

**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 REGARDING STATUS OF  
PENDING MOTIONS**

The Guidant Defendants and the Plaintiffs' Lead Counsel Committee ("LCC"), pursuant to paragraph 10(b) of Pretrial Order 2, entered into a proposed settlement of this litigation on July 12, 2007. Presently, there are several issues and motions pending before the Court. Accordingly, based on the review of the parties' proposed settlement, and pursuant to the Court's authority as a transferee court and a court of original jurisdiction in this MDL proceeding and in furtherance of its jurisdiction and to effectuate and promote the fair and efficient management and promotion of the reasonable ultimate resolution of these proceedings, the Court hereby orders as follows:

1. All motions, pending deadlines, and discovery obligations that relate to the previously scheduled bellwether trials are hereby suspended and stayed pending implementation of the settlement or further Order of this Court.<sup>1</sup> This includes the following filed motions:

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<sup>1</sup> In the interim, a party may in good faith file a motion to lift any stay upon a showing of prejudice.

- a. Motions *in Limine* in *Duron* (MDL No. 05-1708, Doc. Nos. 1979 and 1985; Civ. No. 06-25, Doc. Nos. 184 and 190);
- b. Summary Judgment Motions in *Clasby* (MDL No. 05-1708, Doc. No. 1821; Civ. No. 05-2596, Doc. No. 14);
- c. Summary Judgment Motions in *Braund* (MDL No. 05-1708, Doc. No. 2035; Civ. No. 07-2807, Doc. No. 18);
- d. *Daubert* Motions in *Braund* (MDL No. 05-1708, Doc. Nos. 2015 and 2027; Civ. No. 07-2807, Doc. Nos. 10 and 12); and
- e. Guidant's Motion to Strike Plaintiff's May 25, 2007 Expert Report of Randolph Armstrong (MDL No. 05-1708, Doc. No. 1916; Civ. No. 07-2807, Doc. No. 4).

2. All motions and any deadlines related to such motions that relate either to all cases or to non-bellwether cases, except for those listed in paragraph 3 below, are hereby suspended and stayed pending implementation of the settlement or further Order of this Court.<sup>2</sup> This includes the following motions that have already been filed:

- a. Defendants' Motion for Amended Preservation Order (MDL No. 05-1708, Doc. No. 73);
- b. Plaintiffs' Motion to Compel Production of Material from Defendants' Backup Tapes (MDL 05-1708, Doc. No. 533);

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<sup>2</sup> In the interim, a party may in good faith file a motion to lift any stay upon a showing of prejudice.

- c. Plaintiffs' Master Motion for Leave to Amend or Supplement all Complaints to Name Boston Scientific Corporation as Defendant (MDL 05-1708, Doc. No. 620);
- d. Plaintiff Brown's Motion to Remand and Motion for Sanctions [28 U.S.C. § 1447] (MDL No. 05-1708, Doc. No. 1896; Civ. No. 07-1487, Doc. No. 13);
- e. Motion by Defendant Leland Housman, M.D. to Sever Medical Malpractice Action and Remand Case Back to Superior Court, State of California, County of Santa Clara (MDL No. 05-1708, Doc. No. 1801; Civ. No. 07-1487, Doc. No. 7);
- f. Plaintiffs' Motion for Setting of Death Case as a Representative Trial (MDL No. 05-1708, Doc. No. 1123; Civ. No. 06-1571, Doc. No. 3; Civ. No. 06-0680, Doc. No. 8, Civ. No. 06-3252, Doc. No. 4, Civ. No. 06-3253, Doc. No. 7);
- g. Plaintiffs' FRCP 37(a)(2)(A) Motion for Order Compelling Discovery/Disclosure, FRCP 37(b)(2)(D) Motion for Contempt for Failure to Obey Pretrial Order No. 15 and FRCP 37(b)(2) Motion for Sanctions (MDL No. 05-1708, Doc. No. 2148; Civ. No. 06-1571, Doc. No. 4; Civ. No. 06-3253, Doc. No. 8; Civ. No. 06-3252, Doc. No. 5);
- h. Plaintiff Miller's Motion to Remand to State Court and Supporting Memorandum of Law (Civ. No. 07-2946, Doc. No. 3);

i. Plaintiff Tamela Ivens' Motion for Certification Under 28 U.S.C. § 1292(B) and Rule 54(b) (MDL No. 05-1708, Doc. No. 2085; Civ. No. 05-1491, Doc. No. 30); and

j. Plaintiffs' Motion for Entry of Judgment Under Fed. R. Civ. P. 54(b) or, in the Alternative for Certification Under 28 U.S.C. § 1292(b) (MDL No. 05-1708, Doc. No. 2200).

3. The Court intends to rule on the following motions based on the submissions filed with the Court:

a. Bloomberg's Motion to Intervene and Unseal Summary Judgment Motion Papers and Associated Materials (MDL No. 05-1708, Doc. No. 1930; Civ. No. 06-25, Doc. No. 177);

b. Plaintiffs Motion in Support of Bloomberg L.P.'s Motion to Intervene and Unseal Summary Judgment Motion Papers and Associated Materials, and Plaintiffs' Renewed Motion for an Order Compelling Defendants to Show Cause Why Designated Documents Should Remain Confidential (MDL No. 05-1708, Doc. No. 2053); and

c. Plaintiff Alexander's Motion to Amend the Court's Order Issued June 4, 2007 Remanding the Above Captioned Cause of Action to State Court (MDL No. 05-1708, Doc. No. 1929; Civ. No. 07-1129, Doc. No. 22).

4. The Court will continue to entertain Notices of Voluntary Dismissal and Petitions for Wrongful Death Trustees and will enter Orders accordingly.

5. The Court will continue to contact attorneys of record regarding any possible duplicative case filings, and will file Orders withdrawing or dismissing duplicative cases based on filed stipulations of the parties involved.

6. Various Plaintiffs filed Motions for Amended Complaints, Amended Complaints, Complaints by Adoption, and Motions to Substitute Parties after Defendants filed their Answer. Having considered Plaintiffs' submissions and reviewed the procedural history of the various files, and having acknowledged that Guidant does not object, it is hereby ordered that the following filings are **GRANTED** and **RECEIVED AS FILED**.

<b>Date Filed<sup>3</sup></b>	<b>Case No.</b>	<b>Nature of Filing</b>
May 16	MDL No. 05-1708, Doc. No. 1777; Civ. No. 07-2313, Doc. No. N/A <sup>4</sup>	Notice of Filing Complaint by Adoption
May 16	MDL No. 05-1708, Doc. No. 1779; Civ. No. 07-2314, Doc. No. N/A	Notice of Filing Complaint by Adoption
May 16	MDL No. 05-1708, Doc. No. 1781; Civ. No. 07-1676, Doc. No. 4	Motion for Leave to File Amended Complaint
May 22	MDL No. 05-1708, Doc. No. N/A; Civ. No. 06-1823, Doc. No. 3	Amended Complaint and Jury Demand
May 24	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-65, Doc. No. 3	Amended Complaint by Adoption
May 24	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-2284, Doc. No. 3	Complaint by Adoption for Individuals
May 25	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1268, Doc. No. 4	First Amended Complaint and Jury Demand
May 25	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1260, Doc. No. 3	First Amended Complaint and Jury Demand

<sup>3</sup> All filing dates listed hereunder occurred in 2007.

<sup>4</sup> If Plaintiff did not file his or her Motion for Amended Complaint, Amended Complaint, Complaint by Adoption, and/or Motion to Substitute Parties in either the master case or in the original case, and therefore no docket number is available, such is indicated throughout by the letters "N/A."

<b>Date Filed<sup>3</sup></b>	<b>Case No.</b>	<b>Nature of Filing</b>
May 25	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1243, Doc. No. 5	First Amended Complaint and Jury Demand
June 1	MDL No. 05-1708, Doc. No. N/A; Civ. No. 06-3634, Doc. No. 8	Motion for Leave to File Amended Complaint Adding Loss of Consortium Claim
June 6	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-73, Doc. No. 3	Amended Complaint by Adoption
June 6	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-2267, Doc. No. 4	Amended Complaint by Adoption
June 6	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-2361, Doc. No. 3	Amended Complaint by Adoption
June 13	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-2409, Doc. No. 3	Motion for Leave of Court to File Amended Complaint by Adoption
June 13	MDL No. 05-1708, Doc. No. 1945; Civ. No. 07-1123, Doc. No. 17	Amended Complaint by Adoption
June 13	MDL No. 05-1708, Doc. No. 1944; Civ. No. 07-1125, Doc. No. 6	Amended Complaint by Adoption
June 13	MDL No. 05-1708, Doc. No. 1946; Civ. No. 07-1120, Doc. No. 9	Amended Complaint by Adoption
June 13	MDL No. 05-1708, Doc. No. 1943; Civ. No. 07-1121, Doc. No. 12	Amended Complaint by Adoption
June 13	MDL No. 05-1708, Doc. No. 1951; Civ. No. 06-2789, Doc. No. 6	Amended Complaint by Adoption
June 14	MDL No. 05-1708, Doc. No. 1963; Civ. No. 07-2795, Doc. No. 3	Amended Complaint by Adoption
June 15	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-2700, Doc. Nos. 3, 4	Notice of Filing Amended Complaint by Adoption and Amended Consolidated Complaint by Adoption
June 18	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-2658, Doc. No. 3	Complaint by Adoption
June 20	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1683, Doc. No. 4	Complaint by Adoption
June 20	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1752, Doc. Nos. 4, 5	Complaint by Adoption
June 21	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1220, Doc. No. 3	Complaint by Adoption
June 21	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1222, Doc. No. 3	Complaint by Adoption
June 21	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1218, Doc. No. 3	Complaint by Adoption

<b>Date Filed<sup>3</sup></b>	<b>Case No.</b>	<b>Nature of Filing</b>
June 21	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-1217, Doc. No. 3	Complaint by Adoption
June 22/ June 13	MDL No. 05-1708; Doc. No. 2073; Civ. No. 07-1123, Doc. No. 17	Amended Complaint by Adoption
June 25	MDL No. 05-1708, Doc. No. 2077; Civ. No. 06-1826, Doc. No. N/A	Complaint by Adoption
June 28	MDL No. 05-1708, Doc. No. N/A; Civ. No. 07-2602, Doc. No. 3	First Amended Complaint by Adoption
July 27	MDL No. 05-1708, Doc. No. N/A; Civ. No. 06-2199, Doc. No. 11	Motion to Substitute Party and Motion for Leave to File Amended Complaint <sup>5</sup>

7. All future Motions for Amended Complaints, Amended Complaints, Complaints by Adoption, and Motions to Substitute Parties will continue to be filed upon receipt. If Guidant does not issue an objection within 10 days of any such filing, the Motion for Amended Complaint, Amended Complaint, Complaint by Adoption, and/or Motion to Substitute Party will be granted and received as filed.

Dated: July 31, 2007

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

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<sup>5</sup> Mary Lewis, individually and as Personal Representative of the estate of Howard Lewis, shall be substituted as Plaintiff in Civ. No. 06-2199.