

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE
DEFIBRILLATORS PRODUCTS
LIABILITY LITIGATION

MDL No. 05-1708 (DWF/AJB)

This Document Relates to:

Mark J. Peltier,

Plaintiff,

v. Civil No. 06-3447 (DWF/AJB)

Guidant Corporation, Guidant Sales
Corporation, Cardiac Pacemakers, Inc., and
Boston Scientific Corporation,

Defendants.

**ORDER FOR
WITHDRAWAL OF COUNSEL**

David L. Friend, Esq., and Erik B. Walker, Esq. Hissey Kientz, LLP, counsel for Plaintiff.

Timothy A. Pratt, Esq., Shook Hardy & Bacon LLP, and Joseph M. Price, Esq., Faegre & Benson LLP, counsel for Defendants.

Plaintiff Mark Peltier commenced this action on August 23, 2006. Pursuant to District of Minnesota Local Rule 83.7, Peltier's counsel, David L. Friend, Esq., and Erik B. Walker, Esq., of Hissey Kientz, LLP ("Hissey Kientz") filed a Motion to Withdraw on December 20, 2006. On January 29, 2007, the Court asked Peltier to respond in writing to the motion, which he did by e-mails dated February 1 and 2, 2007.

The Court forwarded copies of those e-mails to Hissey Kientz, and Hissey Kientz submitted a response by e-mail on February 5, 2007. The Court also invited Plaintiffs' Lead Counsel Committee and Guidant to submit a response to the motion. Plaintiffs' Lead Counsel Committee submitted no response, and Guidant informed the Court that it takes no position on the motion.

An attorney may be permitted to withdraw as counsel of record only by order of the Court. D. Minn. LR 83.7(a). "Withdrawal without substitution may be granted only by a motion before the Court, for good cause shown." D. Minn. LR 83.7(c). Hissey Kientz asserts that irreconcilable differences exist between it and Peltier, which cause it to be unable to continue as counsel of record. The e-mail submissions show that a dispute has arisen between Peltier and Hissey Kientz related to Peltier's desire to obtain a loan and Hissey Kientz's reluctance to help Peltier secure the loan. Peltier explains his reasons for wanting the loan and asks the Court to use its discretion in considering whether it is in his best interest to have Hissey Kientz continue to represent him.

Based on the submissions of the parties, the Court finds that good cause exists to allow Hissey Kientz to withdraw from representing Peltier. Given the exchanges that have taken place between Hissey Kientz and Peltier, Peltier's interests are best served if he finds new counsel to represent him. In his e-mails to Hissey Kientz, Peltier has indicated his extreme dissatisfaction with his representation and stated that he intends to retain new counsel. Hissey Kientz has indicated in e-mails that it will furnish a copy of Peltier's file to new counsel at no cost to Peltier and that it is willing to address any other concerns the Court may have.

Based on a review of the file and the submissions of the parties, **IT IS HEREBY ORDERED** that:

1. Hissey Kientz's Motion to Withdraw (Civ. No. 06-3447 (DWF/AJB), Doc. No. 5) is **GRANTED**.¹
2. Hissey Kientz shall confer with Guidant to confirm if there are any outstanding discovery issues related to Peltier's case, including but not limited to, the completion of a Plaintiff's Fact Sheet. If there are any outstanding discovery deficiencies, Hissey Kientz shall provide Peltier with copies of documents relating to those deficiencies and explain when the deficiencies need to be answered by Peltier or his new counsel.
3. Hissey Kientz shall inform Peltier of the substance of this Order (by e-mail and by U.S. Mail) and provide him with the contact information for Guidant and the Plaintiff's Lead Counsel Committee. It shall also provide Peltier, or his new counsel, with his file and all case documents, at no cost to him.
4. Hissey Kientz shall provide Guidant and the Plaintiff's Lead Counsel Committee with Peltier's current contact information, including mailing address, telephone numbers, and e-mail address.
5. Peltier is encouraged to immediately seek new counsel. If he cannot afford to do so, the Court encourages him to investigate the possibility of a volunteer attorney service in his area.

¹ Hissey Kientz filed its motion only in the individual case. It should have filed its motion in both the original case and in MDL 05-1708 (DWF/AJB).

6. The Clerk of Court shall mail a copy of this Order to Mark J. Peltier at 3290 Carmine Street, Carson City, NV 89701.

Dated: February 9, 2007

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court