

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP.
IMPLANTABLE DEFIBRILLATORS
PRODUCTS LIABILITY LITIGATION

MDL Case No. 05-1708 (DWF/AJB)

This Document Relates to All Actions

PRETRIAL ORDER NO. 29

INTRODUCTION

This Order is intended to clarify some confusion related to the filing of documents in this MDL action. The parties stipulated to the early pretrial orders (“PTO”) based on forms contained in the *Manual for Complex Litigation 4th* (Federal Judicial Center 2004), which was published before most courts were using electronic filing. As a result, there are inconsistencies in a few of the PTOs in this MDL, especially PTO No. 2. The Court attempted to clarify its filing procedure in PTO Nos. 16 and 22; however, those Orders failed to address all of the inconsistencies in PTO No. 2, and they did not address other issues that have arisen in this MDL. Therefore, the Court drafted the following guidelines, with input from Guidant and the Plaintiffs’ Steering Committee, with the intent to replace and supplement the filing procedures described in this MDL’s PTOs, in particular PTO Nos. 2, 5, 16, and 22, and to alert incoming plaintiffs to items that require immediate attention. This Order is not intended to supplement or replace other portions of the PTOs that do not address filing issues. All parties participating in the MDL are required to be familiar with these guidelines and the PTOs entered in this MDL.

GUIDELINES FOR FILING IN THE MDL

1. Caption of Case. All Orders, pleadings, motions, and other documents served or filed in this Consolidated Action shall have the following caption:

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: GUIDANT CORP. IMPLANTABLE DEFIBRILLATORS PRODUCTS LIABILITY LITIGATION	MDL No. 05-1708 (DWF/AJB)
This Document Relates to [“All Actions” or specify by title and case number the individual applicable cases if the document relates to less than all of the consolidated cases.]	

2. Master File. The Clerk will maintain a Master Case File, MDL No. 05-1708 (DWF/AJB). The Master Case File is set up with the following parties: Plaintiffs’ Lead Counsel, Plaintiffs’ Liaison Counsel, and individual defendants. These parties will appear in MDL No. 05-1708 (DWF/AJB) as Lead Parties. Plaintiffs from the other individual cases will be added to MDL No. 05-1708 (DWF/AJB) as Notice-Only parties.

3. Separate Dockets and Files. The Clerk will maintain a separate docket for each case initiated, removed, or transferred to this Court. Each such case will be assigned a separate case number in this Court.

4. Notice of Appearance. All parties shall file a Notice of Appearance in the MDL No. 05-1708 (DWF/AJB) only. The Notice of Appearance shall specifically list

the individual case to which it applies. The parties must also obtain a CM/ECF login and password. *See Attachment A.*

5. Filing. All orders, pleadings, motions, and other documents that are normally filed in a civil action as required by Federal Rule of Civil Procedure 5 and that relate to an individual case shall be filed in both MDL No. 05-1708 (DWF/AJB) and the individual case. Those documents shall indicate in their caption the case number of the individual case to which they apply. Documents relating to “ALL ACTIONS” shall be filed only in MDL No. 05-1708 (DWF/AJB).

6. Electronic Filing. All documents filed by the parties in this MDL—with the exception of “initiating documents”—shall be filed electronically and in compliance with the District of Minnesota’s Local Rules and Electronic Case Filing Procedures, as revised on December 13, 2006. “Initiating documents” (e.g., original complaints, notices of removal), together with a civil cover sheet, and the filing fee, shall be submitted to the United States District Court for the District of Minnesota Clerk’s Office for filing. The Clerk’s office accepts initiating documents delivered to it in person or by e-mail and U.S. Mail. A copy of the Court’s electronic filing procedures is available at www.mnd.uscourts.gov. Initiating documents shall not be sent directly to the Chambers of Judge Donovan W. Frank.

7. Motion Filing. Any motion or other request for a ruling from the Court must be filed electronically as a motion on CM/ECF. Any opposition to a motion or any reply to a motion must be electronically linked to a motion on CM/ECF. In addition, the

caption of any such document shall include a reference to the motion's exact title and/or docket number and, as required by paragraph 5 above, be filed in both MDL No. 05-1708 (DWF/AJB) and the individual case, unless the motion applies to "ALL ACTIONS."

The parties shall comply with the requirements of Rule 7.1 of the Local Rules for the District of Minnesota when filing both dispositive and non-dispositive motions. Absent a Court order, only those documents described in Local Rule 7.1 will be allowed to be filed with respect to a particular motion.

8. Stipulations. Any stipulation by the parties must be filed on CM/ECF.

9. Courtesy Copies. **Two** courtesy copies of any document related to a motion shall be delivered to the Chambers of Judge Donovan W. Frank (via U.S. Mail at 316 North Robert Street, Suite 700, St. Paul, Minnesota, 55101 or via hand-delivery to 7th Floor, 180 East Fifth Street, St. Paul, MN 55101). The courtesy copies must contain a reference to the docket number of each particular document and be **bound and tabbed**, if necessary, in a manner that is easy to use. Unbound copies or copies with binder clips only will not be accepted.

10. Proposed Orders. Proposed orders shall be emailed to frank_chambers@mnd.uscourts.gov. All proposed orders shall be **unsigned** and must not be filed as any attachment or separate document on CM/ECF. The subject line on the e-mail message will contain an explicit reference to the Guidant MDL and to the motion or other matter to which the proposed order pertains.

11. Chambers' E-mail. Other than proposed orders and agendas, no other documents shall be e-mailed to the chambers' e-mail address.

12. Discovery Requests and Responses. Pursuant to Fed. R. Civ. P. 5(d), discovery requests and responses will not be filed with the Court, except when specifically ordered by the Court or to the extent offered in connection with a motion.

PTO No. 15 does not require the parties to file device status possession reports.

13. Rules of Civil Procedure. All actions in this MDL shall be governed by the Federal Rules of Civil Procedure; the Local Rules for the District of Minnesota, including Local Rules 72.1 ("Magistrate Judge Duties") and 72.2 ("Review of Magistrate Judge Rulings"); and the Electronic Case Filing Procedures for the District of Minnesota. The parties are expected to be familiar with the Local Rules for the District of Minnesota and the Electronic Case Filing Procedures for the District of Minnesota.

14. Briefing Schedules. Unless the Court approves other briefing schedules, the briefing schedule for all motions filed must be made pursuant to the Federal Rules of Civil Procedure and the Local Rules for the District of Minnesota.

15. Applicability of This Order. This Order applies automatically to all actions listed in the JPML's November 7, 2005 Transfer Order, as well as any other actions subsequently transferred to, removed to, or initiated in this Court, without the necessity of future motions or orders.

16. Motions Pending When Case is Transferred to This MDL. Any motion that was pending before transfer to this MDL is not now pending. If a party wishes for a

motion that was pending to be heard, that party must re-file the motion in this MDL.

17. Service of Documents. Service of documents in this MDL is made pursuant to Federal Rule of Civil Procedure 5.

18. Admission of Counsel. Attorneys admitted to practice and in good standing in any United States District Court are admitted as MDL attorneys in this litigation. Association of local co-counsel is not required. In addition to familiarizing themselves with the rules discussed above, all counsel are expected to familiarize themselves with the American Bar Association's *Civil Discovery Standards*, as well as *The Manual for Complex Litigation 4th* (Federal Judicial Center 2004), which the Court and parties may be called upon to refer to as a resource in the case management of this litigation.

19. Official Court Website. The Court has created and will maintain a web page devoted to the Guidant Implantable Defibrillators Products Liability Litigation, which can be found at www.mnd.uscourts.gov. Through this website, parties may access the Orders, minutes, the calendar, transcripts, forms used in this MDL, contact information for the Court's staff, Plaintiffs' Lead Counsel Committee and Liaison Counsel, Guidant's Lead and Liaison Counsel, frequently asked questions, and agendas and reports. Plaintiffs' Lead Counsel Committee and Liaison Counsel and Guidant's Lead and Liaison Counsel shall confer with the Court regarding the content of the website.

20. Plaintiff's Fact Sheet. Based on experiences to date with the Plaintiff's Fact Sheet ("PFS"), Plaintiffs' Lead Counsel Committee and Guidant drafted a revised

and streamlined PFS, which they have submitted to the Court for approval. Based on the parties' representations to the Court about the revised PFS, the Court hereby approves it.

See Attachment B.

With respect to cases initiated or transferred subsequent to this Order, individual plaintiffs must complete their individual revised PFS 30 days from the date their case is filed, transferred, or removed to this Court. If, prior to this Order, an individual plaintiff has completed a PFS based on the original PFS, Guidant has represented to the Court that it will accept such a PFS, provided it is completed in the proper and timely manner.

IT IS SO ORDERED.

Dated: February 21, 2007

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court