

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

August 22, 2007

BY U.S. MAIL & ECF

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Thomas A. Schultz, Esq.
Lopez Hodes Restaino Milman & Skikos
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2911 Turtle Creek Blvd., Suite 900
Dallas, TX 75219

Re: *Aaron R. Cathcart v. Guidant Corporation, et al.*
Civil No. 06-4733 (DWF/AJB)

AND

Pamela Barber, . . . Aaron Cathcart, et al. v. Guidant Corporation, et al.
Civil No. 07-2407 (DWF/AJB)

Dear Counsel:

On December 1, 2006, Lopez Hodes Restaino Milman & Skikos (the "Lopez Firm") filed a Complaint by Adoption on behalf of Aaron R. Cathcart. The Complaint states that Aaron R. Cathcart is a citizen and resident of Washington County, Louisiana, and on December 17, 2001, was implanted with Guidant Device Model #1861, Serial #208355 by Dr. Timothy Smith at Barnes Jewish West County Hospital. On May 22, 2007, the Law Office of Patrick J. Mulligan, PC (the "Mulligan Law Firm") filed a Complaint by Adoption on behalf of Aaron Cathcart, among others. This Complaint states that Aaron Cathcart is a citizen and resident of Franklin, Louisiana, and on December 17, 2001, was implanted with Guidant Device Model #1861, Serial #208355 at Barnes Jewish Hospital, St. Louis, Missouri.

Through this letter, I am giving both of your firms the opportunity to respond in writing to explain the dual filings and whether Aaron Cathcart should be and/or will be voluntarily dismissed from one of the two cases. 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 Aaron Cathcart 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 the Lopez Firm and the Mulligan

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Page 2

Law Firm) and Aaron Cathcart sign a stipulation explaining the parties' agreement to have Aaron Cathcart voluntarily dismissed from either the first or the second case filed. If either of you contend that Aaron Cathcart 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 Aaron Cathcart is a named Plaintiff, reserving the right to award costs for the filings. The Court will not allow Aaron Cathcart 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

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