

**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

**PRETRIAL ORDER NO. 13**

**DEPOSITION PROTOCOL FOR ALAN GORSETT AND JOSEPH SMITH, M.D.**

The Court hereby enters the following Order to address the deposition protocol of Alan Gorsett, former Vice-President of Reliability and Quality Assurance at CPI, presently scheduled for June 1, 2006, and Joseph Smith, M.D., formerly CPI's chief medical officer, whose deposition is scheduled for June 8 and 9, 2006. Defendant has submitted a proposed order to establish an addendum to the deposition protocol set forth in Pretrial Order No. 3. While the Court finds and concludes that such a modification would serve the interests of all parties, the Court will only address, at this time, in the Order set forth below, the depositions of Alan Gorsett and Joseph Smith, M.D.

Based upon the presentations of the parties, the telephone conference on May 31, 2006, and the Court being familiar with the procedural history of this case and the existing deposition protocol, including the requests of the parties to address the deposition of witnesses who have already been deposed in related state court litigation, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

## **ORDER**

### **1. Deposition of Alan Gorsett**

The deposition of Alan Gorsett set for June 1, 2006, shall be no more than seven hours in length, absent agreement of the parties or further order of this Court. However, the parties are directed to address, absent stipulation, all devices at issue, including the VENTAK PRIZM No. 2 DR Model 1861.

### **2. Deposition of Joseph Smith, M.D.**

The deposition of Joseph Smith, M.D., set for June 8 and 9, 2006, shall be no more than seven hours in length, absent agreement of the parties or further order of this Court. However, the parties are directed to address, absent stipulation, all devices at issue, including the VENTAK PRIZM No. 2 DR Model 1861.

Dated: May 31, 2006

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

## **MEMORANDUM**

The Court has only dealt at this time with the depositions of Alan Gorsett and Joseph Smith, M.D., due to the unique circumstances of each individual. The Court does not intend to set a precedent for other Rule 30(b)(6) witnesses or other previously deposed company witnesses.

The Court expects the parties to follow the guidelines set forth in Pretrial Order No. 3 which established deposition protocol. The Order establishing deposition protocol

filed on January 6, 2006, certainly contemplated that the lawyers conducting the depositions of Rule 30(b)(6) witnesses or other previously deposed company witnesses would be familiar with the transcripts of all prior depositions and be familiar with the subject matters covered during those depositions. The Court assumes that this practice has been occurring and will continue to occur. As for the need for an addendum to cover all depositions of witnesses who have already been deposed in related state court litigation, in the event the parties have not reached an accord within the next week or two, apart from the two witnesses before the Court, the Court will address the matter.

D.W.F.