

**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:

Redge Westcott, III,

Plaintiff,

v. Civil No. 06-46 (DWF/AJB)

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

Defendants.

**ORDER FOR DISMISSAL
WITHOUT PREJUDICE**

Plaintiff in the above-captioned matter, Redge Westcott, III, died on December 5, 2005. Under Louisiana law, the proper party to assert Mr. Westcott's action for the damages that accrued prior to his death (the survival action) are his two children, Melissa Westcott Broussard and Stephanie Westcott. La. Civ. Code art. 2315.1. Melissa Westcott Broussard and Stephanie Westcott have filed claims in the United States District Court for the Eastern District of Louisiana against the above-named defendants asserting both a survival action and a wrongful death action under Louisiana law entitled *Melissa Broussard and Stephanie Westcott v. Guidant Corporation and Guidant Sales Corporation*, USDC E.D. La. 06-10752 and that case was transferred to this Court and is captioned *Melissa Broussard and Stephanie Westcott v. Guidant Corporation and Guidant Sales Corporation*, USDC Minn. 07-cv-520 (DWF/AJB).

Given that the above-captioned matter is duplicative of the survival action and to simplify the administration of these claims, Plaintiff Redge Westcott, III, by and through counsel, has filed a Motion to Dismiss Without Prejudice (MDL No. 05-1708 (DWF/AJB), Doc. No. 2009).¹ After consideration of the submissions and review of the procedural history of the file,

IT IS HEREBY ORDERED:

1. Plaintiff Redge Westcott, III's Motion to Dismiss Without Prejudice (MDL No. 05-1708 (DWF/AJB), Doc. No. 2009) is **GRANTED**.
2. Plaintiff's claims against Defendants Guidant Corporation, Guidant Sales Corporation, and Cardiac Pacemakers, Inc., expressed in the Complaint (Civil No. 06-46 (DWF/AJB), Doc. No. 1) are **DISMISSED WITHOUT PREJUDICE**.
3. Each party to bear its own costs.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 21, 2007

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

¹ Plaintiff filed his motion only in the original case. Plaintiff should have filed his petition in both the original case Civil No. 06-46 (DWF/AJB) and in the master case MDL No. 05-1708 (DWF/AJB).