

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In Re: Medtronic, Inc. Implantable Defibrillators
Products Liability Litigation

MDL No. 05-1726 (JMR/ABJ)

This Document Relates to All Actions

**ORDER REGARDING
PLAINTIFF FACT SHEETS,
BELLWETHER CASE
SELECTION, CONTENTION
DISCOVERY, AND
DOCUMENT PRODUCTION**

The Court enters the following Order as to Plaintiff Fact Sheets, Bellwether case selection, contention discovery, and document production.

IT IS HEREBY ORDERED:

1. That Plaintiffs who clearly state in their Plaintiff Fact Sheet or supplemental response(s) that they are not asserting a wage loss claim do not need to provide authorizations for the release of their employment records (Exhibit D to this Court's February 21, 2007 Order Regarding Authorizations for Release of Plaintiffs' Records). If not stated clearly in the Plaintiff Fact Sheet or supplemental response(s) to date, Plaintiffs must verify whether or not a wage loss claim is being asserted.

2. That Plaintiffs who assert a wage loss claim must complete and provide original authorizations for the release of their IRS and Social Security Earnings Information (Exhibits B & C to this Court's February 21, 2007 Order Regarding Authorizations for Release of Plaintiffs' Records). Plaintiffs shall also produce or allow the production of complete tax returns when asserting a wage loss claim. Plaintiffs who clearly state in their Plaintiff Fact Sheet or supplemental response(s) that they are not

asserting a wage loss claim do not need to provide authorizations for the release of these records.

3. That with regard to the HIPAA Compliant Authorization for the Release of Medical Records and Insurance Records, Pursuant to 45 C.F.R. 164.508 (Exhibit A to this Court's February 21, 2007 Order Regarding Authorizations for Release of Plaintiffs' Records), Plaintiffs may either (a) provide a separate medical authorization for each health care provider listed in their respective Plaintiff Fact Sheet or (b) provide one signed and dated authorization with an attached list identifying the names and addresses of each health care provider and pharmacy listed in the Plaintiff Fact Sheet.

4. That Plaintiffs shall undertake a good faith effort to answer all questions in the Plaintiff Fact Sheet, including those sections that may not seem to apply. This obligation extends to the questions posed in Section V of the Plaintiff Fact Sheet. However, if a Plaintiff is unable to provide a "yes" or "no" response to a specific inquiry in the Plaintiff Fact Sheet, this alone will not constitute a basis for an unresolved deficiency and/or motion to compel.

5. That Plaintiffs must verify all supplemental information provided to Defendant in response to deficiency letters, including any supplemental information provided to Medtronic, Inc. prior to the date of this Order and any response in which a Plaintiff states that he/she is not asserting a wage loss claim as provided in Paragraphs 1 and 2, above. The supplemental information may be communicated in correspondence by counsel but once all supplementation is complete, a supplemental declaration (similar to that contained in the original Plaintiff Fact Sheet) or a signed statement from the

Plaintiff indicating they have read and reviewed the letter(s) containing the supplemental information, and verifying the information contained therein, must be provided to counsel for Defendant.

6. That Plaintiffs have until **May 7, 2007** to cure all unresolved deficiencies noted by Defendant including completing and sending the relevant authorizations and Plaintiff verifications delineated above. Any Plaintiff that does not comply with the **May 7, 2007** deadline shall be subject to motions to compel, sanctions, and/or possible dismissal.

IT IS FURTHER HEREBY ORDERED:

7. That on or before **April 23, 2007**, Plaintiffs' counsel shall submit to this Court and defense counsel a revised report assigning each Plaintiff who has served on Defendant a completed Plaintiff Fact Sheet to one of the jointly selected categories of cases based upon Plaintiff Fact Sheet information. On or before **April 24, 2007**, the Court will randomly select Plaintiffs in each category to be potential subject cases for Bellwether trial. An odd number of randomly selected Plaintiffs will be chosen in each category, the number equaling approximately ten percent of the Plaintiffs in each category, but in no event fewer than five Plaintiffs. On or about **May 16, 2007**, three potential bellwether cases for each category will be selected. The three potential Bellwether actions will be chosen by the parties through use of alternating peremptory strikes until only three cases remain in each category. Plaintiffs will have the first peremptory strike in the first randomly selected category, Defendant will have the first peremptory strike in the next randomly selected category, and so on.

8. That the parties shall respond to any “contention” discovery served by the other side on or before **August 1, 2007**.

9. That Defendant’s rolling document productions in response to discovery requests shall be completed by **September 1, 2007**.

Date: May 2, 2007

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