

**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:

Emmett David Brown,

Plaintiff,

v. Civil No. 07-1487 (DWF/AJB)

Guidant Corporation, an Indiana Corporation;
Endovascular Technologies, Inc., a California
Corporation and a Division of Guidant
Corporation; Guidant Sales Corporation; and
Dr. Leland B. Housman,

Defendants.

**MEMORANDUM
OPINION AND ORDER**

Jeanette Haggas, Esq., Mark E. Burton, Jr., Esq., Nancy Hersh, Esq., and Rachel Abrams, Esq., Hersh & Hersh, counsel for Plaintiff.

Timothy A. Pratt, Esq., Sara J. Romano, Esq., and Dana N. Gwaltney, Esq., Shook Hardy & Bacon, LLP, counsel for Defendants Guidant Corporation, Endovascular Technologies, Inc., and Guidant Sales Corporation.

Michael I. Neil, Esq., and David P. Burke, Esq., Neil, Dymott, Frank, Harrison & McFall, APLC; and Timothy A. Pratt, Esq., Shook Hardy & Bacon, LLP, counsel for Defendant Dr. Leland B. Housman.

In its July 31, 2007 Order, the Court stayed Plaintiff Emmett David Brown's Motion to Remand and Motion for Sanctions [28 U.S.C. § 1447] (MDL No. 05-1708

(DWF/AJB), Doc. No. 1896; Civ. No. 07-1487 (DWF/AJB), Doc. No. 13) and Defendant Leland Housman, M.D.'s Motion to Sever Medical Malpractice Action and Remand Case Back to Superior Court, State of California, County of Santa Clara (MDL No. 05-1708 (DWF/AJB), Doc. No. 1801; Civ. No. 07-1487 (DWF/AJB), Doc. No. 7). (*See* MDL No. 05-1708 (DWF/AJB), Doc. No. 2301.) The above-entitled matter is now before the Court pursuant to Plaintiff's Motion to Lift Stay on Ruling on the Pending Motion to Remand, Motion for Sanctions, and Motion to Sever (MDL No. 05-1708 (DWF/AJB), Doc. No. 2306; Civil No. 07-1487 (DWF/AJB), Doc. No. 26). Defendant Dr. Housman joins in Plaintiff's Motion to Lift Stay as to the Motion to Sever and Remand. (*See* Civil No. 07-1487 (DWF/AJB), Doc. No. 35).¹ Dr. Housman, however, disagrees with Plaintiff's argument that Plaintiff's cases against Dr. Housman and Guidant are inexorably linked. Guidant Corporation, Endovascular Technologies, Inc., and Guidant Sales Corporation ("Guidant") oppose Plaintiff's motion in its entirety. But if the Court decides to entertain Plaintiff's motion, Guidant contends that the Court should only consider the claims against Dr. Housman for remand.

Based upon the submissions of the parties, together with all pleadings, records, and files herein, and noting the objection of Guidant, the Court grants Plaintiff's motion for the limited purpose of lifting the stay only as to Plaintiff Emmett David Brown's Motion to Remand and Motion for Sanctions [28 U.S.C. § 1447] (MDL No. 05-1708

¹ Defendant Dr. Housman filed his Joinder in Plaintiff's Motion only in the original case. Dr. Housman should have filed his Joinder in both the original case Civil No. 07-1487 (DWF/AJB) and in the master case MDL No. 05-1708 (DWF/AJB).

(DWF/AJB), Doc. No. 1896; Civ. No. 07-1487 (DWF/AJB), Doc. No. 13) and Defendant Leland Housman, M.D.'s Motion to Sever Medical Malpractice Action and Remand Case Back to Superior Court, State of California, County of Santa Clara (MDL No. 05-1708 (DWF/AJB), Doc. No. 1801; Civ. No. 07-1487 (DWF/AJB), Doc. No. 7).

Accordingly, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Motion to Lift Stay on Ruling on the Pending Motion to Remand, Motion for Sanctions, and Motion to Sever (MDL No. 05-1708 (DWF/AJB), Doc. No. 2306; Civil No. 07-1487 (DWF/AJB), Doc. No. 26) is **GRANTED**. The Court will rule on Plaintiff Emmett David Brown's Motion to Remand and Motion for Sanctions [28 U.S.C. § 1447] (MDL No. 05-1708 (DWF/AJB), Doc. No. 1896; Civ. No. 07-1487 (DWF/AJB), Doc. No. 13), based on the submissions filed with the Court.

2. Defendant Dr. Housman's Joinder in Plaintiff's Motion to Lift Stay as to Motion to Sever and Remand (Civil No. 07-1487 (DWF/AJB), Doc. No. 35) is **GRANTED**. The Court will rule on Defendant Leland Housman, M.D.'s Motion to Sever Medical Malpractice Action and Remand Case Back to Superior Court, State of California, County of Santa Clara (MDL No. 05-1708 (DWF/AJB), Doc. No. 1801; Civ. No. 07-1487 (DWF/AJB), Doc. No. 7), based on the submissions filed with the Court.

3. All motions, deadlines related to such motions, pending deadlines, and discovery obligations stayed pursuant to the Court's July 31, 2007 Order (MDL No. 05-1708 (DWF/AJB), Doc. No. 2301)—except for those referenced in paragraphs 2(d) and 2(e) therein—remain suspended and stayed pending implementation of the settlement or further Order of this Court. The Court **ORDERS** that the **STAY IS LIFTED** as to the

motions referenced in paragraphs 2(d) and 2(e) only, of the Court's July 31, 2007 Order (MDL No. 05-1708 (DWF/AJB), Doc. No. 2301).

Dated: August 21, 2007

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