

**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 ALL ACTIONS

ORDER

Prior to the Court's May 31, 2006 telephonic status conference held in this matter, Guidant submitted a statement to the Court concerning disputed agenda items for that status conference. Included in that statement was an informal motion to quash Plaintiffs' attempts to hold open the deposition of Dan Tich, Guidant's Manager for Product Performance Communication with the Reliability Assurance Department, and to prohibit Plaintiffs from holding open depositions in such a fashion in the future.

The April 7, 2006 notice for Tich's deposition did not include a request for documents or a subpoena duces tecum. However, Tich was initially identified as a priority document custodian and thus Guidant produced Tich's hardcopy and electronic document files consisting of 18,870 pages.

During the first day of Tich's deposition on May 23, 2006, which occurred weeks after the deposition had been noticed, Plaintiffs' counsel asserted that it doubted that Tich was in possession of all drafts of physician advisory letters with revisions. According to Plaintiffs, Guidant's counsel did not have knowledge of the status of Tich's document production, nor could Guidant's counsel verify whether any of Tich's documents had not

been produced. As a result, Plaintiffs requested to hold open Tich's deposition for an additional two hours and reserve the right to later cross-examine Tich about these additional drafts, once Tich's document production was complete. Guidant opposes Plaintiffs' request to complete the deposition.

The Court finds it appropriate to allow Plaintiffs an additional two hours to complete Tich's deposition once a complete production of his responsive custodial files is submitted. Thus, the Court orders that Guidant complete production of Tich's responsive custodial files by August 10, 2006, and make Tich available to complete the deposition by August 20, 2006. If this schedule cannot be met, and if the parties cannot agree upon a schedule that otherwise accommodates their needs, the parties should contact the Court in writing and the Court will attempt to resolve any further dispute as soon as possible.

Based upon the presentations of the parties, the Court having reviewed the procedural history of the file, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiffs will be allowed an additional two hours to complete the deposition of Dan Tich. This deposition shall be completed by August 20, 2006.
2. Guidant shall complete production of Dan Tich's responsive custodial files by August 10, 2006.

Dated: August 2, 2006

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