

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: Guidant Corp. Implantable  
Defibrillators Products Liability Litigation

MDL No. 1708 (DWF/AJB)

This Document Relates to ALL ACTIONS

**ORDER FOR SUGGESTION  
OF REMAND**

A transferee court is obligated to remand any remaining actions to their respective transferor courts upon the conclusion of coordinated or consolidated pretrial proceedings in the transferee district. *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach, et al.*, 523 U.S. 26, 34 (1998). The Court’s discretion to suggest remand is centered upon a determination that the objectives of centralized pretrial proceedings under 28 U.S.C. § 1407 have been achieved. *In re A.H Robins Co., Inc., “Dalkon Shield” IUD Prod. Liab. Litig.*, 453 F. Supp. 108, 110 (JPML 1978). The power to remand cases to a transferor court, however, lies exclusively within the province of the JPML, and it will consider remand upon the motion of any party, its own initiative, *or the suggestion of the transferee District Court.* JPML Rule 7.6(c) and (d) (emphasis added); *see also* 28 U.S.C. § 1407(a).

The Court filed its Order for Suggestion of Remand on March 30, 2010, and the JPML issued its Conditional Remand Order on April 7, 2010. Between those two Orders, the JMPL transferred one additional case to this Court from the Southern District of West

Virginia, *Mark R. Barlow, et al., v. Guidant Corp. et al.*, Civ. No. 10-1080 (DWF/AJB).<sup>1</sup>

Incorporating by reference its March 30, 2010 Order for Suggestion of Remand, the Court respectively suggests that the *Barlow* case too should be remanded back to its respective transferor district court.

Thus, **IT IS HEREBY ORDERED:**

1. The Clerk of Court is directed to file a copy of this Order in *Mark R. Barlow, et al., v. Guidant Corp. et al.*, Civ. No. 10-1080 (DWF/AJB).
2. The Clerk of Court shall provide a copy of this Order to the Clerk of the Judicial Panel on Multidistrict Litigation.
3. Upon entry of the Remand Order by the JPML, and expiration of all appeals and potential appeals, the parties shall jointly prepare a stipulation to the Court, designating the portions of the MDL Court's record that shall be remanded to the transferor courts.

Date: November 22, 2010

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

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<sup>1</sup> The case number for that case in the Southern District of West Virginia is C.A. No. 2:09-1161.