

EXHIBIT D

**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:

James Austin Smith,

Plaintiff,

v. Civil No. 06-5078 (DWF/AJB)

Guidant Corporation; Guidant Sales
Corporation; Cardiac Pacemakers Inc.;
Boston Scientific Corporation; Orange Coast
Memorial Medical Center; and Does 1-100,
inclusive,

Defendants.

(as to Defendant Orange Coast Memorial
Medical Center only)

**ORDER FOR DISMISSAL
WITHOUT PREJUDICE**

On March 1, 2007, Plaintiff James Austin Smith filed a Notice of Voluntary Dismissal (MDL No. 05-1708 (DWF/AJB), Doc. No. 1249)¹ pursuant to Federal Rule of Civil Procedure 41(a) with respect to his claims against Defendant Orange Coast Memorial Medical Center. After consideration of the submissions and review of the procedural history of the file,

¹ Plaintiff filed its motion only in the master case. It should have filed its motion in both the original case Civil No. 06-5078 (DWF/AJB) and in MDL 05-1708 (DWF/AJB).

IT IS HEREBY ORDERED:

1. Plaintiff James Austin Smith's claims against Defendant Orange Coast Memorial Medical Center expressed in the Complaint (Civil No. 06-5078 (DWF/AJB), Doc. No. 1) are **DISMISSED WITHOUT PREJUDICE**.

2. Each party to bear its own costs.

**LET JUDGMENT BE ENTERED ACCORDINGLY WITH RESPECT TO
DEFENDANT ORANGE COAST MEMORIAL MEDICAL CENTER ONLY.**

Dated: March 5, 2007

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