

**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

This multi-district litigation (“MDL”) commenced in November 2005 when the Judicial Panel on Multidistrict Litigation consolidated certain actions and transferred them to the District of Minnesota for pre-trial proceedings against Defendants Guidant Corporation, Guidant Sales Corporation, and Cardiac Pacemakers, Inc. (collectively, “Guidant”). These actions were brought for injuries alleged to have been caused by certain defective implantable defibrillator devices and pacemakers manufactured by Guidant.

Subsequently, the below-listed Plaintiffs, by and through their attorneys/law firms, joined the MDL by filing suit against Guidant. In July 2007, the Plaintiffs Lead Counsel Committee and Guidant entered into a Master Settlement Agreement that requires, among other things, individual plaintiffs to affirmatively state whether they wish to participate in the settlement by completing and signing certain documents.

The attorneys/law firms for the below-listed Plaintiffs have now filed Motions for Withdrawal of Counsel Without Substitution pursuant to District of Minnesota Local Rule 83.7(c). That rule provides “withdrawal without substitution may be granted only by a motion made before the Court, for *good cause shown*.” D. Minn. L.R. 83.7(c)

(emphasis added). In response to these motions, the Court sent the Plaintiffs letters, allowing them to respond in writing to the motions within one week after receiving the letter. The Court also gave Plaintiffs Lead Counsel Committee and Guidant the opportunity to respond to the Motions for Withdrawal. As of the date of this Order, the Court has received one response.¹ In addition, some of the letters have been returned as undeliverable or “Return to Sender—Attempted—Not Known—Unable to Forward—No Such Person.”

The Court has reviewed the Motions for Withdrawal in which the attorneys/law firms explain either that (1) their clients have refused to sign the required releases, thereby creating irreconcilable differences with counsel or (2) they are unable to locate their clients at their last known addresses and therefore unable to communicate with them about the releases. Based on a review of the files and given the requirements necessary to proceed under the Master Settlement Agreement, the Court finds that good cause exists to allow the attorneys/law firms to withdraw from representing the below-listed Plaintiffs.

¹ In a letter dated June 6, 2008, Plaintiff Leonard Wilson did not oppose his attorneys’ Motion for Withdrawal. Rather, he responded to the Court’s letter by expressing his frustrations with and asking questions about the settlement process. A United States District Judge is prohibited from giving legal advice to anyone. Therefore, the Court urges Wilson to consult with an attorney or, if he cannot afford to do so, there may be a volunteer attorney service in his area. The Court notes that it is well aware of Wilson’s and other Plaintiffs’ frustrations with the settlement process. The Court is working diligently to ensure that Plaintiffs recover an equitable amount as quickly as possible.

Finally, in response to Wilson’s statement that “[f]or the first time I was told that there were 1,500 deceased people from Guidant devices,” the Court directs Wilson to Pretrial Order No. 35, which discusses the so-called death cases. The Court’s Orders can be found at www.mnd.uscourts.gov. Notably, the death cases involve two types of claims: (1) claims alleging that a Guidant device caused the death of a device recipient and (2) claims alleging personal injury resulting from a Guidant device where the claim

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The Court concludes that these Plaintiffs' interests are best served if they are allowed to find new counsel to represent them.

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

1. All Motions for Withdrawal listed below are **GRANTED**.
2. Each attorney/law firm shall provide a copy and inform each Plaintiff listed below of the substance of this Order (by U.S. Mail to the Plaintiff's most recent address) and provide them with the contact information for Guidant and the Plaintiffs' Lead Counsel Committee. They shall also attempt to provide Plaintiffs with their files and all case documents, at no cost to them.
3. Each attorney/law firm shall provide Guidant and the Plaintiffs' Lead Counsel Committee with each Plaintiff's current and/or most recent contact information, including mailing address, telephone numbers, and e-mail address.
4. Plaintiffs are encouraged to immediately seek new counsel. If they cannot afford to do so, the Court encourages them to investigate the possibility of a volunteer attorney service in their area. The Court also encourages Plaintiffs to contact MDL Plaintiff Attorney Elizabeth Peterson at 612-341-0400 to discuss their options under the Master Settlement Agreement.

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survives the device recipient's death, regardless of whether that death was allegedly caused by a Guidant device or caused by other reasons unrelated to the Guidant device.

Case Number and Plaintiff's Last Name	Docket Number in Individual	Docket Number in Master	Date of Court's Letters
07-2457 (Copeland)	5	----	June 5, 2008
07-2172 (Wilson)	4	2939	May 28, 2008
07-4048 (Williams)	39	2931	June 3, 2008
(Urbano)	38	2932	June 3, 2008
(Schmidt)	37	2933	June 3, 2008
(Robertson)	35	2935	June 3, 2008
(Rainer)	34	2936	June 3, 2008
(Quintana)	33	2937	June 3, 2008
(Peterson)	32	----	June 5, 2008
(Overmann)	31	2938	June 3, 2008
(Ostiguy)	30	2940	June 3, 2008
(Metcalf)	29	2941	June 3, 2008
(Lyman)	28	2942	June 3, 2008
(Klein)	27	2943	June 3, 2008
(Hilkens)	26	2944	June 3, 2008
(Gordon)	25	2945	June 3, 2008
(Franklin)	23	2947	June 3, 2008
(Flouger)	22	----	June 3, 2008
(Everhart)	21	2948	June 3, 2008
(Elliott)	20	2949	June 3, 2008
(Dial)	19	2950	June 3, 2008
(Cook)	18	2951	June 3, 2008
(Beckett)	17	2952	June 3, 2008
(Baker)	16	2953	June 3, 2008
(Guy)	14	2955	June 3, 2008
07-3378 (Waddell)	5	2928	June 3, 2008
(Gardner)	4	2929	June 3, 2008
(Frederick)	3	2930	June 3, 2008

07-2914 (Washington)	17	2917	June 3, 2008
(Pedersen)	16	2918	June 3, 2008
(Mobley)	15	2919	June 3, 2008
(Mitchell)	14	2920	June 3, 2008
(McNair)	13	2921	June 3, 2008
(McHutchison)	12	2922	June 3, 2008
(Lee)	11	2923	June 3, 2008
(Kimball)	10	2924	June 3, 2008
(Griffis)	8	2926	June 3, 2008
(Denzer)	7	2927	June 3, 2008
07-1220 (Moore)	10	2914	June 4, 2008
(Jordan)	9	2915	June 4, 2008
(Delia)	8	2916	June 4, 2008
07-2407 (Zellers)	20	2906	June 3, 2008
(Warren)	19	2908	June 3, 2008
(Trennepohl)	18	2909	June 3, 2008
(Stahl)	17	2910	June 3, 2008
(Davis)	16	2911	June 3, 2008
(Clarkson)	15	2912	June 3, 2008
(Breier)	14	2913	June 3, 2008
07-1217 (King)	23	2905	June 3, 2008
07-2172 (Wilson)	----	2885, 2886	May 29, 2008
07-654 (Hawk)	3	2749	June 5, 2008
07-2378 (Brewer)	3	----	May 14, 2008

IT IS SO ORDERED.

Dated: June 20, 2008

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