

**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

**MEMORANDUM OPINION AND
ORDER REGARDING
OBJECTIONS, APPEALS, AND
REQUESTS FOR *DE NOVO* REVIEW
OF THE SPECIAL MASTERS'
ORDERS ON REVIEW OF THE
CLAIMS REVIEW COMMITTEE'S
ALLOCATIONS**

This matter is before the Court pursuant to the objections, appeals, and requests for *de novo* review filed in regard to the decisions of the Special Masters, Magistrate Judge Arthur J. Boylan and Assistant Special Master Pat Juneau, as to allocations made by the Claims Review Committee (“CRC”).

The Court has substantively reviewed all of the objections, appeals, and requests for *de novo* review, and the Court has reviewed relevant portions of the Master Settlement Agreement (“MSA”). Specifically, the MSA expressly provides:

No Appeals. Any orders, rulings, or determinations relating to this Settlement and all related aspects, including its implementation or the interpretation of this MSA, are final and are not subject to appeal in any way, including, but not limited to, by seeking reconsideration from the Special Masters or by appealing to the MDL Court, the United States Court

of Appeals for the Eighth Circuit, or any other court, tribunal, or administrative or judicial body.

MSA § IV.D (emphasis in original). In addition, the MSA states:

The Special Masters will determine, *in their sole discretion*, how to allocate the Settlement Fund to all Participating Claimants, including whether to categorize certain claims as similar and to award all such claims like amounts, and/or whether to make individual claim determinations for all or some claims consistent with the terms of this MSA.

MSA § IV.C (emphasis supplied).

The Court finds that the express language of the MSA does not support a right to appeal or object to the Special Masters' review of the CRC's determinations, especially given that there is no order or process in place to support the notion that the parties contemplated an appeal.¹ Moreover, neither the MSA nor any order of this Court contemplates an appeal or objection brought pursuant to the Local Rules. As a result, the Court declines to rule on the objections, appeals, and other requests for *de novo* review.

Accordingly, **IT IS HEREBY ORDERED:**

1. The following objections, appeals, and requests for *de novo* review are **DENIED:**

¹ The fact that no process is in place to handle appeals of the Special Masters' determinations distinguishes this instance from other actions taken by the Court with regard to common benefit and attorney contingency fee awards, such awards which were solely within the Court's inherent authority. *See also* MSA § IV.A-B; Orders dated March 7, August 21, and December 23, 2008 (describing procedures regarding common benefit attorney fees); and the Court's March 7 and August 21, 2008 Orders (discussing contingency fees).

a. Doc. No. 3722 (Alphonse Abadir); Doc. No. 3723 (Michael Vincent) ; Doc. No. 3724 (Bernice Warren); Doc. No. 3726 (Albert DeFrancesco); Doc. No. 3728 (Perry Joiner); Doc. No. 3729 (Joan Bates); Doc. No. 3730 (Vincent Harrison); Doc. No. 3731 (Harold Shocke); Doc. No. 3732 (Glenda Baugh); Doc. No. 3733 (Tammy Wise); Doc. No. 3734 (Scott Wroczynski); Doc. No. 3735 (Eddy Dreyer Kincheloe); Doc. No. 3737 (Peter Bogda); Doc. No. 3739 (Tammy Hatfield); Doc. No. 3740 (Vernon Eugene Ross); Doc. No. 3741 (Samuel Lewis); Doc. No. 3745 (Reola Ammon); Doc. No. 3753 (John Humbert); Doc. No. 3754 (Clifton Douglas); Doc. No. 3755 (Edgar Harrison); Doc. No. 3756 (Thomas Scott); Doc. No. 3757 (Salvatore Argento); Doc. No. 3758 (Ronald Jaxson); Doc. No. 3759 (James Chappell); Doc. No. 3760 (Laura Jones); Doc. No. 3761 (Geoffrey Bowman); Doc. No. 3764 (Cyril Lenio); Doc. No. 3765 (Vivian Williams); Doc. No. 3766 (Albert Gilbert); Doc. No. 3768 (Donna Johnson); Doc. No. 3777 (Donald Whitting); and Doc. No. 3784 (Marion Sanders).

2. In addition, the Court **DENIES** the self-styled appeals that were submitted, but not filed, by Claimants Mark Peltier and Stephen D. Hurley.

Dated: February 18, 2009

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