

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE
DEFIBRILLATORS PRODUCTS
LIABILITY LITIGATION

MDL No. 05-1708 (DWF/AJB)

This document applies to:

ALL ACTIONS

**ORDER REQUESTING: (1) THE PLC
TO RESPOND TO THE MAY 26, 2009
RESPONSE SUBMITTED BY
PATRICK J. MULLIGAN, ESQ.;
AND (2) PATRICK J. MULLIGAN,
ESQ., TO SUBMIT FURTHER
INFORMATION**

On May 7, 2009, the Court held a status conference with Patrick J. Mulligan, Esq., of the Mulligan Law Firm to discuss a variety of communications the Court had received from Mr. Mulligan's Guidant MDL clients. (Doc. No. 3832.¹) Based on specific representations Mr. Mulligan made to the Court during the status conference concerning the Texas Ethics Board, the Court later ordered Mr. Mulligan to provide the Court, Guidant, and the PLC, all documents in his possession received from or submitted to the Texas Ethics Board, State Bar of Texas, and/or any committee or subdivision of either entity or related entity concerning this MDL or any other matter related to this MDL. (Doc. No. 3856.)

¹ Unless otherwise noted, all documents referenced are to MDL No. 05-1708 (DWF/AJB).

Mr. Mulligan did so on May 26, 2009.² (Doc. No. 3864.) In connection with that submission, Mr. Mulligan also submitted a 14-page memorandum to provide the Court, in part, with “additional information and analysis on the issue of informed consent” and to explain “the analytical thought process he undertook in deciding how best to communicate with his clients regarding the MDL settlement and why he believed at the time (and still believes today) that his communications were sufficient.” (*Id.* at 1.) In his memorandum, Mr. Mulligan essentially attempted to justify his actions by saying that the Guidant settlement process—as negotiated and implemented by the PLC, PSC, the Special Masters, and/or the Court—required him to act as he did. (*See, e.g., id.* at 5-10.)

Given Mr. Mulligan’s response, the Court hereby orders the following:

1. The PLC shall submit a response to Mr. Mulligan’s May 26, 2009 submission. In particular, the Court respectfully requests that the PLC provide the Court with the following information: (a) a detailed timeline of the communications provided to Claimants’ counsel about the settlement allocation process, including dates when live presentations were made to Claimants’ counsel and whether Mr. Mulligan was present at any of those presentations; (b) the PLC’s interpretation of the interplay between the settlement allocation process, the MSA, and all settlement documents required to be completed by Claimants, including a discussion of any definitions relevant to the PLC’s

² Mr. Mulligan filed his response under seal. He also sent copies of his memorandum and an index of his exhibits to the PLC and Guidant. Mr. Mulligan asked the Court for guidance concerning whether he should provide Guidant and the PLC with copies of the exhibits that he filed. At this time, the Court declines to order Mr. Mulligan to provide further documentation to either the PLC and/or Guidant.

interpretation; (c) consistent with Mr. Zimmerman's comments at the May 7, 2009 status conference about his practice of disclosing settlement ranges to clients, the PLC's opinion concerning whether claimant attorneys in this MDL should have (and normally did) disclose settlement ranges to their clients; (d) based on the PLC's members' extensive complex litigation experience, a brief summary of how settlement amounts in other MDLs similar to the Guidant MDL are generally communicated to plaintiffs; and (e) any other information the PLC deems relevant to the Court's inquiry.

2. Mr. Mulligan shall provide the Court with a spreadsheet that lists each of his Claimants by name and the dates on which those Claimants signed their individual settlement documents. Mr. Mulligan shall also provide the Court with copies of all form or standard communications concerning the Guidant settlement sent to his clients, organized by date.

3. The PLC and Mr. Mulligan shall submit their responses to the Court no later than Friday, June 19, 2009.

4. The parties should contact the Court for advance permission if the parties believe that certain of the aforementioned submissions should be filed under seal.

IT IS SO ORDERED.

Dated: June 3, 2009

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