

November 17, 2006

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**Re: In re: GUIDANT CORP. IMPLANTABLE DEFIBRILLATORS  
PRODUCTS LIABILITY LITIGATION  
MDL No. 05-1708 (DWF/AJB)**

Dear Counsel:

Reviewing my notes and other documents submitted in this matter, I noticed some items that may need to be addressed in the near future, especially as we move forward with the bellwether trials.

These items, in no particular order, are from pending motions or from matters raised during our status conferences. Please review this list and let me know if any of these items have been resolved and, if not resolved, when they will be addressed. I would like your responses prior to the November 29, 2006 status conference. Also, if you have other issues that I may have missed, please let me know.

1. Plaintiff's Fact Sheet (PFS)—a revised and streamlined PFS and an order to simplify the process relating to motions to dismiss for failure to complete PFSs. At one status conference, Guidant mentioned that it would be filing approximately 59 new motions to dismiss; please consider the timing of these motions as it relates to revising the PFS and the related order.
2. Proposed order concerning improperly joined cases. The PLC has not submitted its counterproposal.
3. Scheduling of preemption motion and motions to dismiss. (Doc. Nos. 253, 392, and 396)
4. Motion to amend preservation order. (Doc. No. 73) I understand that the parties are working on an agreement to incorporate the terms of the current preservation order to apply to pacemakers as well as defibrillators.

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5. Motion to compel production of backup tapes. (Doc. No. 533) I understand that the parties are trying to resolve this issue.
6. Discovery-related issues raised in PLC's July 21, 2006 letter.
7. Issues, if any, to be decided as raised in William Lazarus' letters to the Court.
8. Proposal for Guidant's case profile sheet.
9. Remand issues in Vega (Civ. No. 06-1820 (DWF/AJB)) and Cabrera (Civ. No. 06-2532 (DWF/AJB)).
10. Rebecca Smith issue and whether a motion will be filed.
11. Website posting related to how state litigants gain access to document depository.
12. Issue related to shortening the time for representative written discovery responses.

If you have any questions, please feel free to contact my chambers.

Very truly yours,

s/Donovan W. Frank

DONOVAN W. FRANK  
Judge of United States District Court

DWF:rlb