

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE MEDTRONIC, INC. IMPLANTABLE
DEFIBRILLATORS PRODUCTS LIABILITY
LITIGATION

CIVIL NO. 05-1762 JMR/AJB

This matter is before the court, United States Magistrate Judge Arthur J. Boylan, on Motion to Include Plaintiffs in Alternative Dispute Resolution [Docket No. 90] and two unresolved discovery issues. Arguments on plaintiffs' motion were heard in Courtroom 15. The discovery disputes were discussed at the Monthly Status Report Conference, May 18, 2006. Based on the file and argument of counsel, the court

HEREBY ORDERS that:

1. Plaintiffs' request that this court compel Medtronic to produce the letter from the Food and Drug Administration classifying Medtronic's field action of the recall **is granted**. Medtronic shall produce the letter from the FDA that classifies Medtronic's field action. The court finds that Medtronic opened the door to this discovery by representing that the FDA had taken no action against Medtronic. Plaintiffs should be allowed to explore this issue.
2. Plaintiffs' request that this court compel Medtronic to produce the CAPA files associated with the battery investigation **is denied**. The court finds that the CAPA files are not relevant to the issue of preemption which currently limits discovery in this matter.
3. Plaintiffs' Motion to Include Plaintiffs in Alternative Dispute Resolution [Docket

No. 90] is **denied as moot** based on Medtronic's assertion that there are no ongoing settlement discussions with any third party. The court agrees with both parties regarding the desirability of ADR and strongly encourages the parties to continue to explore and advance resolutions through ADR.

Dated: May 18, 2006

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