promotion and sale of their products than the Company can. In the MRI patient monitoring market, the Company has enjoyed a significant first-to-market advantage over its competitors. However, competitors have introduced products designed to compete with its MRI vital signs monitoring products. In addition, as the market for MRI vital signs monitoring products expands it may attract competitors with greater resources.

Additionally, competition may increase if new companies enter the Company s markets or if existing competitors expand their product lines or intensify efforts within existing product lines. The introduction of competitive products may result in a decrease in the Company s market share and in a decrease in the prices at which the Company is able to sell its products. The Company s market share could also be adversely affected by increasing concentration in the medical care provider market. Any decrease in the Company s market share or decrease in the prices at which the Company is able to sell its products could have a material adverse effect on its business and results of operations.

THE COMPANY S FINANCIAL RESULTS MAY FLUCTUATE

The Company s financial results may fluctuate significantly from period to period because of a variety of factors, many of which are beyond its control. These factors include:

- increased competition, including possible future competition in the MRI monitor market
- changes in the Company s pricing policies and those of its competitors
- changes in the Company s operating expenses or capital expenditures
- timing and market acceptance of new and upgraded product introductions by the Company and its competitors
- introduction of alternative technologies by the Company and its competitors
- effect of potential acquisitions
- other general economic factors

Fluctuations caused by these and other factors could have a material adverse effect on the Company s business and results of operations.

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THE COMPANY IS SUBJECT TO A SIGNIFICANT RISK OF NEW LAWS RELATED TO HEALTH CARE

Changes in the law or new interpretations of existing laws may have a significant effect on the Company s costs of doing business and the amount of reimbursement the Company receives from both government and third-party payors. In addition, economic forces, regulatory influences and political initiatives are subjecting the health care industry to fundamental changes. Federal, state and local government representatives are likely to continue to review and assess alternative health care delivery systems and payment methods. The Company expects ongoing public debate on these issues. Any of these efforts or reforms could have a material adverse affect on the Company s business and results of operations.

THE COMPANY S BUSINESS IS SUBJECT TO TECHNOLOGICAL CHANGE AND INTRODUCTION OF NEW PRODUCTS

Technological change, evolving industry standards and new product introductions and enhancements characterize the markets for the Company s products. Many of the Company s products and products under development are technologically innovative, and therefore require significant planning, design, development and testing. These activities require the Company to make significant capital commitments and investments. In addition, industry standards may change on short notice and new products and technologies may render existing products and technologies uncompetitive. Additionally, the products that the Company is currently developing, and those that the Company develops in the future, may not be technologically feasible or accepted by the marketplace or they may not be completed in an acceptable time frame. Technological change could prevent the Company from achieving the benefits it expects form research initiatives and could also result in a loss from existing products.

THE COMPANY CURRENTLY IS INVOLVED IN A LEGAL PROCEEDING

The Company s medical device subsidiary, Invivo Research, was one of two third-party defendants named in a lawsuit in June of 1994 by Southern Nevada Surgical Center and Surgex Southern Nevada, Inc. in Nevada State District Court. The underlying action in this matter stemmed from an incident involving a surgical patient undergoing a procedure at the Southern Nevada Surgical Center. The patient suffered a serious permanent brain injury. A lawsuit was filed on behalf of the patient against the surgical center and the anesthesiologist who monitored the patient. The defendants in that action made a substantial settlement to the patient. Southern Nevada Surgical Center (SNSC) and Surgex were seeking indemnity and contribution of approximately $14 million from the manufacturer of the anesthetic gas machine and Invivo Research, which manufactured the vital signs monitor used in this procedure. SNSC and Surgex alleged that both the anesthetic gas machine and the vital signs monitor were defective. The Company believes that the vital signs monitor operated properly and was properly designed for its intended function.

On August 18, 1999, the Nevada District Court granted the Company s Motion to Dismiss for Failure to Prosecute. The Order granted dismissal of the SNSC and Surgex contribution claims, without prejudice, based upon Nevada law that provides that an action must be brought to trial within five years of the date of the filing of the original action. The dismissal is being appealed.

In April of 1997, the plaintiff s insurer, CNA, filed an action with identical causes in the same Nevada State Court. This second action was removed by the Company to U.S. District Court. The action by CNA was dismissed by the District Court on January 19, 2000 as the District Court found CNA did not have standing as the real party of interest. CNA appealed the decision to the Ninth Circuit Court of Appeals. A three-member panel of the Ninth Circuit reversed the dismissal and remanded the case back to Federal District Court on July 30, 2001. The Company appealed this decision and requested a decision from the full panel of the Ninth Circuit. The Ninth Circuit, without issuing an opinion, unanimously voted to deny the Petition for Rehearing in this matter. The action has been remanded to the U.S. District Court for further proceedings.

Any judgment against the Company that exceeds the amount that its insurer is required to pay could have a material adverse effect on its business and results of operations.

In addition to the litigation described above, the Company is also currently a defendant in other litigation matters and may from time to time be subject to new litigation and third party claims. Litigation is by its nature costly and may divert management s attention, either of which could adversely affect the Company s operating results. In addition, if any current or future litigation is determined adversely, the Company s operating results and financial condition could be adversely affected.

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THE COMPANY FACES PRODUCT LIABILITY AND PRODUCT RECALL RISKS

With respect to all of its products, and particularly its medical devices, the Company faces the risk of potentially large product liability claims. The malfunction or misuse of its products could potentially result in serious harm to a patient. In addition, the Company may be required to indemnify its distributors and customers for similar claims made against them.

Claims could be made against the Company even if its products did not contribute to the injury that was sustained. Frequently, the Company s products are used with products developed by other manufacturers. Even if its products are not the cause of the injury, the Company may not be able to prove that some other product malfunction or human error caused a claimant s injury.

The Company has had product liability claims made against it in the past and may have further claims made against it in the future. While the Company is insured for certain product liability claims, not all claims will be covered and the level of its insurance may not be sufficient to protect it from the full amount of a successful claim. In addition, the Company may not be able to obtain adequate amounts of insurance at an acceptable cost. Claims made against the Company that are not insured, or that exceed the amount of the Company s coverage, could have a material adverse effect on its business and results of operations.

Similarly, the Company s products are subject to the potential of being recalled by government agencies for actual or potential deficiencies or problems. Any such recall would likely be expensive and would have a material adverse effect on the Company s business and results of operations.

THE COMPANY FACES INCREASED RISKS OF INTERNATIONAL OPERATIONS

International sales have accounted for over 20% of the Company s sales for each of the past three years and may increase over time. International sales are subject to a number of risks, including the following:

fluctuations in exchange rates may affect the demand for products and services the Company provides in foreign markets

adverse changes in local economic conditions could depress the demand for the Company s products

agreements may be difficult to enforce and receivables difficult to collect through a foreign country s legal system

foreign customers may have longer payment cycles

foreign countries may impose additional withholding taxes or otherwise tax the Company s foreign income, impose tariffs, or adopt other restrictions on foreign trade

U.S. export licenses may be difficult to obtain

the protection of intellectual property in foreign countries may be more difficult than in the United States

Any of these factors could have a material adverse impact on the Company s business and results of operations.

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ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The Company s sales are primarily denominated in U.S. dollars and as a result, the Company has relatively little exposure to foreign currency exchange risk with respect to its sales. The Company does not currently hedge against exchange foreign currency rate fluctuations. The effect of an immediate 10% change in exchange rates would not have a material impact on the Company s future operating results or cash flows.

The Company s exposure to market risk for a change in interest rates relates primarily to its investment portfolio. As of September 30, 2002, the Company s short-term investments consisted of available-for-sale securities of $25.5 million. These fixed income marketable securities included corporate bonds, municipal bonds and mutual bond funds, all of which are of high investment grade. They are subject to interest rate risk and will decline in value if the market interest rates increase. If the market interest rates were to increase immediately and uniformly by 10% from levels as of September 30, 2002, the decline in the fair value of the portfolio would not be material to the Company s financial position.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures. Regulations under the Securities Exchange Act of 1934 require public companies to maintain disclosure controls and procedures, which are defined to mean a company s controls and other procedures that are designed to ensure that information required to be disclosed in the reports that it files or submits under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported, within the time periods specified in the Commission s rules and forms. The Company s chief executive officer and chief financial officer, based on their evaluation of the effectiveness of its disclosure controls and procedures within 90 days before the filing date of this report, concluded that the Company s disclosure controls and procedures were effective for this purpose.

Changes in Internal Controls. There were no significant changes in the Company s internal controls or, to the Company s knowledge, in other factors that could significantly affect these controls subsequent to the date of the evaluation referenced above.

PART II OTHER INFORMATION

ITEM 1: LEGAL PROCEEDINGS:

1.) The Company s medical device subsidiary, Invivo Research, was one of two third-party defendants named in a lawsuit in June of 1994 by Southern Nevada Surgical Center and Surgex Southern Nevada, Inc. in Nevada State District Court. The underlying action in this matter stemmed from an incident involving a surgical patient undergoing a procedure at the Southern Nevada Surgical Center. The patient suffered a serious permanent brain injury. A lawsuit was filed on behalf of the patient against the surgical center and the anesthesiologist who monitored the patient. The defendants in that action made a substantial settlement to the patient. Southern Nevada Surgical Center (SNSC) and Surgex were seeking indemnity and contribution of approximately $14 million from the manufacturer of the anesthetic gas machine and Invivo Research, which manufactured the vital signs monitor used in this procedure. SNSC and Surgex alleged that both the anesthetic gas machine and the vital signs monitor were defective. The Company believes that the vital signs monitor operated properly and was properly designed for its intended function and intends to defend itself vigorously in this matter.

On August 18, 1999, the Nevada District Court granted the Company s Motion to Dismiss for Failure to Prosecute. The Order granted dismissal of the SNSC and Surgex contribution claims, without prejudice, based upon Nevada law that provides that an action must be brought to trial within five years of the date of the filing of the original action. The dismissal is being appealed.

In April of 1997, the plaintiff s insurer, CNA, filed an action with identical causes in the same Nevada State Court. This second action was removed by the Company to U.S. District Court. The action by CNA was dismissed by the District Court on January 19, 2000 as the District Court found CNA did not have standing as the real party of interest. CNA appealed the decision to the Ninth Circuit Court of Appeals. A three-member panel of the Ninth Circuit reversed the dismissal and remanded the case back to Federal District Court on July 30, 2001. The Company appealed this decision and requested a decision from the full panel of the Ninth Circuit. The Ninth Circuit, without issuing an opinion, unanimously voted to deny the Petition for Rehearing in this matter. The action has been remanded to the U.S. District Court for further proceedings.

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Any judgment against the Company that exceeds the amount that its insurer is required to pay could have a material adverse effect on its business and results of operations.

2.) In November, 1999, four individuals previously employed by the Company s Invivo Research subsidiary filed a multi-plaintiff lawsuit against the Company in the Middle District Court of Florida alleging violations of the Age Discrimination in Employment Act. Since this filing, three additional individuals have chosen to opt-in to this case, one of the individuals has subsequently voluntarily dismissed all claims with prejudice and a second individual has filed a voluntary motion for dismissal from the case. The remaining plaintiffs are claiming entitlement to back pay and front pay in an aggregate amount of approximately $3 million. If they are successful, they would be also be entitled to liquidated (double) damages with respect to back pay, to their attorneys fees and costs and to prejudgment interest. The Company believes that Invivo Research has substantial defenses to the plaintiffs allegations and intends to defend itself vigorously in this matter. The Company further believes that even if the plaintiffs were successful in pursuit of their claims, that the proper amount of damages would be substantially less than the amount alleged. The trial in this matter is currently set to begin in the second quarter of 2003.

ITEM 2: CHANGES IN SECURITIES:

Not Applicable.

ITEM 3: DEFAULTS UPON SENIOR SECURITIES:

Not Applicable.

ITEM 4: SUBMISSION OF MATTERS TO A VOTE OF SECURITIES HOLDERS:

Not Applicable.

ITEM 5: OTHER INFORMATION:

Not Applicable.

ITEM 6: EXHIBITS AND REPORTS ON FORM 8-K

(a) Exhibit 99.1-Certification of chief executive officer and chief financial officer pursuant to section 906 of the Sarbanes-Oxley Act of 2002

Exhibit 10.25-Amended and Restated Employment Agreement for Brent Johnson

(b) Reports on Form 8-K:

None.

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SIGNATURES

Pursuant to the requirements of the Securities Exchange Act, of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

INVIVO CORPORATION

Date: November 14, 2002

By: /s/ JOHN F. GLENN

Vice President-Finance
and Chief Financial Officer
(Principal Financial and
Accounting Officer)

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CHIEF EXECUTIVE OFFICER CERTIFICATION

I, James B. Hawkins, President and Chief Executive Officer of Invivo Corporation certify that:

1. I have reviewed this quarterly report on Form 10-Q of Invivo Corporation (the Registrant);

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this quarterly report.

4. The Registrant s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the Registrant and we have:

   a.) Designed such disclosure controls and procedures to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b.) Evaluated the effectiveness of the Registrant s disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the Evaluation Date); and

   c.) Presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The Registrant s other certifying officers and I have disclosed, based on our most recent evaluation, to the Registrant s auditors and the audit committee of Registrant s board of directors (or persons performing the equivalent function):

   a.) All significant deficiencies in the design or operation of internal controls which could adversely affect the Registrant s ability to record, process, summarize and report financial data and have identified for the Registrant s auditors any material weaknesses in internal controls; and

   b.) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant s internal controls; and

6. Registrant s other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: November 14, 2002

By: /s/ JAMES B. HAWKINS

James B. Hawkins
President and Chief Executive Officer

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CHIEF FINANCIAL OFFICER CERTIFICATION

I, John F. Glenn, Vice President of Finance and Chief Financial Officer of Invivo Corporation certify that:

1. I have reviewed this quarterly report on Form 10-Q of Invivo Corporation (the Registrant);

2. Based on my knowledge, this quarterly report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly report, fairly present in all material respects the financial condition, results of operations and cash flows of the Registrant as of, and for, the periods presented in this quarterly report.

4. The Registrant s other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for the Registrant and we have:

   a.) Designed such disclosure controls and procedures to ensure that material information relating to the Registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this quarterly report is being prepared;

   b.) Evaluated the effectiveness of the Registrant s disclosure controls and procedures as of a date within 90 days prior to the filing date of this quarterly report (the Evaluation Date); and

   c.) Presented in this quarterly report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;

5. The Registrant s other certifying officers and I have disclosed, based on our most recent evaluation, to the Registrant s auditors and the audit committee of Registrant s board of directors (or persons performing the equivalent function):

   a.) All significant deficiencies in the design or operation of internal controls which could adversely affect the Registrant s ability to record, process, summarize and report financial data and have identified for the Registrant s auditors any material weaknesses in internal controls; and

   b.) Any fraud, whether or not material, that involves management or other employees who have a significant role in the Registrant s internal controls; and

6. Registrant s other certifying officers and I have indicated in this quarterly report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: November 14, 2002

By: /s/ JOHN F. GLENN

John F. Glenn
Vice President of Finance and Chief Financial Officer