

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JANE JOYE and THE ESTATE OF
CHARLES T. JOY,)
)
Plaintiffs,)
)
vs.) No. 08-2143-V
)
BIOTRONIK, INC.,)
)
Defendant.)

ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Before the court is the April 4, 2008 motion of the defendant, Biotronik, Inc., for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

The burden is upon plaintiffs to prosecute their lawsuit. By order entered May 29, 2008, the plaintiffs were ordered to show cause on or before June 13, 2008, why the defendant's motion for summary judgment should not be granted and why this case should not be dismissed for failure to prosecute. The plaintiffs were warned that failure to respond to the show cause order or the motion for summary judgment could result in dismissal of their lawsuit for failure to prosecute. The plaintiffs have failed to respond to the show cause order or to the motion for summary judgment. It appears to the court therefore that this lawsuit should be dismissed for failure to prosecute and that Biotronik's motion for summary judgment should be granted.

Accordingly, this lawsuit is hereby dismissed with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute, and Biotronik's motion for summary judgment is granted.

IT IS SO ORDERED this 18th day of June, 2008.

s/ Diane K. Vescovo
DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE