

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE MEDTRONIC, INC.
IMPLANTABLE DEFIBRILLATORS
PRODUCTS LIABILITY
LITIGATION

MDL NO. 05-1726 (JMR/AJB)

This documents relates to:
All Cases

**AMENDED ORDER REGARDING MOTION FOR PRELIMINARY
APPROVAL OF COMMON BENEFIT ATTORNEYS' FEES**

Upon consideration of Plaintiffs' Motion for Preliminary Approval and Notice of the Common Benefit Attorneys' Fees, and based on the files, records and pleadings herein, IT IS HEREBY ORDERED that:

1. The PSC's request for preliminary approval of the common benefit attorneys' fees in the amount of \$18,250,000 is received.
2. An approval hearing is set for **August 20, 2008 at 9:00 a.m.**
3. The Court is considering:
 - a. whether an assessment of private contingency fee contracts is appropriate in this case to serve as the source of funding the common benefits attorneys' fees;
 - b. whether such an assessment would be appropriate to service common benefit litigation and settlement administrative costs;
 - c. whether common benefit settlement administrative costs should be charged to the settlement fund rather than to the common benefit attorneys' fees fund;

- d. whether to establish a maximum hourly rate in connection with calculating the instant lodestar; and
 - e. whether to modify private contingency fee contracts between the individual plaintiffs' counsel and their clients.
4. The following schedule is set for the responses:
- a. Any counsel shall have until **July 24, 2008** to respond to the motion for preliminary approval of common benefit attorneys' fees. These responses shall be filed with the Court and shall be served on Co-Lead Counsel by email to kgluek@gustafsongluek.com.
 - b. Co-Lead Counsel shall have until **July 31, 2008** to reply to any response on the motion for preliminary approval of common benefit attorneys' fees, the assessment of common benefit fees and costs, whether common benefit settlement administrative costs should be charged to the settlement fund or whether the Court should limit private contracts or hourly rates. This reply shall be filed with the Court and served via ECF.

5. The Common Benefit Attorneys' Fee Committee (the "Committee") was appointed pursuant to the Court's May 13, 2008 Order. The Committee submitted a proposed protocol for evaluating and recommending an attorneys' fee allocation. The Court has reviewed the protocol and hereby adopts that protocol, as amended (attached hereto as Exhibit A) and sets the following schedule:

- a. The Committee shall meet and audit all time submissions and shall make recommended cuts by **June 13, 2008** using the guidelines set forth in the March 6, 2007 Memo from Co-Lead Counsel relating to Time and Expense Reports and the Protocol (attached hereto as Exhibit B). These recommendations will be sent to the individual counsel by email on **June 13, 2008**.

- b. Any counsel shall have until **June 20, 2008** to send the Committee a statement explaining their respective role in the litigation and why the time they submitted should be allowed. These submissions shall be made in writing and shall not exceed five (5) pages. They shall be sent to kgluek@gustafsongluek.com by no later than **June 20, 2008**.
- c. Any counsel may also appear by telephone or in person before the Committee to further explain their respective role in the litigation and any relevant factors associated with the fee allocation process. These presentations will take place in Minneapolis, Minnesota no later than **July 11, 2008** as further directed by the Committee.
- d. The Committee shall make its final fee allocation recommendations. These recommendations must be filed with the Court and serve upon the individual counsel by email no later than **July 25, 2008**.
- e. Individual counsel may respond to the final recommendations of the Committee. These responses must be in writing and filed with the Court and served on Co-Lead Counsel by email to kgluek@gustafsongluek.com by **August 1, 2008**. The responses shall not exceed five (5) pages.
- f. The Committee shall file a reply to any Individual Responses by **August 8, 2008**. The replies shall be filed with the Court and shall not exceed five (5) pages.

6. The Court shall hold an approval hearing on the Common Benefit

Attorneys' Fees **August 20, 2008 at 9:00 a.m.**

Dated: July 17, 2008

BY THE COURT:

_____/s/Arthur J. Boylan_____
Arthur J. Boylan
United States Magistrate Judge