

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE )  
DEFIBRILLATORS PRODUCTS LIABILITY )  
LITIGATION )

MDL No. 05-1708 (DWF/AJB)

\_\_\_\_\_ )

**PRETRIAL ORDER NO. 1**

\_\_\_\_\_ )

(Designation of Plaintiffs' Lead,

This Document Relates to All Actions )

Liaison Counsel, and Defendants' Lead

\_\_\_\_\_ )

and Liaison Counsel)

1. To act on behalf of Plaintiffs, the Court hereby designates the following counsel:

Committee:

Richard Arsenault  
NEBLETT, BEARD & ARSENAULT  
2220 Bonaventure Court  
Alexandria, LA 71301  
rarsenault@nbalawfirm.com  
Phone: 318.487.9874  
Facsimile: 318.561.2591

Elizabeth Cabraser  
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
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Seth R. Lesser  
LOCKS LAW FIRM, PLLC  
110 East 55<sup>th</sup> Street  
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Charles S. Zimmerman  
ZIMMERMAN REED

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Facsimile: 612.341.0844

- A. Responsibilities of the Plaintiffs' Lead Counsel Committee. The Counsel on Plaintiffs' Lead Counsel Committee shall be responsible for coordinating the activities of Plaintiffs during pretrial proceedings and, in consultation and, with the assistance of the Plaintiffs' Steering Committee, shall:
- i. Determine (after consultation with other members of Plaintiffs' Steering Committee and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the Plaintiffs on all matters arising during pretrial proceedings;
  - ii. Coordinate the initiation and conduct of discovery on behalf of Plaintiffs consistent with the requirements of the Federal Rules of Civil Procedure relating to discovery or any other subsequent order of this Court;
  - iii. Conduct settlement negotiations on behalf of Plaintiffs, but not enter binding agreements except to the extent expressly authorized;
  - iv. Delegate specific tasks to other counsel in a manner to ensure that pretrial preparation for the Plaintiffs is conducted effectively, efficiently, and economically;

- v. Enter into stipulations, with opposing counsel, necessary for the conduct of the litigation;
- vi. Prepare and distribute to the parties periodic status reports;
- vii. Maintain adequate time and disbursement records covering services of designated counsel and establish guidelines, for approval by the Court, as to the keeping of time records and expenses;
- viii. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
- ix. Perform such other duties as may be incidental to proper coordination of Plaintiffs' pretrial activities or authorized by further Order of the Court; and
- x. Submit, if appropriate, additional committees and counsel for designation by the Court.

Counsel for Plaintiffs who disagree with Lead Counsel Committee (or those acting on behalf of lead counsel) or who have individual or divergent positions may present written and oral arguments, and otherwise act separately on behalf of their client(s) as appropriate, provided that in doing so they do not repeat arguments, questions, or actions of the Lead Counsel Committee.

2. The Court designates Charles S. Zimmerman to serve as Plaintiffs' Liaison Counsel.

Plaintiffs' Liaison Counsel shall:

- i. **Service List:** Maintain and distribute to co-counsel and to Defendants' Liaison Counsel an up-to-date service list;

- ii. **Accept Service:** Receive and, as appropriate, distribute to co-counsel Orders from the Court and documents from opposing parties and counsel; and
  - iii. **MDL Case File & Document Depository:** Maintain and make available to co-counsel and other Plaintiffs' counsel at reasonable hours a complete file of all documents served by or upon each party, and shall establish and maintain an electronically accessible document depository no later than January 18, 2006.
3. Designation of Defendants' Lead and Liaison Counsel.

Lead Counsel for Defendants is:

Timothy A. Pratt  
SHOOK HARDY & BACON LLP  
2555 Grand Blvd.  
Kansas City, MO 64108-2613  
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Liaison Counsel for Defendants is:

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**IT IS SO ORDERED.**

Dated: December 19, 2005

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