

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE  
DEFIBRILLATORS PRODUCTS  
LIABILITY LITIGATION

---

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

This Pleading Relates to:

HOWARD LAMOUREUX, as Personal  
Representative of the Estate of  
CYNTHIA LAMOUREUX,

Plaintiff,

0:06 - CV - 01567 - DWF - AJB

v.

GUIDANT CORPORATION, et al.,

Defendants,

---

**PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

COMES NOW the Plaintiff, HOWARD LAMOUREUX as Personal Representative of the Estate of CYNTHIA LAMOUREUX, deceased, and moves this Honorable Court for the entry of an Order allowing the Plaintiff to file an Amended Complaint in this action utilizing the form as found on the Court's website and adopting by reference the allegations of the Master Complaint on file with the Clerk of the Court in this multi district litigation action and as grounds therefore would show unto the Court as follows:

1. Cynthia Lamoureux commenced her action on February 28, 2006 in the Middle District of Florida.
2. Cynthia Lamoureux passed away on September 4, 2006, after the action had been

transferred to the MDL.

3. Counsel for the Plaintiff timely filed a Suggestion of Death and Motion to Substitute.

4. On December 6, 2006, Judge Donovan W. Frank granted Howard Lamoureux 's Motion to Substitute Party.

5. Thereafter, Defendants challenged Howard Lamoureux's standing as Plaintiff and filed a Motion to Dismiss for Lack of Standing.

6. Thereafter, the Honorable Judge Frank entered an Order dated February 6, 2007 which denied Guidant's Motion to Dismiss for Lack of Standing. The Court cautioned, "if Howard Lamoureux fails to be appointed as Personal Representative of the Estate of Cynthia Lamoureux within 90 days for the date of this Order, and the Parties cannot reach an agreement on this issue, Guidant may renew its Motion to Dismiss."

7. On February 19, 2007, the Honorable Sherra Winesett, Circuit Court Judge, appointed Howard Lamoureux as the Personal Representative of the Estate of Cynthia Lamoureux in Probate Case No.: 07-CP-000567, Circuit Court for Lee County, Florida. Accordingly, Howard Lamoureux has complied with the Court's Order of February 6, 2007 and with Rule 17 of the Federal Rules of Civil Procedure.

8. Plaintiff's counsel has utilized the form Complaint from the Court's website and the form Complaint, as edited to fit the facts of the individual case, is attached hereto as Plaintiff's Exhibit # 1.

9. The administration of the Estate of Cynthia Lamoureux is now proceeding according to Florida Law.

10. The only known assets of the Estate are the causes of action alleged here in the MDL.

WHEREFORE based upon the foregoing, the Plaintiff Howard Lamoureux as Personal Representative of the Estate of Cynthia Lamoureux, deceased, moves this Honorable Court for an

Order allowing the Plaintiff to file the Amended Complaint and directing that the Amended Complaint be deemed filed as of the date of the Court's Order granting the Amendment.

Respectfully submitted,  
Law Offices of Jay Calvert Cooper, P.A.

**s/ Jay Calvert Cooper**  
JAY CALVERT COOPER  
FLORIDA BAR NO: 599832  
Attorney for Plaintiff  
LAW OFFICES OF JAY CALVERT COOPER, P.A.  
1404 Dean Street, Suite 201  
Fort Myers, Florida 33901  
Phone: 239-931-9995  
Fax: 239-931-9997  
E-mail: [jcalpa@yahoo.com](mailto:jcalpa@yahoo.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 27, 2007, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that I mailed the foregoing

document and Notice of Electronic Filing by First Class mail to the following: Timothy A. Pratt, Esquire, SHOOK, HARDY & BACON, LLP, 2555 Grand Boulevard, Kansas City, MO 64108-2613, Joseph M. Price, Esquire, FAEGRE & BENSON, 2200 Wells Fargo Center, 90 South Seventh Street, Minneapolis, MN 55402-3901, and Kenneth E. Kemp, II, Esquire, Probate Attorney for the Estate of Cynthia Lamoureux, ANDRE J. PATRONE, P.A., 12685 New Brittany Blvd., Fort Myers, FL 33907.

**s/ Jay Calvert Cooper**

JAY CALVERT COOPER

FLORIDA BAR NO: 599832

Attorney for Plaintiff

COOPER & NELSON, LLP

1404 Dean Street, Suite 201

Fort Myers, Florida 33901

Phone: 239-931-9995

Fax: 239-931-9997

E-mail: [jcalpa@yahoo.com](mailto:jcalpa@yahoo.com)