

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE ST. JUDE MEDICAL, INC. :
SILZONE HEART VALVES PRODUCTS :
LIABILITY LITIGATION : MDL DOCKET NO. 1396

PRE-TRIAL ORDER NO. 7

PRESERVATION OF DOCUMENTS

A. Brief Background

On August 22, 2001, this Court issued Order No. 1 (Setting Initial Conference) in the Silzone Heart Valves Products Liability Litigation. One of the issues Order No. 1 addresses is preservation of documents and records that contain information potentially relevant to the subject matter of this litigation. This Order provides additional directions for preserving documents to all parties, and it supplements Order No. 1.

B. Scope

Like Order No. 1, this order pertains to the preservation of documents that contain information potentially relevant to the subject matter of this litigation.

For purposes of this Order, "document" includes writings, computer files, including "office suite" type applications, emails, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can

be obtained, translated if necessary, through detection or computer devices into reasonably usable forms.

This Order pertains only to preservation and nothing in this Order shall be construed to affect the discoverability or admissibility of any document. All objections to discoverability or admissibility are maintained and may be asserted at any time.

C. Preservation Obligations

1. Preservation of St. Jude Medical's Newly Created Documents

The obligation to preserve documents (including but not limited to electronic data and e-mail) created subsequent to the effective date of this Order ("newly created documents") extends only to documents that relate to any of the following subjects:

- a) The regulatory status of Silzone® coated heart valves;
- b) The collection and/or reporting of adverse events occurring in patients who have received Silzone® coated heart valves;
- c) Clinical studies involving patients who received Silzone® coated heart valves; and
- d) Claims or litigation relating to Silzone heart valve or Silzone prosthetic products.

The duty to preserve newly created documents shall not extend to (a) documents that have been generated during the course of any litigation concerning Silzone® which are protected by the attorney client privilege or work product doctrine, including, but not limited to, briefs, motions, legal or factual memoranda, notes, correspondence or other similar materials; (b) draft documents and interim versions of documents if those documents would not have been preserved in the ordinary course of business, except for those documents which contain handwritten notes by persons other than the author; and (c) multiple identical copies of a document, including photocopies and electronically-stored data so long as the original document, or an identical copy, remain in a party's possession, custody or control.

2. Backups of Electronic Data

a. While this litigation is pending, the parties shall preserve electronic documents in their possession, custody or control that contain information potentially relevant to the subject matter of this litigation. Each party is obligated to notify its agents and third party document repositories, who may have such information in their possession, of this Order.

b. Pretrial Order No. 1 is hereby modified to prohibit the routine erasure of computerized information potentially relevant to the subject matter of this litigation,

c. The full and complete back-up of any server or other computer on a periodic basis (e.g. monthly) shall relieve the party of any obligation to maintain any interim back-ups of the same server or other computer.

IT IS SO ORDERED.

Dated: March 1, 2002

Honorable John R. Tunheim
UNITED STATES DISTRICT JUDGE