

**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:

Paul Kamer, et al.,

Plaintiffs,

Civil No. 07-1271 (DWF/AJB)

and

Douglas Northern,

Plaintiff,

Civil No. 06-2854 (DWF/AJB)

and

William Gilliland,

Plaintiff,

Civil No. 07-2473 (DWF/AJB)

v.

Guidant Corporation, et al.,

Defendants.

(as to Plaintiffs Vernon Rodgers, Douglas
Northern, and William Gilliland only)

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, Plaintiffs Vernon Rodgers, Douglas Northern, and William Gilliland, by and through their attorneys, joined the MDL by individually filing suit against Guidant. Attorneys for these Plaintiffs have since filed motions to withdraw as counsel in these individual cases.

David P. Hersh, Esq., of the law firm of Burg Simpson Eldredge Hersh & Jardine, P.C., is counsel for Mr. Rodgers. Mr. Hersh asserts that he seeks leave to withdraw because Mr. Rodgers passed away and counsel has been informed that the family does not wish to probate the estate. Thus, counsel asserts that it has no client from whom to seek direction and no estate to represent.

Kimberly R. Lambert, Esq., of the law firm of Levin Papantonio Thomas Mitchell Echsner & Proctor, P.A., is counsel for Mr. Northern. Ms. Lambert asserts that she seeks to withdraw because Mr. Northern died and counsel has been informed that Connie Northern, Mr. Northern’s surviving spouse, does not wish to continue with the Guidant litigation.

Ms. Lambert is also counsel for Mr. Gilliland. Ms. Lambert asserts that she seeks to withdraw from Mr. Gilliland's case after being notified that Mr. Gilliland died with no surviving next of kin. As a result, Ms. Lambert asserts that she is left without anyone to continue the litigation on behalf of Mr. Gilliland.

All three of the motions to withdraw were brought 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. LR 83.7(c) (emphasis added). The Court has considered the three motions to withdraw. It appears to the Court that rather than withdrawal, which would leave the cases in limbo, joint stipulations to dismiss the cases would be more appropriately brought under these circumstances. As a result, the motions to withdraw are denied.

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

1. The following motions to withdraw are **DENIED**:
 - a. MDL No. 05-1708 (DWF/AJB), Doc. No. 2728, Civil No. 07-1271 (DWF/AJB), Doc. No. 4;
 - b. MDL No. 05-1708 (DWF/AJB), Doc. No. 3186, Civil No. 06-2854 (DWF/AJB), Doc. No. 9; and
 - c. MDL No. 05-1708 (DWF/AJB), Doc. No. 3187, Civil No. 07-2473 (DWF/AJB), Doc. No. 5.

Dated: January 16, 2009

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