

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MINNESOTA

Chambers of
DONOVAN W. FRANK
DISTRICT JUDGE

Warren E. Burger Federal Building
316 North Robert Street, Room 738
St. Paul, Minnesota 55101
(651) 848-1290

June 8, 2007

BY U.S. MAIL & ECF

Kimberly Lambert, Esq.
Levin, Papantonio, Thomas, Mitchell,
Echsner & Proctor, PA
316 South Baylen Street, Suite 400
Pensacola, Florida 32502

Re: *Richard Ahart, Valerie Ahart, James Chappell, and Shirley Chappell*
v. Guidant Corporation, et al.
Civil No. 07-2493 (DWF/AJB)
AND
James Chappell and Shirley Chappell v. Guidant Corporation et al.
Civil No. XX-XXXX (DWF/AJB)

Dear Ms. Lambert:

On May 24, 2007, you filed a Consolidated Complaint by Adoption on behalf of James Chappell, Shirley Chappell, and others. The Complaint states that James Chappell and Shirley Chappell are citizens and residents of Kanawha County, West Virginia, and on July 10, 2002, James Chappell was implanted with Guidant Device Model #1861, Serial #227206 at Charleston Area Medical Center in Charleston, West Virginia. On June 7, 2007, the District of Minnesota Clerk's Office received a Complaint from you to be filed also on behalf of James Chappell and Shirley Chappell. This Complaint states that James Chappell and Shirley Chappell are citizens and residents of Kanawha County, West Virginia, and on July 10, 2002, James Chappell was implanted with Guidant Device Model #1861, Serial #227206 at Charleston Area Medical Center in Charleston, West Virginia.

Through this letter, I am giving you the chance to respond in writing to explain the situation comprising the dual filings, and whether one of the two cases should be and/or will be withdrawn. Please respond within one week of receipt of this letter. You may send your response in writing (316 North Robert Street, St. Paul, Minnesota 55101); by fax (651-848-1292); or by e-mail (frank_chambers@mnd.uscourts.gov). If you agree that the second case sent for filing by you should be withdrawn, it is agreeable to the Court to have you, Mr. James Chappell, and Ms. Shirley Chappell sign a stipulation explaining the parties' agreement to have the second Complaint sent for filing (dated June 7, 2007) withdrawn and returned along with the filing fee. If you contend that the second Complaint should not be withdrawn, the Court will then go ahead and have the second Complaint filed and Order the parties to file respective Motions to Dismiss in the pending cases where Mr. James Chappell and Ms. Shirley Chappell are named Plaintiffs, reserving the right to award costs for the filings. The Court will not allow Mr. James Chappell and Ms. Shirley Chappell to remain named Plaintiffs both in two separate cases.

Kimberly Lambert, Esq.

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I am electronically filing a copy of this letter so that Plaintiffs' Lead Counsel and Guidant's attorneys will receive a copy of this letter. By this letter, I am also giving those attorneys one week to support or oppose any position by electronically filing their statement and mailing a copy of their statement to you.

After I receive the responses, I will determine the appropriate course of action based on the papers submitted or schedule a telephone conference to discuss the filings.

Very truly yours,

s/Donovan W. Frank

DONOVAN W. FRANK
Judge of United States District Court

DWF:rlb

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