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**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE  
DEFIBILLATORS PRODUCTS LIABILITY  
LITIGATION

MDL No. 05-1708 (DWF/AJB)

Case No: 07-cv-3775

Charles Combs  
Plaintiff(s)

**MOTION TO WITHDRAW AS  
COUNSEL OF RECORD WITHOUT  
SUBSTITUTION**

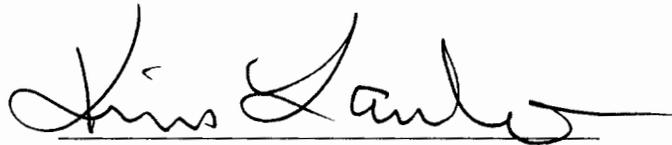
v.

Guidant Corporation, et al.  
Defendant(s)

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NOW COMES, undersigned counsel, who hereby moves this Honorable Court to issue an order dismissing Kimberly Lambert and Levin, Papantonio, Thomas, Mitchell, Echsner, and Proctor, P.A. as counsel of record in the above captioned matter. Plaintiff, Charles Combs, has failed to respond to any and all of Counsel's several communication attempts regarding the upcoming deadlines in this case. Counsel has sent letters via Federal Express to Plaintiff's last two known addresses of 2866 West Gold Dust Avenue, Queen Creek, AZ 85242 and 3350 N. Date Creek Drive, Prescott Valley, AZ 86314 and to the address of Plaintiff's mother-in-law, Debbie Kelly, 40635 Whitecliff Way, City Ranch, CA 93551. Undersigned Counsel has also left numerous messages on Plaintiff's answering machine and with Debbie Kelly, which have not been responded to. Copies of said letters and proof of signature are attached as Exhibit A. A copy of this motion is also being sent via certified mail to the above listed addresses.

Dated: 6/9/08



Kimberly R. Lambert  
Florida Bar No. 0014479  
Levin, Papantonio, Thomas,  
Mitchell, Echsner, & Proctor, P.A.  
316 South Baylen Street  
Pensacola, FL 32502  
Telephone: 850-435-7013  
Fax: 850-436-6013

# EXHIBIT A



**LEVIN • PAPANTONIO  
THOMAS • MITCHELL  
ECHSNER & PROCTOR • P.A.**  
ATTORNEYS AT LAW

SCOTT C. BARNES  
BRIAN H. BARR  
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KIMBERLY R. LAMBERT  
FREDRIC G. LEVIN  
MARTIN H. LEVIN

STANLEY B. LEVIN  
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MICHAEL B. LYNCH  
NEIL E. McWILLIAMS, JR.  
Wm. JEMISON MIMS  
CLAY MITCHELL  
R. LARRY MORRIS  
TIMOTHY M. O'BRIEN  
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B. KRISTIAN W. RASMUSSEN, III  
MATTHEW D. SCHULTZ  
AMANDA SLEVINSKI  
MEGHAN M. TANS  
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DAVID H. LEVIN  
(1928-2002)  
  
OF COUNSEL:  
ROBERT F. KENNEDY, JR.  
(LICENSED ONLY IN NEW YORK)  
W. STEVE BOZEMAN  
(LICENSED ONLY IN MISSISSIPPI)  
STEVEN A. MEDINA

April 9, 2008

Mr. Charles Combs  
2866 West Gold Dust Avenue  
Queen Creek, AZ 85242

RE: Guidant Settlement

Dear Mr. Combs:

Recently, we mailed to you the Guidant Confidential Release and Claimant's Declaration of Participation. At this time, we have not received your executed documents. Our firm understands and appreciates the stress and anxiety this device and subsequent recall and/or advisory notice has placed on you. However, appreciating your injury, we must consider many other facts and the law when determining how to advise our clients. Prior to recommending this settlement to you, we considered information from mock jury trials, juror opinions regarding our case in chief, case law on the subject matter, expert opinions on the broad scope of injuries, and the knowledge and experience of our firm, along with over 55 other firms throughout the nation. Further, the details of the settlement and all of the negotiation leading up to the settlement were overseen and approved by Judge Frank.

In light of these facts, we believe the settlement is fair and reasonable. However, it is ultimately your decision whether to settle your case or continue with other counsel. Either way, we will respect your decision and will do our best to accommodate your needs.

If your final decision is to accept the settlement, we will need your fully executed release and signed claimant declaration page no later than **Friday, April 11<sup>th</sup>**. If we do not receive your documents by **Friday, April 11<sup>th</sup>**, we will assume that you reject the settlement and we will file a motion to withdraw from your case. In that event, a copy of the motion and your file will be forwarded to you and you must find other counsel to represent you in this matter as soon as possible.

We also ask that you contact us immediately upon receipt of this letter at 1-888-581-4757 as we have made several attempts to reach you by phone.

Sincerely,

  
Kimberly Lambert  
/lm

Track Shipments/FedEx Kinko's Orders

[? Quick Help](#)

## Detailed Results



<b>Tracking number</b>	862319924248	<b>Reference</b>	119858
<b>Ship date</b>	Apr 9, 2008	<b>Service type</b>	Priority Envelope - Direct Signature Required
<b>Status</b>	Delivery exception		

Date/Time	Activity	Location	Details
Apr 18, 2008 5:14 PM	Package returned to shipper	TEMPE, AZ	Return tracking number: <a href="#">938986142545</a>
Apr 17, 2008 12:05 PM	At local FedEx facility	TEMPE, AZ	
Apr 16, 2008 10:33 AM	At local FedEx facility	TEMPE, AZ	
Apr 11, 2008 7:38 AM	At local FedEx facility	TEMPE, AZ	
Apr 10, 2008	5:12 PM	At local FedEx facility	
	3:31 PM	Delivery exception	Incorrect address
	8:13 AM	On FedEx vehicle for delivery	
	7:32 AM	At local FedEx facility	
	5:24 AM	At dest sort facility	PHOENIX, AZ
	5:43 AM	Departed FedEx location	MEMPHIS, TN
	2:40 AM	In transit	MEMPHIS, TN
Apr 9, 2008	1:36 AM	Arrived at FedEx location	MEMPHIS, TN
	6:44 PM	Left origin	PENSACOLA, FL
	5:54 PM	Picked up	PENSACOLA, FL



*Subscribe to tracking updates (optional)*

Your name:

Your e-mail address:

E-mail address	Language	Exception updates	Delivery updates
	English		<input type="checkbox"/>

Select format:  HTML  Text  Wireless

Add personal message:

Not available for Wireless or non-English characters.

By selecting this check box and the Submit button, I agree to these [Terms and Conditions](#)

Submit



**LEVIN · PAPANTONIO  
THOMAS · MITCHELL  
ECHSNER & PROCTOR · P.A.**  
MEMBERS OF THE BAR IN FLORIDA · ATTORNEYS AT LAW

SCOTT C. BARNES  
BRIAN H. BARR  
M. ROBERT BLANCHARD  
VIRGINIA M. BUCHANAN  
STEPHEN H. ECHSNER  
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OF COUNSEL:  
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(LICENSED ONLY IN NEW YORK)  
W. STEVE BOZEMAN  
(LICENSED ONLY IN MISSISSIPPI)

**Confidentiality**

**The terms of this settlement are confidential by Court Order. Disclosure of these terms to anyone other than your attorney may be punishable by the Court.**

April 25, 2008

Mr. Charles Combs  
3350 N. Date Creek Drive  
Prescott Valley, AZ 86314

Re: Guidant Settlement Documents—Release and Declaration of Participation

Dear Mr. Combs:

Recently, Guidant settlement documents were sent to you that required your immediate attention. As of this date, we have not received those documents. Enclosed please find another copy of the Release and Declaration of Participation.

If your final decision is to accept the settlement, we will need your fully executed Release and Claimant Declaration no later than **Friday, May 2<sup>nd</sup>**. If we do not receive your documents by **Friday, May 2<sup>nd</sup>**, we will assume that you reject the settlement and we will file a motion to withdraw from your case. In that event, a copy of the motion and your file will be forwarded to you and you must find other counsel to represent you in this matter as soon as possible.

**Failure to timely submit your release and declaration before the deadline will forever prevent you from participation in the settlement.**

Additionally, we ask that you call our office at 888-581-4757 as we have tried numerous times to reach you and it is very important that you keep us updated on current contact information.

Sincerely,

Kimberly Lambert

/lmc



Close Window

Track Shipments/FedEx Kinko's Orders  
Detailed Results



**Tracking number** 790993462546 **Reference** 119858  
**Ship date** Apr 25, 2008 **Destination** PRESCOTT VALLEY, AZ  
**Service type** Standard Envelope - Direct Signature Required  
**Weight** 0.5 lbs.

**Status** Delivery exception

Date/Time	Activity	Location	Details
Apr 29, 2008 10:18 AM	Package returned to shipper	PRESCOTT VALLEY, AZ	Return tracking number: 864629513664
Apr 28, 2008 5:08 PM	At local FedEx facility	PRESCOTT VALLEY, AZ	
10:12 AM	Delivery exception	PRESCOTT VALLEY, AZ	Incorrect address
10:09 AM	Delivery exception	PRESCOTT VALLEY, AZ	Customer not available or business closed - Signature required
9:33 AM	On FedEx vehicle for delivery	PRESCOTT VALLEY, AZ	
Apr 26, 2008 8:41 AM	At local FedEx facility	PRESCOTT VALLEY, AZ	
6:33 AM	At dest sort facility	PHOENIX, AZ	
12:16 AM	Arrived at FedEx location	MEMPHIS, TN	
Apr 25, 2008 6:53 PM	Left origin	PENSACOLA, FL	
6:08 PM	Picked up	PENSACOLA, FL	
5:28 PM	Package data transmitted to FedEx		

E-mail results

Track more shipments/orders



Your name:

Your e-mail address:

E-mail address	Language	Exception updates	Delivery updates
	English		<input type="checkbox"/>

Select format:  HTML  Text  Wireless

Add personal message:

Not available for Wireless or non-English characters.



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THOMAS • MITCHELL  
ECHSNER & PROCTOR • P.A.  
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OF COUNSEL:  
ROBERT F. KENNEDY, JR.  
(LICENSED ONLY IN NEW YORK)  
W. STEVE BOZEMAN  
(LICENSED ONLY IN MISSISSIPPI)

May 8, 2008

Mr. Charles Combs  
40635 Whitecliff Way  
City Ranch, CA 93551

Re: Guidant Settlement

Dear Mr. Combs:

On May 2<sup>nd</sup>, we received notice from the Court that the deadline to participate in the Guidant **settlement has been extended to Monday, May 19, 2008**. As of today, we have not received your settlement documents, despite our efforts to provide them to you at least twice. Therefore, you have effectively rejected the settlement. As discussed, we are closing your file at this time and will take no further action on your behalf. We have enclosed a copy of your medical records for your convenience.

Further, we have enclosed a copy of the Motion to Withdraw that will be filed in your case next week. If you decide to pursue your case outside the settlement, you must act **immediately** to contact another attorney, as the Court will issue deadlines applicable to your case in the near future. If you do not comply with these deadines, the Court could dismiss your case. **Thus, do not delay in seeking other representation immediately.**

If you receive this letter and decide that you would like to participate, you must forward your settlement documents to Elizabeth Peterson, 651 Nicollet Mall, Ste. 501, Minneapolis, MN 55402, so that they are received by Monday, May 19, 2008. Also, you should locate a local facility to assist you with emailing your executed documents to [paj@juneaulaw.com](mailto:paj@juneaulaw.com); [eap@zimmreed.com](mailto:eap@zimmreed.com); [declarations@shb.com](mailto:declarations@shb.com); [guidant@analytics-inc.com](mailto:guidant@analytics-inc.com); and [GuidantMDL@mnd.uscourts.gov](mailto:GuidantMDL@mnd.uscourts.gov). **These documents must be received on Monday, May 19, 2008 to be considered timely.**

Again, this letter will confirm that you have failed to respond to our numerous requests for your settlement documents and have effectively rejected the settlement. Your file is now closed with our office. We wish you the best of luck in the future and regret that we were unable to resolve this matter for you.

Sincerely,

Kim Lambert

/lmc  
Enclosure



Close Window

Track Shipments/FedEx Kinko's Orders  
Detailed Results

Print



<b>Tracking number</b>	790010847822	<b>Reference</b>	119858
<b>Signed for by</b>	D.KELLY	<b>Destination</b>	City Ranch, CA
<b>Ship date</b>	May 9, 2008	<b>Delivered to</b>	Residence
<b>Delivery date</b>	May 12, 2008 2:13 PM	<b>Service type</b>	Standard Envelope - Direct Signature Required
		<b>Weight</b>	0.5 lbs.

**Status** Delivered

**Signature image available** Yes

**Signature Proof of Delivery**

Click **Request copy of signature** to view delivery information for this shipment.

Signature Image

Date/Time	Activity	Location	Details
May 12, 2008	2:13 PM	Delivered	City Ranch, CA
	8:17 AM	On FedEx vehicle for delivery	LANCASTER, CA
May 10, 2008	9:26 AM	At local FedEx facility	LANCASTER, CA
	9:26 AM	At local FedEx facility	LANCASTER, CA
May 9, 2008	4:04 AM	Departed FedEx location	MEMPHIS, TN
	7:53 PM	Left origin	PENSACOLA, FL
	6:06 PM	Package data transmitted to FedEx	
	5:31 PM	Picked up	PENSACOLA, FL

Package not due for delivery



Your name:

Your e-mail address:

E-mail address	Language	Exception updates	Delivery updates
	English	<input type="checkbox"/>	<input type="checkbox"/>
	English	<input type="checkbox"/>	<input type="checkbox"/>
	English	<input type="checkbox"/>	<input type="checkbox"/>
	English	<input type="checkbox"/>	<input type="checkbox"/>

Select format:  HTML  Text  Wireless

Add personal message:

Not available for Wireless or



FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643  
Telephone: 901-369-3600

June 4, 2008

Dear Customer:

The following is the proof-of-delivery for tracking number **790010847822**.

---

**Delivery Information:**

<b>Status:</b>	Delivered	<b>Delivery location:</b>	City Ranch, CA
<b>Signed for by:</b>	D.KELLY	<b>Delivery date:</b>	May 12, 2008 14:13
<b>Service type:</b>	Standard Envelope		

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**Shipping Information:**

<b>Tracking number:</b>	790010847822	<b>Ship date:</b>	May 9, 2008
		<b>Weight:</b>	0.5 lbs.

**Recipient:**  
City Ranch, CA US

**Shipper:**  
Pensacola, FL US

**Reference** 119858

Thank you for choosing FedEx Express.

FedEx Worldwide Customer Service  
1.800.GoFedEx 1.800.463.3339

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**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE  
DEFIBILLATORS PRODUCTS LIABILITY  
LITIGATION

MDL No. 05-1708 (DWF/AJB)

Case No: 07-cv-3775

Charles Combs  
Plaintiff(s)

**CERTIFICATE OF SERVICE**

v.

Guidant Corporation, et al.  
Defendant(s)

---

I hereby certify that a true and correct copy of the foregoing Motion To Withdraw As Counsel Of Record Without Substitution has been filed electronically on this 9<sup>th</sup> day of June 2008 using the Court's CM/ECF system and sent via USPS Certified Mail to Plaintiff Charles Combs at his last known addresses of:

2866 West Gold Dust Avenue  
Queen Creek, AZ 85242

3350 N. Date Creek Drive  
Prescott Valley, AZ 86314

40635 Whitecliff Way  
City Ranch, CA 93551-5720

Dated: 6/9/08



Kimberly R. Lambert  
Florida Bar No. 0014479  
Levin, Papantonio, Thomas,  
Mitchell, Echsner, & Proctor, P.A.  
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Pensacola, FL 32502  
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