

EXHIBIT D

AFFIDAVIT OF SERVICE

State of Massachusetts

County of Suffolk

U.S.D. Court

Case Number: 0:05-MD-1708(DWF-AJB)

Plaintiff:

**In Re: Guidant Corp. Implantable Defibrillators Products
Liability Litigation**

vs.

Defendant:

For:

Thomas & Associates
Federal Reserve Building
600 Atlantic Avenue, 12th Floor
Boston, MA 02210

Received by STOKES & LEVIN on the 9th day of February, 2006 at 3:25 pm to be served on **Boston Scientific Corp c/o Corporation Service Company: 84 State Street Boston, MA 02109.**

I, Wendell Davison, being duly sworn, depose and say that on the **9th day of February, 2006 at 4:30 pm, I:**

Served the within named corporation by delivering a true copy of the **Subpoena in a Civil Case** with the date and hour of service endorsed thereon by me to Bernardo Montenez as the clerk on duty authorized to accept service on behalf of within named corporation and compliance with state statutes.

I certify that I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the judicial circuit in which the process was served.

Subscribed and Sworn to before me on the 10th day of February, 2006 by the affiant who is personally known to me.



NOTARY PUBLIC



MARIA BARROS
Notary Public
Commonwealth of Massachusetts
My Commission Expires
May 21, 2010



Wendell Davison
Civil Process Division

STOKES & LEVIN
27 Glen Street
Stoughton, MA 02072
(781) 341-8390

Our Job Serial Number: 2006000734
Ref: Robert M. Thomas

Issued by the
UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

IN RE: GUIDANT CORP. IMPLANTABLE
DEFIBRILLATORS PRODUCTS
LIABILITY LITIGATION

SUBPOENA IN A CIVIL CASE

Case Number: 0:05-md-1708 (DWF-AJB)
(Litigation is Pending in the District of
Minnesota)

TO: Boston Scientific Corp. c/o Corporation Service Company
84 State Street
Boston, Massachusetts 02109

G YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

G YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

All documents requested in Attachment A

PLACE Robert M. Thomas, Jr. Thomas & Associates Federal Reserve Building 600 Atlantic Avenue, 12th Floor Boston, MA 02210	DATE AND TIME March 13, 2006 at 9:00 a.m.
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G YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Robert M. Thomas, Jr. Attorney for Plaintiff Darci L. Munson</i>	2/6/06

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Robert M. Thomas, Jr. Thomas & Associates
(617) 371-1072 Federal Reserve Building
600 Atlantic Avenue, 12th Floor
Boston, MA 02210

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to comply production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to

attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
(iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in who behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

ATTACHMENT A

Definitions and Instructions

The following definitions and instructions shall be employed in responding to this Subpoena Duces Tecum (“Subpoena”) request for the production of documents:

A. This Subpoena requires that Boston Scientific Corp. produce all responsive documents in the possession, custody, or control of the company or any of its current and former subsidiaries, affiliates, partners, employees, attorneys, agents, or other persons acting and purporting to act on its behalf.

B. The term “you” or “yours” refers to Boston Scientific Corp. and/or any of its current and former officers, directors, employees, attorneys, agents, and other persons acting or purporting to act on its behalf.

C. The term “Plaintiffs” refers to named and unnamed Plaintiffs or potential class members in the action, *In re Guidant Corp. Implantable Defibrillators Products Liability Litigation*, Civil Action No. 0:05-md-1708 (DWF-AJB), currently pending in the United States District Court for the District of Minnesota.

D. The term “Defendants” refers to Guidant Corporation, Guidant Sales Corporation, and Cardiac Pacemakers, Inc. and those entities’ current and former officers, directors, employees, attorneys, agents, and other persons acting or purporting to act on their behalf.

E. “All” means all or any, and “any” means all or any.

F. “And” or “or” shall be construed either conjunctively or disjunctively to bring within the scope of the request any information that might otherwise be construed to be outside its scope.

G. As used herein, any word written in the singular shall be construed as plural and vice-versa, and any masculine word shall be construed as feminine or neuter and vice-versa as required by the context to bring within the scope of this Subpoena any documents and/or information that might be deemed outside the scope of a request by another construction.

H. "Relating to" means referring to, consisting of, reflecting, concerning, discussing, constituting, describing, analyzing, studying, evidencing, incorporating, or in any way pertaining to or having any logical or factual connection to the subject matter.

I. "Document" has the full extent of its meaning under Rule 34 of the Federal Rules of Civil Procedure. "Documents" include both originals and copies, any and all drafts, and all copies that contain any notation not on the original. Examples of documents include, but are not limited to, handwritten, typed, or printed papers, handwritten notes, office notes, calendar entries, diaries, memoranda, press clippings, photographs, reports, deposition transcripts, deposition exhibits, receipts, invoices, correspondence, ledger entries, workpapers, audio and visual recordings, films, and computer printouts, cards, tapes, disks, and other types of electronically or magnetically maintained information.

J. Documents that are in paper form or that constitute other physical objects from which recorded information may be visually read, as well as electronic files, audio or video tapes and similar recordings, should be produced in their original form or in copies that are exact duplicates of the originals. Computer files and similar electronic records should be produced in an electronic or readable form mutually agreed upon by the parties.

K. If you object to any portion of any request in this Subpoena, you should identify the portion to which you object and respond to the remainder.

L. Unless otherwise indicated, this Subpoena includes requests for documents created or that came into your possession between January 1, 2004 and the date of this Subpoena.

M. The scope of this Subpoena includes all responsive documents that are within your custody or control, regardless of whether they are currently in your possession.

N. Documents should be produced either: (a) as they are kept in the ordinary course of business, complete with the original file folders, binders, or other containers in which they are stored (or legible copies of the labels from those folders, binders, or containers); or (b) organized according to the document

request(s) in this Subpoena, to which they are responsive. If you elect the latter mode of production, each document or set of documents from a particular file, binder, or other container should be accompanied by a legible copy of the label from that container or some other reliable indicator of the file from which it was taken. If any portion of a document is responsive to any request, the entire document should be produced.

O. If you assert a claim of privilege as to one or more documents sought in this request, you should list, for each such document, the document's date, signatory or signatories, author(s), addressee(s), each other person who received a copy of such document, the subject matter of the document, its location and custodian, and the basis for the claim of privilege, including the identity of any and all clients on whose behalf the privilege is claimed. Such information should be supplied in sufficient detail to permit the Court to assess the applicability of the privilege claimed.

Documents Requested

1. All documents you obtained from or provided to Defendants, which refer, relate, or in any way pertain to defects or malfunctions in Defendants' implantable defibrillators or pacemakers. These include, but are not limited to, documents which refer or relate to:

- a. Incidents of specific malfunctions in Defendants' implantable defibrillators or pacemakers;
- b. Defendants' advisories to physicians regarding defects or malfunctions in Defendants' implantable defibrillators or pacemaker systems; and
- c. The United States Food and Drug Administration's ("FDA") recall of Defendants' implantable defibrillators or pacemakers.

2. All documents you obtained from or provided to Defendants referring or relating to any litigation brought against Defendants, which allege, refer, or relate to any alleged defects or malfunctions in Defendants' implantable defibrillators or pacemakers, or a failure by Defendants to timely advise doctors or

patients of defects or malfunctions in Defendants' implantable defibrillators or pacemakers, or any claim for damages in connection with Defendants' sales of implantable defibrillators or pacemakers.

3. All documents reflecting communications between you and Defendants regarding any alleged defects or malfunctions in Defendants' implantable defibrillators or pacemakers, or a failure by Defendants to timely advise doctors or patients of defects or malfunctions in Defendants' implantable defibrillators or pacemakers, or any claim for damages in connection with Defendants' sales of implantable defibrillators or pacemakers.

4. All documents, schedules, and exhibits referred to in the Agreement and Plan of Merger Dated as of January 25, 2006, Among Boston Scientific Corporation, Galaxy Merger Sub, Inc. and Guidant Corporation, including but not limited to, the "Company Disclosure Schedule" referred to in Art. III, section 3.01 of the Agreement and Plan of Merger and the "Parent Disclosure Schedule" referred to in Art. III, section 3.02 of the Agreement and Plan of Merger.

5. All documents referring or relating to your public statement on or about January 24, 2006 (attributed to your spokesman, Paul Donovan) that your "assumptions and projections" in the potential acquisition of Defendants "have been consistently conservative," and that you have "factored in the possibility" of additional recalls or medical advisories regarding Defendants' implantable defibrillators or pacemakers.

6. All documents referring or relating in any way to Defendants' implantable defibrillators and pacemakers, which you have provided, or intend to provide, to third parties including, but not limited to any United States Attorney, the Securities and Exchange Commission or the FDA.

7. Copies of all computer or electronic representations, records, databases, or other data stored on any type of magnetic media containing any material relevant to items 1, 2, 3, 4, and 5 above.

8. All manuals, instructions, field descriptions and other documents necessary to read, understand, or manipulate any data described in item number 6 above.

9. All documents relating to the retention, destruction, disposal, or preservation of your documents that are or would have been responsive to this Subpoena, including electronically stored data.