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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re:)	Civil 05-MD-1708 (DWF/AJB)
)	
GUIDANT CORPORATION)	STATUS CONFERENCE
IMPLANTABLE DEFIBRILLATOR)	
PRODUCTS LIABILITY)	
LITIGATION,)	
)	
-----)	
This Document Relates)	
To All Actions)	9:40 o'clock, a.m.
)	January 24, 2007
)	Minneapolis, Minnesota

THE HONORABLE JUDGE DONOVAN W. FRANK
 THE HONORABLE MAGISTRATE JUDGE ARTHUR J. BOYLAN
 UNITED STATES DISTRICT COURT JUDGES
 STATUS CONFERENCE PROCEEDING

* * *

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1 (In open court.)

2 THE HONORABLE JUDGE FRANK: You may be
3 seated. Thank you.

4 I guess we have got into the habit, which we
5 should probably avoid, of being late. It necessitates
6 an apology to those of you who were waiting. It is
7 obviously not 9:15. And the Judge is responsible for
8 what goes on, whether it is in the courtroom or not, so
9 the responsibility lies here.

10 A part of the explanation, you will soon find
11 out, is we have scheduled a number of things that we
12 will put on the record this morning, all consistent with
13 the trials that will commence later this year.

14 We can probably begin with Mr. Zimmerman, if
15 you want to proceed? And whether you or Mr. Carpenter,
16 Mr. Pratt, or others put on the record the dates, some
17 of these dates that we have nailed down both for the
18 next two status conferences, because we have changed a
19 couple of dates and set on a couple of motion hearings,
20 as well. We can set those up so that they will go on
21 the website before the week is out. But, we can
22 indicate what those schedules are, just so we take the
23 time for those to come in today.

24 MR. ZIMMERMAN: Good morning, Your Honor.
25 May it please the Court? I am Charles Zimmerman of the

1 Lead Counsel Committee of the Plaintiffs.

2 Maybe we will go into those now before we get
3 into the status, but the status report -- I mean, an
4 agenda was filed with the Court that we will go through,
5 but we did do some housekeeping matters in chambers with
6 regard to the scheduling of certain matters for hearing
7 and certain matters for the upcoming status conferences.

8 The first date is the date of the next status
9 conference which is February 21, at 8:00 for the private
10 LCC meeting with the Court and at 9:00 in the courtroom.

11 THE HONORABLE JUDGE FRANK: Or 9:15, as it
12 were.

13 MR. ZIMMERMAN: 9:15, I beg your pardon. And
14 at that time we are also going to meet later in that day
15 with the Court with regard to the trial plan.

16 We did have a meet and confer yesterday, the
17 Plaintiffs and the Defendants, on the trial plan for the
18 representative trials. We made great progress. We will
19 report that later in the agenda. But, just confirming
20 that, we are also going to be meeting with the Court.

21 THE COURT: And maybe -- and that will be in
22 St. Paul. And maybe as we discussed this morning, trial
23 plan being the obvious, everything from the presence or
24 absence of jury questionnaire forms, jury selection,
25 timing of the pretrial conference and any of the issues

1 that will provoke the efficient administration of the
2 trial, the time clock issue to the extent that thus far
3 we have designated eight days for trial. So the rest of
4 the group knows we have expressed an interest to get
5 together, 90 percent plus of those issues have been
6 resolved.

7 We can discuss our practices and what should
8 be individualized because of the nature of the cases and
9 the succession with which we will try them. But, that
10 is the purpose of the meeting, because it may also
11 relate to what is the most meaningful spacing and time
12 of when to set a pretrial conference on the issues
13 associated with making sure any motions are taken care
14 of that are out there, apart from how the trials will be
15 managed. So, all under the rubric, I guess, of trial
16 planning.

17 MR. ZIMMERMAN: Thank you. The next date of
18 substance is March 6th at 9:00 in St. Paul. And that
19 will be for the hearing on the third-party payor and the
20 MSP motions. Those motions have been pending, and it
21 was decided by the Court through Counsel's urging that
22 those be set for hearing and the Court has now set the
23 hearing for March 6th at 9:00.

24 THE HONORABLE JUDGE FRANK: And so there is
25 no misunderstanding, again, that will be a freestanding

1 motion day, so there won't be a status conference that
2 day. In other words, it is separate from what we are
3 doing and typically do on a day like today, it is a
4 freestanding motion day, so --

5 MR. ZIMMERMAN: Then the next date, Your
6 Honor, will be the next status after the February 21
7 status, which will be April 4. That will be at 9:15 in
8 the St. Paul courthouse in one of the courtrooms
9 occupied by Your Honor.

10 And it is my understanding, also, I am not
11 sure I have got this right, but there will be an April
12 25th status following the April 4 status to catch up.

13 THE HONORABLE JUDGE FRANK: That is true.

14 MR. ZIMMERMAN: But we will not have one in
15 the month of February -- or in the month of March,
16 sorry, and that April 25th status at this time will be
17 in St. Paul as we understand it. For those of us who
18 don't know, the trials, the representative trials will
19 take place in the Minneapolis Federal Courthouse in a
20 courtroom to be designated at a later date by Your
21 Honor.

22 I believe those handle the scheduling issues
23 that we agreed to, and unless there is any further
24 discussion on that, we could get into, now, the
25 status -- excuse me, the agenda for the status

1 conference, which I think will drive a lot of the other
2 resolutions and issues that were discussed earlier.

3 The first item on the agenda, Your Honor, is
4 the status of cases filed in Federal Court and
5 transferred into the MDL and we know where we were last
6 time, but Mr. Pratt, I think, has the current statistics
7 on where we are as of today.

8 MR. PRATT: Good morning, Your Honor, Tim
9 Pratt. We have, or you have, I guess I should say, you
10 have pending before you right now in this MDL, the total
11 of 992 cases that have been transferred here by the
12 Judicial Panel or filed here directly in the District of
13 Minnesota.

14 There are an additional 51 cases pending in
15 Federal Court, but they are before the Judicial Panel on
16 Multi-District Litigation pending transfer here. If all
17 of those are transferred here, it will bring the total
18 in your venue to 1,043 cases. The number of state cases
19 has remained essentially the same, it is now at 83 state
20 court cases. Some of those are subject appropriately to
21 removal and we will exercise that right. But, currently
22 there are 83 state court cases.

23 THE COURT: Thank you.

24 MR. ZIMMERMAN: Tim, we discussed last time,
25 we started to translate this into individual plaintiffs

1 represented in those 992 cases. I just want to state
2 that last time we were before Your Honor, we had 874
3 pending cases with 57 pending transfer for a total of
4 931. Now we are at 992, 51 pending transfer, for a
5 total of 1,043. But, last time we had 1,221 individual
6 plaintiffs represented in the mix. And I don't know
7 what that number is, if you have that, it might be
8 appropriate to state it.

9 MR. PRATT: I'm not sure. I didn't know math
10 was going to be a topic of today's MDL. I think it
11 covers around 1,400 now, currently, when you take a look
12 at the total number of cases both in the District here
13 and the Judicial Panel, I think somewhere around 1,400
14 individual plaintiffs.

15 THE HONORABLE JUDGE FRANK: And while we are
16 on the topic -- it doesn't relate to any specific
17 discovery. It may not relate to any lawyer or party in
18 the room. But, to the extent there has been inquiries
19 to my chambers or Judge Boylan's on the issue of joinder
20 versus individual plaintiffs, because you will see a
21 variety of approaches to the ability of plaintiffs to
22 join without prejudice to their separation at some point
23 down the road, we will do an order this week because we
24 have had some inquiries.

25 There was obviously an order that was filed

1 electronically in the last week, and without giving a
2 survey of what has happened in other MDL's in this
3 District and elsewhere, that topic was discussed this
4 morning and there won't be any issue as to how they are
5 handled, the continued calls from individual plaintiffs
6 from around the country.

7 So, we will file an order in the next few
8 days. It will go out on the website to make it clear
9 what is permitted and what is not. So --

10 MR. ZIMMERMAN: Thank you, Your Honor.

11 THE HONORABLE JUDGE FRANK: Yes.

12 MR. ZIMMERMAN: The next item on the agenda,
13 Your Honor, is the report of the representative trial
14 process. We touched on this briefly.

15 The trial teams have been meeting and
16 conferring. We met yesterday for a period of time to go
17 over the Court's Pretrial No. 25 which addresses the
18 planning process for the representative trials and to
19 really drill down on the deadlines and the chess clock
20 issues and how to get it in within eight trial days and
21 discussing potentially moving up some of the pretrial
22 dates so we allow ourselves some time, how we may handle
23 voir dire, jury questions and things like that.

24 And rather than go into a progress report of
25 where we are on that, we have made great progress. We

1 do seem to have a meeting of the minds. We are going to
2 have another meet and confer, as I stated, in
3 mid-February and a conference with the Court to nail
4 down these issues so there won't be any surprises and
5 everyone will have plenty of time to prepare. But, I am
6 happy to report on the issue of representative trials
7 and how they are going to be conducted, we seem to have
8 a generalized agreement by both sides and subject to the
9 approvals of the Court and direction from the Court.

10 We think we are well on the road to getting
11 all of those things nailed down and there won't be any
12 mysteries and we will have plenty of lead time to know
13 what direction all of these preliminary matters are
14 going to take.

15 MR. PRATT: The only thing I will add is when
16 you came down to PTO 25 and set these cases for trial, I
17 observed it as a bit of a challenge to try one case
18 every month for five months, and we were hoping and
19 expecting to get good cooperation from the Plaintiffs
20 Steering Committee, making sure we streamlined things,
21 having had one committee meeting with them scheduled and
22 the scheduled meeting with you, Your Honor, I am more
23 optimistic we can streamline it and get this thing done
24 on a month-to-month basis. It's still a challenge, but
25 I think from the meeting we had yesterday, the caliber

1 of people on the other side trying to reach agreement on
2 some of the sticky issues, I am more optimistic than
3 ever that we can get this thing put together. We wanted
4 to get you through the loop on it. I think we will get
5 a good sign-off and get some things accomplished.

6 THE HONORABLE JUDGE FRANK: Thank you.

7 MR. ZIMMERMAN: The next issue, Your Honor,
8 is pending motions and scheduling arguments. Again, we
9 touched on -- I won't repeat this -- but we have the
10 motions scheduled that are teed up, we have motions in
11 the cue that are going to be either resolved or teed up.
12 I could go over them. I don't know that it is necessary
13 because they are really not necessarily going to
14 translate into motions. They are just sitting in the
15 cue for resolution.

16 But, I am here to report that we have reached
17 an agreement on a motion to include a count of punitive
18 damages and a stipulation has been agreed upon by both
19 sides and will be filed with the Court within one week.

20 We arranged an agreement on that today in
21 chambers, so that motion to amend to include the
22 relevant counts on punitive damages in the complaints
23 available for the bellwether trials has now been agreed
24 upon. And that will be provided to the Court.

25 The other issues that we have agreed upon is

1 a schedule for the completion of the defendant fact
2 sheets, which I believe there was a motion that had been
3 filed. And we have agreement from the other side as to
4 how those defendant fact sheets are going to be rolled
5 into the MDL and make up what has been some delinquency
6 in that process.

7 I think I will let Andy report on that,
8 rather than putting words into his mouth at this time,
9 rather than paraphrasing what he said. So, we all know
10 fact sheet compliance will be rolling through and by the
11 end of the month in January we will have completion.

12 THE HONORABLE JUDGE FRANK: As Mr. Carpenter
13 is coming to the podium, I would just note for the rest
14 of the lawyers and parties who weren't in the meeting
15 this morning, with reference -- and I think we agree
16 there is no need to go down the list of any petty
17 motions. Suffice it to say, we discussed for lack of a
18 better word the inventory of anything that is pending or
19 may be pending, whether it has been briefed or scheduled
20 to be briefed in regard to the overall schedule.

21 And I don't really -- I think if anyone has a
22 question, they can ask respective counsel on either
23 committee if you are curious about, well, did you
24 discuss this particular motion or that one or this one
25 on preemption or other issues, because I think we did

1 our best inventory on all of them this morning to make
2 sure they are on our radar screen and there is nothing
3 standing in the way of the schedule as to when some of
4 those may have to be briefed and heard. So, probably
5 enough said about that.

6 MR. CARPENTER: Mr. Zimmerman is correct in
7 his characterization about the defendant fact sheet
8 issues, Your Honor. As you recall, Plaintiffs moved to
9 compel the production of several of them. We responded
10 acknowledging that we were behind on some of them and
11 gave a schedule for completion in which we could get
12 current through December by January 19th by filing an
13 additional -- by serving an additional 77 fact sheets,
14 which we have done. And it is our intention to get
15 absolutely current at the end of January by serving an
16 additional 120 defendant fact sheets, which should put
17 us current.

18 That said, there is a little disagreement as
19 to the fact sheets that are due based on whether
20 Plaintiffs have fully completed section 4 of their
21 plaintiff fact sheets. Mr. Goldser and I have been in
22 contact about that issue. We are happy to sit down at
23 any point. Mr. Goldser has been good enough to send us
24 a list of fact sheets in dispute and we are happy to
25 resolve that issue.

1 THE HONORABLE MAGISTRATE JUDGE BOYLAN: Mr.
2 Carpenter, there is not anything you are going to be
3 putting before the Court on those issues at least the
4 next time we see you?

5 MR. CARPENTER: I don't anticipate that, Your
6 Honor.

7 THE HONORABLE MAGISTRATE JUDGE BOYLAN: Thank
8 you.

9 THE HONORABLE JUDGE FRANK: Thank you.

10 MR. LESSER: Seth Lesser, if I may. So that
11 it is clear to add to what Mr. Zimmerman said and Mr.
12 Carpenter said, to all of the Plaintiffs out there,
13 because I do think they ask this question. This is a
14 matter there has been significant back and forth between
15 the sides. And Lead Counsel Committee has been working
16 hard with Mr. Goldser on this issue.

17 In terms of the timing, of course, it is
18 important to understand from the Plaintiffs'
19 perspective, it has been four months from the date of
20 the initial due dates in these, and we have not moved to
21 dismiss to the extent the shoe would be on the other
22 foot, as it were. But, it has been coming through and
23 it is going through a set of 150, a list of 150
24 Plaintiffs' cases that we believe plaintiff fact sheets
25 are delinquent, just yesterday. So, we are working hard

1 to have all of the Plaintiffs aware of this.

2 One of the issues that may, to address your
3 question, Judge Boylan, that may double up in this
4 discussion, is the sufficiency of the responses from the
5 Defendant for example. In the defendant fact sheet,
6 after both sides had conferred at great length, after it
7 was ordered by the Court, there was a question that
8 asked identification of professional information
9 regarding communications to health care providers.

10 The typical response we are getting, and I am
11 reading from one specific form that got provided. The
12 answer was, "This request is ambiguous." It wasn't
13 ambiguous when we negotiated at great length. It wasn't
14 ambiguous when the Court ordered it to be used. And the
15 response then goes on to say, "However, to the extent
16 documents responsive to this request exist, please refer
17 to CPI-176 in production."

18 I have in my hand CPI-176. This is a
19 request, of course, for a specific defendant fact sheet
20 with respect to a specific plaintiff and their health
21 care providers. CPI-176, this is only two-thirds of
22 this when I stopped the person making copies. It is 12
23 CD's long.

24 Obviously, we can't send this to every
25 Plaintiff. There's hundreds and hundreds of Plaintiffs

1 and records in here. We can't obviously send to all,
2 that is, of the Plaintiffs in the country and say, hey,
3 here are 12 CD's. Look at it in the gigs and gigs of
4 information.

5 We are in the midst -- it is clear I am
6 trying to negotiate an actual response that is
7 responsive -- we are in the -- with the Bates numbers
8 and the like, with the response being made, we are
9 negotiating. We are hoping that will not be brought to
10 your attention, but if we can't resolve it, we will be
11 back. And we want all Plaintiffs to know we are working
12 on this to try to make it clear.

13 MR. CARPENTER: Your Honor, may I very
14 briefly respond?

15 THE HONORABLE JUDGE FRANK: Sure.

16 MR. CARPENTER: I'm not sure it is productive
17 to go into the merits of our deficiency issue at this
18 point. We do have a disagreement. We believe the way
19 we produced it is sufficient.

20 Nonetheless, Mr. Goldser, I believe, a couple
21 of days ago, proposed a compromised solution to this
22 issue. We are looking at that taking that under
23 consideration. I am hopeful we will be able to resolve
24 this without motion practice. If we do, we will further
25 delineate our position to the Court on this.

1 THE COURT: All right.

2 MR. ZIMMERMAN: We are still, I believe, on
3 the topic of pending motions and scheduling arguments,
4 but I don't have any other specifics with regard to
5 actual pending motions that we have to discuss.

6 Like we say, there are some in the cue that
7 we all have our eye on that won't interrupt the
8 scheduling of the bellwether trials. But, at this point
9 they are still in this conferring on how they are going
10 to and when they are going to get teed up. So, I don't
11 know whether we need any further discussion on it,
12 except Tim might.

13 MR. PRATT: I don't think there is any need
14 for any discussion. But, at our discussion this morning
15 at the informal conference, we came to better appreciate
16 that there are some motions that have been hanging
17 around that we sort of agreed to defer for a future
18 time. There are some motions that are sort of in the
19 file that no one has called up for a hearing.

20 What we agreed to do, Your Honor, is kind of
21 get our arms around, between now and the February
22 conference, which motions we really want to call up for
23 argument, which ones are going to be built into the
24 bellwether cases. We have, of course, set the
25 third-party payor MSP motion for argument.

1 We have worked out an accommodation. We
2 don't on our side believe punitive damages are
3 appropriate. We deny that. But, for purposes of
4 getting things moving ahead, getting ready for
5 bellwethers, we are going to allow it to be amended
6 subject to our challenge down the road.

7 There are some issues on preemption and all
8 of that, although fully briefed, we are going to focus
9 on the bellwether. All of that may be confusing enough.
10 The goal now, between now and February, is to give Your
11 Honor a very clear picture of what has been filed. Now
12 that we briefed it, it ought to be set for argument and
13 set as to which motion needs to be filed and are going
14 to be filed in bellwether cases, and setting out a
15 schedule for you in terms of how we are going to get
16 them briefed and up for argument.

17 I think we can do a lot of housekeeping from
18 our standpoint, because we in some way have contributed
19 to the clutter. So, we are going to work with the
20 Plaintiffs Steering Committee on that between now and
21 February.

22 THE HONORABLE JUDGE FRANK: Now, I think what
23 we heard back there, we are hearing the same thing here.
24 There was not one particular motion, one particular
25 issue, where either party drew a line in the sand and

1 said this isn't workable, this can't be heard. So, it
2 seems to me we will be able to agree on everything. I
3 think everybody had a meeting of the minds on it and it
4 is manageable. We need to decide some of these issues
5 between now and the inception of the first case.

6 MR. ZIMMERMAN: Thank you, Your Honor. I do
7 want to report to everybody the status of discovery so
8 people know what has been taking place sort of behind
9 the scenes that you haven't heard about at the status
10 conference. And that is that 89 depositions have been
11 completed in this MDL, 26 third-party subpoenas have
12 been issued, and they are outstanding, or the
13 information has been received, and literally millions of
14 pages of documents have been reviewed and categorized
15 and are contained within the document depository. And a
16 large group of people have been looking at this data and
17 organizing this data.

18 So, sometimes we leave the MDL with where we
19 have been and what we accomplished at this point in
20 time, and I didn't want to leave that unnoted. It isn't
21 a cause for concern by either side. It is happening the
22 way it is supposed to. So, that is a report to the
23 Court and people who may be in the court, or reviewing
24 the transcripts.

25 The next issue, Your Honor, is the revision.

1 On the agenda it is number 4, revised plaintiff fact
2 sheets and authorizations. There again, I am very
3 pleased to report through a series of meet and confers
4 and through a series of follow-ups and sit-downs by both
5 sides, we have agreed to a revised plaintiff fact sheet
6 and revised authorization. An agreement has been
7 reached and a document incorporating the agreement will
8 be filed within a week and then will be properly posted
9 so we can download it and have that available for their
10 plaintiff fact sheet and fill out an authorization of
11 execution.

12 This has been a process, and we have learned
13 through the process how to make it better, how to
14 streamline it, and how to implement the streamlines in
15 order to make this MDL efficient. We have accomplished
16 it. We have some give and take, but we like where we
17 are today for the revisions. And again, those would be
18 effective --

19 THE HONORABLE JUDGE FRANK: Is this like
20 rolling out a new model of a car?

21 MR. ZIMMERMAN: That is exactly it. We used
22 to do that every year. When we were growing up, a new
23 car came out every year, but recently they have kind of
24 stayed the same. But we have made some progress in
25 making it streamlined, which is our goal. I don't know

1 if you have anything further on that?

2 The next item on the agenda, Your Honor, is
3 the update on e-mail and backup tape discovery. There I
4 am not able to report we have got finalization on that,
5 although progress has been made in that endeavor. We
6 have still some ways to go.

7 But, we did agree to, with regard to that, if
8 we don't have this resolved by the next status
9 conference, in other words we haven't got agreement on
10 getting these backups and the update on the e-mails,
11 that we are going to tee it up and the Court will have
12 to make the call. We have been working on this for some
13 time.

14 It is a big technology issue that has a lot
15 of moving parts associated with it and it is going to be
16 resolved very soon before the next status, or it is
17 going to get teed up.

18 I am hopeful it can get resolved. I don't
19 know if it will be. At this point we can get that so
20 that the information does not in any way interfere with
21 the trial of the cases in the summer.

22 I don't know if you have anything further on
23 that?

24 MR. CARPENTER: No, Your Honor, I think that
25 is an accurate characterization from our side, as well.

1 THE COURT: All right.

2 MR. ZIMMERMAN: The defendant fact sheet
3 issues we have discussed, so that is number 6. We have
4 also discussed the joinder and bundling issue which was
5 on my notes. We have now discussed that.

6 There is an issue that has come up in a
7 footnote in the order of the Court that has to do with
8 filing in the individual cases and in the master file.
9 And it is my understanding that the Court will be
10 drafting an order on this issue directing how filings
11 should be done and where they should be done in, with
12 regard to these -- what were these, the master file and
13 the individual file, and will be somewhat modifying PTO
14 2. And that the Court will be getting that out for
15 review by counsel, and then final issuance in a
16 relatively short period of time. So, that confusion, if
17 it exists as to where you are supposed to file if you
18 are filing a matter and the individual call will be --

19 THE HONORABLE JUDGE FRANK: I think the
20 explanation is a simple one even though it is an
21 important issue, we have agreed to send out a proposed
22 order to have the committees look at. It is a real
23 simple reason why this is happening. Even though
24 historically across the country for MDL's this PTO Order
25 No. 2 would look verbatim from a manual on complex

1 litigation. Well, a manual on complex litigation does
2 not deal with electronic filing from start to finish.
3 The new version probably will. And so, this is one of a
4 number of MDL's that started from scratch with the
5 electronic filing.

6 So, the issues of do you file it in the
7 master file and what motions do you file, we will
8 resolve that shortly. That is why we dropped in the
9 footnote there has been some confusion, and we will take
10 care of that. But it is easily understandable how it
11 has happened, just because a lot of these orders that
12 have given great guidance over the years did not take
13 into account some of the ECF issues. So, we will do
14 that.

15 MR. ZIMMERMAN: Thank you, Your Honor. I
16 think the last item on the agenda is Contak Renewal 1
17 and 2 trials. And I think, suffice it to say, we are
18 going to be meeting and conferring on what comes first
19 after the first wave of bellwether trials. And we think
20 it will be Contak Renewal 1 and 2 for bellwether trials.
21 And we will be beginning to meet and confer with that
22 second stage of trials.

23 We have nothing to report at this time on,
24 other than it is definitely on our radar screen and we
25 will get that tracked and we will get those issues

1 somehow ready for the Court to try, if necessary.

2 THE HONORABLE JUDGE FRANK: I thought maybe
3 you or somebody for Guidant was going to say: Well,
4 can't we do this a little sooner so we can see how many
5 consecutive months we can try cases?

6 I don't think anyone will be doing that.

7 MR. PRATT: Your Honor, as we pointed out,
8 Judge Leary in the Minnesota consolidated proceedings
9 has set cases for February and April of 2008. And Mr.
10 Zimmerman is right, he and I, his colleague and I have
11 really not spoken about the next wave, when it is going
12 to be and all of that. But, I think I agree with Mr.
13 Zimmerman, it is something we can put on the next
14 discussion. So, if we can agree, we share our consensus
15 views on that. If we can't agree, tee it up and decide
16 where it is going to go. But, it is at the early
17 stages.

18 MR. ZIMMERMAN: Your Honor, that concludes
19 the proposed agenda. And if the Court has any
20 questions, I will be happy to answer them, or if anybody
21 here has anything they want to bring before the Court?

22 THE HONORABLE JUDGE FRANK: We will bring up
23 one issue and see if anyone else who is not a member of
24 either committee wishes to be heard. But, one thing we
25 discussed, but I guess I will just say, there is an

1 assumption by the Court and perhaps by the parties that
2 if there are other pending motions you are wondering
3 about, whether they were pending with cases here or
4 pending before a case was transferred here, I assume
5 respective counsel can start with the lawyers on both
6 sides of the case in the committees, and then if that
7 doesn't resolve an issue or give an answer to the
8 question, then I assume from that, that this is about
9 the time that somebody initiates contact with the Court.
10 Because we did try to do our best to cover both sets of
11 motions, those pending before something moves in here
12 and those pending and filed once the case was here. So,
13 I am assuming counsel on the committees can answer
14 those. If they can't, then we are here.

15 So, I guess that does bring us -- unless you
16 or anyone on behalf of Guidant has anything further?
17 Are there counsel that wish to be heard at this time
18 that are in the gallery? I certainly offer that.

19 The only other thing I say, if somebody --
20 because I know the respective lawyers for each of the
21 committees are not bashful about doing so. If you have
22 recommendations for the website and you are wondering
23 why something isn't there or why we don't handle it a
24 little differently -- so, for example, when we do an
25 order in the next week or thereabouts trying to clean up

1 any confusion over the filing procedures on which files
2 to file them in, we will try to do something to alert
3 everybody coming on to the site so you don't have to
4 wade through the PTO orders to find out where it would
5 be located. That was a suggestion by some of the
6 lawyers this morning. If you have a suggestion, leave
7 your phone numbers and contact information on the
8 website, as well.

9 Anything further on behalf of the Plaintiffs
10 at this time?

11 MR. ZIMMERMAN: No, Your Honor.

12 THE COURT: And the Defense?

13 MR. PRATT: Nothing from Guidant, Your Honor.

14 THE COURT: And did we cover the issues that
15 we needed to cover when we headed to the courtroom? I
16 don't think there was any remaining request to get
17 together after this court hearing? All right.

18 MR. PRATT: No.

19 THE COURT: We are adjourned. Thank you all
20 very much. All right.

21 (Adjournment.)

22

23 Certified by: _____

24 Jeanne M. Anderson, RMR-RPR
25 Official Court Reporter