

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

July 20, 2007

BY U.S. MAIL & ECF

David M. Peterson, Esq.
Nicholas S. Clevenger, Esq.
Peter E. Goss, Esq.
Samual M. Wendt, Esq.
Peterson & Associates, PC
801 W. 47th Street, Suite 107
Kansas City, MO 64112

W. Lewis Garrison, Jr., Esq.
William L. Bross, Esq.
Heninger Garrison & Davis LLC
P.O. Box 11310
Birmingham, AL 35202

Re: *Anthanyneell Chestang v. Guidant Corporation, Guidant Sales Corporation, Cardiac Pacemakers Inc., and Boston Scientific Corporation*
Civil No. 07-2532 (DWF/AJB)

AND

Vernon Gentry, . . . Anthanyneell Chestang, et al. v. Guidant Corporation, Guidant Sales Corporation, Cardiac Pacemakers Inc., and Boston Scientific Corporation
Civil No. 07-3176 (DWF/AJB)

Dear Counsel:

On May 30, 2007, Peterson & Associates, P.C. filed a Complaint by Adoption on behalf of Anthanyneell Chestang. The Complaint states that Anthanyneell Chestang is a citizen and resident of Washington County, Alabama, and on September 12, 2005, was implanted with Guidant Device Model #H179, Serial #112119 by Eric C. Johnson, M.D., at Providence Hospital in Mobile, Alabama. On June 29, 2007, Heninger Garrison & Davis LLC filed a Complaint by Adoption on behalf of Anthanyneell Chestang, among others. This Complaint states that Anthanyneell Chestang is a citizen and resident of Jefferson County, Alabama, and on September 12, 2005, was implanted with Guidant Device Model #H179, Serial #112119 by Dr. Stephanie Grosz at Providence Hospital in Mobile, Alabama.

Through this letter, I am giving both of your firms the chance to respond in writing to explain the situation comprising the possible dual filings, and whether Mr. Chestang should be and/or will be voluntarily dismissed from one of the two cases. Please respond within one week

David M. Peterson, Esq.
Nicholas S. Clevenger, Esq.
Peter E. Goss, Esq.
Samual M. Wendt, Esq.
W. Lewis Garrison, Jr., Esq.
William L. Bross, Esq.
July 20, 2007
Page 2

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 Mr. Chestang should be voluntarily dismissed from either the first or second case, it is agreeable to the Court to have all attorneys (including attorneys from both Peterson & Associates and Heninger Garrison & Davis) and Mr. Chestang sign a stipulation explaining the parties' agreement to have Mr. Chestang voluntarily dismissed from either the first or the second case filed. If either of you contend that Mr. Chestang should not be voluntarily dismissed from your respective case, the Court will then Order the parties to file respective Motions to Dismiss in the pending cases where Mr. Chestang is a named Plaintiff, reserving the right to award costs for the filings. The Court will not allow Mr. Chestang to remain a named Plaintiff in two separate cases.

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

c: Charles S. Zimmerman, Esq. (by ECF)
Zimmerman Reed
651 Nicollet Mall, Suite 501
Minneapolis, MN 55402-4123

Timothy Pratt, Esq. (by ECF)
Shook, Hardy & Bacon, LLP
2555 Grand Blvd.
Kansas City, MO 64108-2613