

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
THIRD DIVISION**

**IN RE: GUIDANT CORP. IMPLANTABLE  
DEFIBRILLATORS PRODUCT LIABILITY  
LITIGATION**

**MDL NO. 05-1708  
(DWF/AJB)**

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**ORDER ADOPTING SETTLEMENT CLAIMS REVIEW PROTOCOL**

The Special Master issued an Order appointing a Claims Review Committee on August 1, 2008, whereby Plaintiffs' Lead Counsel was ordered to submit a proposed settlement claims review protocol on or before August 6, 2008 [Docket No. 3172].

The Special Masters have reviewed the proposed settlement claims review protocol, and hereby adopt the attached "Claims Review Committee's Settlement Claims Review Protocol." Said protocol shall govern the Committee's settlement claims review.

This 7<sup>th</sup> day of August, 2008.

s/ Arthur J. Boylan  
ARTHUR J. BOYLAN  
United States Magistrate Judge  
Special Master  
334 U.S. Courthouse  
316 North Robert Street, Room 9E  
St. Paul, MN 55101  
Telephone: (651) 848-1210  
Facsimile: (651) 848-1212

s/ Patrick A. Juneau  
PATRICK A. JUNEAU, La. Bar #07594  
Assistant Special Master  
1018 Harding Street, Suite 202  
Lafayette, Louisiana 70503  
Telephone: (337) 269-0052  
Facsimile: (337) 269-0061

## **GUIDANT CLAIMS REVIEW COMMITTEE SETTLEMENT CLAIMS REVIEW PROTOCOL**

Pursuant to the Order Appointing Claims Review Committee, the Special Masters' Supplementation Protocol, the Special Masters' Allocation Plan, and the MSA, each claim form for Participating Claimants that has been timely submitted pursuant to the MSA and subsequent Court Orders will be reviewed according to the Settlement Claims Review Protocol set forth below.

All information provided in claim forms and supporting documentation submitted by the Participating Claimant shall be entered into a database. Each claim shall be marked as either Category 1 (non-explanted device), Category 2 (explanted device), or Category 3 (EIF claim). Co-Lead Counsel or its designees shall review all the claims to: (1) verify the implant date(s); (2) verify the explant date(s); and (3) verify the device serial number(s). If there is missing objective information or documentation, the attorney for the claimant shall be notified and asked to provide the correct information or documentation.

### **Review and Allocation of Non-EIF Claims**

Following completion of the above-described screening and verification process, the Claims Review Committee shall review and finalize the recommendations for the Non-EIF claims and submit the base allocations amounts for Non-EIF claims to the Special Masters under seal and to counsel for the claimant notifying them of their client's base allocation and the date to file objections. Only claimants who are not claiming EIF shall have the base allocation submitted to the Special Masters at this time. Non-EIF claimants shall have **10 days** following notice of the base allocation amount to submit any objection thereto. No supplemental materials shall be submitted with any objection unless specifically requested or approved by the Special Masters or the Claims Review Committee. Within **14 days** following the deadline for submission of Non-EIF objections, the Claims Review Committee shall submit to the Special Masters (under seal) and counsel for the Non-EIF claimant the Committee's response to the objection.

Following the period for submission of objections and responses, or after Guidant agrees to participate in the Settlement, which ever occurs later, Non-EIF Claimants with no objections shall have their allocation amount forwarded by the Special Masters to the Claims Administrator pursuant to the procedures set forth in the MSA for payment. Claimants with objections shall have their allocation amounts forwarded by the Special Masters to the Claims Administrator pursuant to the procedures set forth in the MSA for payment once the objection has been resolved.

## Review and Allocation of EIF Claims

Pursuant to the February 15, 2008 Order approving the Special Masters' Supplementation Protocol and the March 19, 2008 Order approving the Special Masters' Allocation Plan, Co-Lead Counsel or its designees shall further identify the EIF claims by Category, including but not limited to the following: (1) Non-Explant EIF claims; (2) Physical Injuries; (3) Device Malfunctions; (4); Psychological Injuries; (5) Economic Injuries; (6) Loss of Consortium; (7) Wrongful Death and (8) Bellwether Plaintiffs.

Following completion of the screening and verification process set forth above, the Claims Review Committee shall review the EIF claims and finalize the recommendations for allocation amounts. The Claims Review Committee shall complete their review of the EIF claims and make their final recommendations (including both the base allocation and EIF award amounts) for all EIF claimants by **December 15, 2008**. The Claims Review Committee shall promptly thereafter submit such recommendations to the Special Masters under seal and to counsel for the claimant notifying them of their client's total allocation (both base allocation and EIF award amounts) and the date to file objections.

Participating EIF Claimants shall have **10 days** following the Claims Review Committee's submission of the recommended awards to the Special Masters and counsel to file written objections to the recommended base allocation and EIF amount. Any objections are to be filed under seal. No supplemental materials are to be submitted with any objection unless specifically requested or approved by the Special Masters or the Claims Review Committee. Within **30 days** following the deadline for submission of EIF objections, the Claims Review Committee shall submit to the Special Masters (under seal) and counsel for the EIF claimant the Committee's response to the objection.

Following the period for submission of objections and responses, or after Guidant agrees to participate in the Settlement, which ever occurs later, Claimants with no objections shall have their allocation amount forwarded by the Special Masters to the Claims Administrator pursuant to the procedures set forth in the MSA for payment. Claimants with objections shall have their allocation amounts forwarded by the Special Masters to the Claims Administrator pursuant to the procedures set forth in the MSA for payment once the objection has been resolved.