IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

MICHAEL DAVIS, INDIVIDUALLY AND ON BEHALF OF ALL WRONGFUL DEATH BENEFICIARIES OF DEBBIE MYERS DAVIS, DECEASED — PLAINTIFF

VS. — CAUSE NO. 4:18-CV-021-DMB-JMV

MEDTRONIC MINIMED, INC., MINIMED DISTRIBUTION CORP., MEDTRONIC, INC., MEDTRONIC USA, INC. & JOHN DOE DEFENDANTS 1-5 — DEFENDANTS

COMPLAINT

JURY TRIAL DEMANDED

COMES NOW the Plaintiff, Michael Davis, individually and on behalf of all wrongful death beneficiaries of Debbie Myers Davis, Deceased, and hereby files this Complaint against the Defendants, Medtronic MiniMed, Inc., MiniMed Distribution Corp., Medtronic, Inc., and Medtronic USA, Inc. (hereinafter sometimes collectively referred to as "Defendants" or "Medtronic") and John Doe Defendants 1-5, and the Plaintiff states as follows:

PARTIES

1. Plaintiff, Michael Davis, is an adult resident citizen of Attala County, Mississippi. His principal residence is located at 104 Jeffery Street, Kosciusko, Mississippi 39090.

2. Defendant Medtronic MiniMed, Inc., is a foreign corporation organized and existing under the laws of Delaware, with its principal place of business at 18000 Devonshire Street, Northridge, California 91325. At all times relevant this this Complaint, this Defendant

conducted business in the State of Mississippi, but does not maintain a registered agent for service of process in Mississippi. This Defendant may be served with process upon its registered agent, CT Corporation System, 818 West 7th Street, Los Angeles, California 90017.

3. Defendant MiniMed Distribution Corp., is a foreign corporation organized and existing under the laws of Delaware, with its principal place of business at 18000 Devonshire Street, Northridge, California 91325. At all times relevant this this Complaint, this Defendant conducted business in the State of Mississippi. This Defendant may be served with process via service upon its registered agent, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

4. Defendant Medtronic, Inc., is a foreign corporation organized and existing under the laws of Minnesota, with its principal place of business at 710 Medtronic Parkway, Minneapolis, Minnesota 55432. At all times relevant this this Complaint, this Defendant conducted business in the State of Mississippi. This Defendant may be served with process via service upon its registered agent, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

5. Defendant Medtronic USA, Inc., is a foreign corporation organized and existing under the laws of Minnesota, with its principal place of business at 710 Medtronic Parkway, Minneapolis, Minnesota 55432. At all times relevant this this Complaint, this Defendant conducted business in the State of Mississippi. This Defendant may be served with process via service upon its registered agent, CT Corporation System, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Medtronic because Medtronic regularly conducts business in Mississippi and has sufficient minimum contacts in Mississippi. Medtronic intentionally availed itself of this jurisdiction by marketing and selling products and services and by accepting and processing payments for those products and services within Mississippi. Defendant further availed itself of jurisdiction in Mississippi by designing, manufacturing, testing, packaging, marketing, distributing, labeling and/or placing said products in the stream of commerce with the knowledge that said products would reach Mississippi.

7. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332 because the amount in controversy exceeds $75,000, exclusive of interests and costs, and this case is between citizens of different states.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events, acts, and omissions giving rise to Plaintiff's claims occurred in this District and/or because Medtronic is subject to this Court's jurisdiction with respect to this action.

9. The Decedent, Debbie Myers Davis, was injured as a result of the defective Medtronic products at issue in this Complaint. The product failures and the proximately resulting injury occurred while she was at her home in Attala County, Mississippi, within the jurisdiction of the United States District Court for the Northern District of Mississippi, Greenville Division. Jurisdiction and venue are appropriate in this Court.

STATEMENT OF FACTS

10. On or about January 7, 2017, Debbie Davis was a healthy, 56 year old resident of Attala County, Mississippi. She worked as a loan officer at a local bank. Debbie Davis was married to Michael Anthony Davis, and she had two (2) children: Nicholas Anthony Davis and Kristi Michelle Davis.

11. Debbie Davis was a diabetic, and she used a Medtronic MiniMed insulin pump to deliver the necessary amount of insulin into her blood stream to properly treat her diabetes. Said MiniMed insulin pump stored up to one week's worth of insulin. The insulin is delivered from the pump to the patient's body through plastic tubes called "infusion sets."

12. Debbie Davis used Medtronic MiniMed Quick-Set Infusion Sets to deliver the insulin from the pump to her body.

13. On or about the night of January 6, 2017, at her home in Attala County, Mississippi, Debbie Davis changed her insulin set and loaded her insulin pump, which contains enough insulin to last up to one week. Debbie then went to bed.

14. The next morning, on January, 7, 2017, Debbie would not wake up. Michael Davis was unable to wake her, and paramedics were called to the Davis home.

15. Sometime after going to bed on January 6, 2017, Debbie Davis suffered a stroke resulting from severe hypoglycemia.

16. Sometime after loading her insulin pump on the night of January 6, 2017, the Medtronic MiniMed insulin pump delivered up to a week's worth of insulin at one time into Debbie Davis's body.

17. The large amount of insulin resulted in severe hypoglycemia and, ultimately, a stroke, from which Debbie Davis never recovered.

18. Debbie Davis was subsequently taken to University of Mississippi Medical Center, where she survived for over two (2) months before ultimately dying from the injuries at issue in this lawsuit on March 14, 2017.

19. The Medtronic MiniMed infusion set at issue malfunctioned as a result of a defect that caused fluid to block the infusion set membrane during the priming/fill-tubing process, which prevents the infusion set from working properly and results in over-delivery of insulin.

20. The Medtronic MiniMed infusion set at issue was part of a lot of infusion sets that were subsequently recalled on September 7, 2017, due to the defective condition that killed Debbie Davis.

THE PRODUCT

21. The Defendants designed, manufactured, marketed and distributed the MiniMed Quick-Set Infusion Sets, which are marketed to deliver insulin from an insulin pump to a diabetes patient in measured amounts. The MiniMed Quick-Set Infusion Sets consist of a membrane and disposable plastic tubes which transport insulin from the pump to the patient's body.

22. The Medtronic MiniMed Infusion Sets are used in conjunction with an insulin pump to help diabetics regulate their blood sugar by providing a constant source of insulin. They provide an alternative to multiple daily injections of insulin. The pump, about the size of a deck of cards, weighs only a few ounces and can be worn on a belt or kept in a pouch under clothing. The pump connects to flexible plastic tubing that delivers insulin to the body. Users set the pump to give a steady trickle of insulin throughout the day. It can be programmed to release larger doses at meals or at times when blood sugar is too high.

23. Debbie Davis had no way of knowing that the MiniMed Quick-Set Infusion Sets that she was using were defective in design, manufacture, and marketing, and that, even when used in conformance with Defendants' instructions, they were prone to deliver incorrect and life-threatening doses of insulin.

THE COMPANY

24. Medtronic is a global healthcare products company, with annual revenue in the billions of dollars. Medtronic touts its leadership in the medical device industry, specifically representing that it has 25 years of continuous leadership in diabetes device solutions that improve patients' lives. Medtronic claims to be passionate about diabetes care, with a highly trusted brand and a proven track record for advancing solutions. This claim is echoed in part of Medtronic's mission statement in which Medtronic vows to "strive without reserve for the greatest possible reliability and quality in our products; to be the unsurpassed standard of comparison and to be recognized as a company of dedication, honesty, integrity, and service."

25. In spite of Medtronic's stated mission, Medtronic MiniMed insulin pumps and infusion sets have been the subject of a myriad of problems and defects over the years. For example, in sharp contrast to the virtuous ideals from Medtronic's Website are statements from a June 1, 2009 letter from the United States Food and Drug Administration ("FDA") to William A. Hawkins, Medtronic's president and chief executive officer regarding Medtronic PR Operations Co., the firm where MiniMed insulin pumps are manufactured.

In criticizing Medtronic's manufacturing and reporting processes, the FDA cited Medtronic for:

> Failure to report to FDA no later than 30 calendar days after the day that you receive or otherwise become aware of information, from any source, that reasonably suggests that a device that you market: (1) may have caused or contributed to a death or serious injury; or (2) has malfunctioned and this device or a similar device that you market would be likely to cause or contribute to a death or serious injury, if the malfunction were to recur ...

26. In contravention of applicable regulations, Medtronic had failed to report an incident involving a MiniMed insulin pump in which "device failure or malfunction may have contributed to or caused the user's hospitalization and the device's malfunction would be likely to cause or contribute to a death or serious injury, if the malfunction were to occur."

27. The FDA also found fault with the personnel that Medtronic entrusted at its manufacturing facility in Puerto Rico with determining whether a Medtronic device was dangerous. Specifically, the FDA cited Medtronic for:

> Failure to have a person who is qualified to make a medical judgment reasonably conclude that a device did not cause or contribute to a death or serious injury, or that a malfunction would not be likely to cause or contribute to a death or serious injury if it were to recur, as required by [United States federal law]. Persons qualified to make a medical judgment include physicians, nurses, risk managers, and biomedical engineers, under [United States federal law].

28. According to FDA Investigators, this plant had a wide range of problems that included lax testing of products for defects, proper record keeping, and employing someone with insufficient training as a medical expert to determine danger or defects. Said employee

only had a high school diploma with some additional in-house training. In listing these and other violations, the FDA concluded that the problems may be symptomatic of serious problems in Medtronic's manufacturing procedures and its quality controls.

29. None of the cited violations reflect Medtronic's hollow promise to strive "without reserve for the greatest possible reliability and quality in our products; to be the unsurpassed standard of comparison and to be recognized as a company of dedication, honesty, integrity and service."

30. On or about June 29, 2009, these issues led to a Class 1 Recall of many of the Defendants' insulin infusion sets labeled Paradigm Quick-Set Infusion Sets. Said recall included lots manufactured between 2007 and 2009. Approximately three million disposable infusion sets were recalled.

31. Unfortunately, past recalls and problems associated with Medtronic infusion sets did not result in Medtronic designing and marketing safe products for use by Debbie Davis.

THE CURRENT RECALL

32. On September 7, 2017, Medtronic issued an "Urgent Medical Device Recall" regarding Medctronic MiniMed Infusion Sets.

33. The Recall Notice states that "Medtronic has become aware of recent reports of potential over-delivery of insulin shortly after an infusion set change." Medtronic further notes that it has received reports of hypoglycemia requiring medical attention related to this issue, which Medtronic concedes can result in "hypoglycemia and in extreme cases, death."

34. The Recall Notice states that this problem is caused by fluid blocking the infusion set membrane during the priming/fill-tubing process, which prevents the infusion set from working properly. The result can be fast delivery of multiple days' worth of insulin.

35. The Recall Notice also announces that Medtronic has an alternate infusion set design, which contains a "new and enhanced membrane material that significantly reduces the risk."

36. Defendants were aware or should have been aware of the defects and risks associated with their products, but proceeded with conscious indifference to the rights, safety and welfare of others. Over-delivery of insulin is a serious matter that poses catastrophic, lethal risks.

37. As a result of the defective MiniMed Infusion Sets, Debbie Davis received a large quantity of insulin, which resulted in extreme hypoglycemia, stroke and eventual death. Causes of action are hereby asserted for the wrongful death of Debbie Davis.

CAUSES OF ACTION

COUNT I
PRODUCT LIABILITY

38. The Plaintiff incorporates, adopts by reference and realleges each and every allegation of this Complaint the same as though specifically set out herein again.

39. The Plaintiff hereby asserts a design defect claim pursuant to the Mississippi Product Liability Statute, MISS. CODE. ANN. § 11-1-63, and other applicable Mississippi law.

40. At all times relevant to the Complaint, the Defendants were in the business of designing, manufacturing, marketing, testing, labeling, selling and distributing Medtronic

MiniMed Infusion Sets. The product at issue was defective and unreasonably dangerous at the time it left the hands of the Defendants. Defendants placed their product into the stream of commerce in a defective and unreasonably dangerous condition such that the foreseeable risks exceeded the benefits associated with the design of the product.

41. Defendants' product was unreasonably and dangerously defective beyond the extent contemplated by ordinary users with ordinary knowledge regarding the product. Decedent was unaware of the danger as Defendants provided ineffective and inadequate warnings and instructions.

42. Defendants' product was defective due to inadequate post-marketing warnings and instructions, and/or inadequate testing and studies, and/or inadequate reporting regarding the results.

43. Defendants' product was defective in light of the dangers posed by its design and the likelihood of those avoidable dangers. Defendants' product was defective because the inherent risk of harm in Defendants' product design outweighed the utility or benefits of the existing product design. Defendants' product was defective because reasonably cost-effective and feasible state-of-the-art alternatives existed at the time that would not have undermined the product's usefulness.

44. Defendants were aware of effective substitutes for the product. The gravity and likelihood of the dangers posed by the product's design outweighed the feasibility, cost, and adverse consequences to the product's function of a safer alternative design that Defendants reasonably should have adopted.

45. There was a safer alternative design that would have prevented or significantly reduced the risk of injury. It was reasonable as well as economically and technologically

feasible at the time the product left Defendants' control by the application of existing or reasonably achievable scientific knowledge.

46. The defective and unreasonably dangerous conditions discussed herein existed when the product left Defendants' control. They existed when Defendants sold the product. They existed when Decedent received it.

47. Defendants' conduct showed willful, malice, wantonness, oppression, or that entire want of care that raises the presumption of conscious indifference to consequences.

48. As a direct and proximately result of the design defect and the Defendants' conduct alleged herein, Decedent sustained injuries and death, and the Plaintiff suffered damages for which a cause of action is hereby stated.

COUNT II
NEGLIGENCE

49. The Plaintiff incorporates, adopts by reference and realleges each and every allegation of this Complaint the same as though specifically set out herein again.

50. At all relevant times, Defendants knew or reasonably should have known that their product was unreasonably dangerous and defective when used as designed and directed.

51. Defendants had a duty to exercise reasonable care, and to comply with the then existing standard of care, in the design, testing, research, development, packaging, distribution, promotion, marketing, advertising, instruction, and sale of their product. Specifically:

(a) Defendants had a continuing duty to ensure that the product they provided was safe and used correctly through proper design, testing, research, adequate instruction, post-market surveillance, and appropriate modifications;

(b) Defendants had a duty to anticipate the environment in which the product would be used and to design against the reasonably foreseeable risks attending the product's use in that setting, including misuse or alteration;

(c) Defendants had a continuing duty to give an adequate warning of known or reasonably foreseeable dangers arising from the use of their product;

(d) Defendants had a duty to provide adequate warnings and instructions, which means they had to be comprehensible to the average user, calculated to convey the material risks to the mind of a reasonably prudent person, and of an intensity commensurate with the danger involved;

(e) Defendants had a continuing duty to assure the product they provided was properly labeled and true to the representations Defendants made about it;

(f) Defendants had a continuing duty to make sure their product had complete and accurate information and instructions concerning its proper use;

(g) Defendants had a continuing duty to modify their products, and their packaging, instructions, promotional and advertising efforts to eliminate confusion and user error, assure compliance, and prevent harm; and

(h) Defendants had a continuing obligation to disseminate appropriate content and employ appropriate methods to convey accurate and complete product information.

52. In violation of the existing standards and duties of care, Defendants, individually and collectively, deviated from reasonable and safe practices in the following ways, by:

(a) designing a product defective in design and warnings/instructions;

(b) failing to conduct pre and post market safety tests and studies;

(c) failing to collect, analyze, and report available data regarding use of Defendants' product;

(d) failing to conduct adequate post-market monitoring and surveillance;

(e) failing to include adequate warnings about and/or instructions;

(f) failing to provide adequate warnings and/or proper instructions regarding proper uses of the product;

(g) failing to inform users that Defendants had not adequately tested or researched the product to determine its safety and risks;

(h) failing to educate and instruct users about the unique characteristics of their product and the proper way to use it;

(i) failing to implement and execute corrective and preventive actions to eliminate injuries; and

(j) continuing to promote and market the product despite the foregoing failures.

53. The injuries and damages alleged herein were the reasonably foreseeable result of Defendants' product and conduct.

54. Had Defendants designed a safe product and/or undertaken the tests, studies, and steps described herein, the injuries and damages complained of here would not have occurred.

55. Defendants held themselves out as experts and specialists and therefore possessed a higher degree of skill and learning.

56. Defendants are bound for the care of their agents, servants, employees, officers, and directors and for the neglect and/or fraud of the same. Defendants are liable for the conduct of their agents, servants, employees, officers, and directors committed in the course of their activities on behalf of and in furtherance of the company. Defendants are liable for their agents,

employees, officers, and directors conduct attempting to advance Defendants' business. Defendants expressly and impliedly authorized and ratified the conduct of their agents, servants, employees, officers, and directors. Defendants received significant benefits as a direct result of their agents', employees', servants', officers', and directors' conduct.

57. Defendants' conduct showed willful, malice, wantonness, oppression, or that entire want of care that raises the presumption of conscious indifference to consequences. Defendants' wrongdoing constitutes gross negligence, and said gross negligence proximately caused the death of Decedent and the damages sustained by the wrongful death beneficiaries.

58. As a direct and proximate result of Defendants' conduct and omissions described herein, Decedent's life was dramatically shortened, robbing Decedent's family of affection and service. Decedent's death was a direct and proximate result of the products and wrongdoing of the Defendants, as set out herein.

COUNT III
BREACH OF EXPRESS WARRANTY

59. The Plaintiff incorporates, adopts by reference and realleges each and every allegation of this Complaint the same as though specifically set out herein again.

60. The Defendants represented and warranted to the Decedent that its Medtronic MiniMed Infusion Sets were safe for use in accordance with the Defendants' protocols.

61. The Medtronic MiniMed Infusion Sets at issue did not conform to Defendants' express representations and warranties.

62. At all relevant times, said product did not perform as safely as an ordinary consumer would expect when used as intended or in a reasonably foreseeable manner.

63. At all relevant times, said product did not perform in accordance with the Defendants' representations.

64. As a direct and proximate consequence, the Decedent sustained injuries and died. Plaintiff hereby asserts a claim for breach of express warranty pursuant to applicable Mississippi law.

COUNT IV
BREACH OF IMPLIED WARRANTY

65. The Plaintiff incorporates, adopts by reference and realleges each and every allegation of this Complaint the same as though specifically set out herein again.

66. By designing, marketing, and selling the product at issue, the Defendants impliedly warranted to the Decedent that said product was merchantable and fit for ordinary use.

67. Defendants' product was not fit for the ordinary purpose for which such goods were used. It was unmerchantable when used as directed and defective in design, and the Defendants' failure to provide adequate warnings and instructions also resulted in said product being unreasonably dangerous. Defendants' product was dangerous to an extent beyond the expectations of ordinary consumers with common knowledge of the product's characteristics, including Decedent.

68. Defendants breached the implied warranty because the product was not safe, adequately packaged and labeled, did not conform to representations Defendants made, and was not properly usable in its current form according to the labeling and instructions provided. The Defendants' breaches of implied warranties, pursuant to Mississippi law, proximately resulted in the damages sustained by the Decedent and Plaintiff.

COMPENSATORY DAMAGES

69. The Decedent died as a direct and proximate result of the conduct and breaches of the Defendants, as aforesaid, for which compensation is required. Specifically, the Defendants' products caused Decedent to sustain extreme hypoglycemia, stroke and eventual death. The Plaintiff is seeking monetary damages from the Defendants to compensate the Plaintiff and wrongful death beneficiaries for damages arising from the wrongful death of Decedent, including all damages allowed pursuant to the Mississippi Wrongful Death Statute and applicable law.

70. As a result of the aforementioned acts and/or omissions, the Defendants are liable for all elements of damages arising from the Decedent's wrongful death, including:

(a) Damages for the loss of love, companionship, society, advice and care of Decedent, which the wrongful death beneficiaries have suffered and will suffer in the future because of the untimely, wrongful death of the Decedent;

(b) Damages for the value of the life of Decedent, which was wrongfully taken by the wrongful conduct of the Defendants;

(c) Damages for the loss of support and maintenance;

(d) Damages for loss of wages and wage earning capacity;

(e) Damages for disfigurement, impairment and disability;

(f) Damages for past doctor, hospital, drug, and medical bills;

(g) Damages for past mental anguish and emotional distress;

(h) Damages for physical pain and suffering;

(i) Damages for loss of enjoyment of life;

(j) Damages for funeral expenses;

(k) Damages for all other losses, both economic and intrinsic, tangible and intangible,

arising from the death of Decedent, all of which were proximately caused by the acts and/or omissions of the Defendants; and

(l) Any other relief which the Court or jury deems just or appropriate based upon the circumstances.

71. The Plaintiff reserves the right to prove the amount of damages at trial. The amount of compensatory damages will be in an amount to be determined by the jury.

PUNITIVE DAMAGES

72. As set forth herein above, Defendants' conduct exhibited gross negligence and a willful, wanton and reckless disregard for the safety of the Decedent and others, constituting an independent tort. As a result of said conduct alleged herein, Defendants are liable for punitive damages and attorneys' fees, all litigation expenses and associated costs of litigation, pre-judgment interest and other damages pursuant to the Mississippi Punitive Damages Statute, MISS. CODE ANN. § 11-1-65.

73. The conduct justifying an award of punitive damages includes, but is not limited to, the Defendants' willful, malicious, intentional and gross negligence, the fraudulent and/or negligent acts of misrepresentation and/or concealment, as well as other conduct described herein. The amount of punitive damages to be awarded is an amount to be determined by the jury.

74. Plaintiff prays that punitive or exemplary damages be assessed against the Defendants in an amount sufficient to punish the Defendants for their wrongful conduct and to deter like conduct in the future, and to serve as an example and a warning to others, so as to deter others from engaging in a similar course of conduct and to encourage other companies to have

due and proper regard for the rights and lives of consumers and patients, and to protect the general public from future wrongdoing. Plaintiff prays that punitive damages be awarded in the appropriate amount to accomplish these purposes, taking into consideration the appropriate factors as set forth by Section 11-1-65 of the Mississippi Code Annotated and/or other law, including the degree of reprehensibility of the Defendants' conduct, harm likely to result from the Defendants' conduct, the duration of that conduct, the Defendants' awareness of the wrongfulness of such actions, and the Defendants' financial condition.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Michael Davis, Individually and on behalf of the Wrongful Death Beneficiaries of Debbie Myers Davis, sues and demands judgment from the Defendants, Medtronic MiniMed, Inc., MiniMed Distribution Corp., Medtronic, Inc., and Medtronic USA, Inc., and John Doe Defendants 1-5, and respectfully requests an order from this Court awarding damages and compensation for the following:

1. An award of actual, consequential and incidental damages in such amounts as are sufficient to compensate in full the Plaintiff and all wrongful death beneficiaries for the losses and damages actually incurred as a result of the Defendants' defective product and wrongdoing;
2. An award of punitive damages in an amount adequate to punish the Defendants and serve as an example to deter similar conduct in the future;
3. An award of the Plaintiff's costs and expenses incurred in connection with this action, including attorneys' fees, expert witness fees and all other costs herein;
4. An award of pre-judgment and post-judgment interest as the Court deems appropriate; and

5. Granting such other and further relief as the Court deems just and proper, including restitution, imposition of a constructive trust and/or such extraordinary equitable or injunctive relief as permitted by law, equity or statutory provisions as the Court deems proper to prevent unjust enrichment of the Defendants and to provide the Plaintiff with an effective remedy for the damages caused and injuries suffered as a result of the Defendants' wrongdoing as aforesaid.

JURY TRIAL DEMANDED

Respectfully submitted, this the 9th day of February, 2018.

MICHAEL DAVIS, INDIVIDUALLY AND ON BEHALF OF ALL WRONGFUL DEATH BENEFICIARIES OF DEBBIE MYERS DAVIS, DECEASED

/s/ Jason L. Nabors
Jason L. Nabors, MSB #101630

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JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Michael Davis, Individually and on behalf of all wrongful death beneficiaries of Debbie Myers Davis, Dec.

(b) County of Residence of First Listed Plaintiff Attala, Mississippi
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Langston & Langston, PLLC
210 East Capitol Street, Suite 1205, Jackson, MS 39201
(601) 969-1356

DEFENDANTS

Medtronic MiniMed, Inc., MiniMed Distribution Corp., Medtronic, Inc., Medtronic USA, Inc., and John Doe Defendants 1-5

County of Residence of First Listed Defendant Los Angeles, California
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 310 Airplane	☒ 365 Personal Injury - Product Liability	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Miller Act	☐ 315 Airplane Product Liability	☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability		PROPERTY RIGHTS	☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 320 Assault, Libel & Slander	☐ 368 Asbestos Personal Injury Product Liability		☐ 820 Copyrights	☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 330 Federal Employers' Liability	PERSONAL PROPERTY		☐ 830 Patent	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 340 Marine	☐ 370 Other Fraud	LABOR	☐ 835 Patent - Abbreviated New Drug Application	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 345 Marine Product Liability	☐ 371 Truth in Lending	☐ 710 Fair Labor Standards Act	☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 350 Motor Vehicle	☐ 380 Other Personal Property Damage	☐ 720 Labor/Management Relations	SOCIAL SECURITY	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 355 Motor Vehicle Product Liability	☐ 385 Property Damage Product Liability	☐ 740 Railway Labor Act	☐ 861 HIA (1395ff)	☐ 480 Consumer Credit
☐ 190 Other Contract	☐ 360 Other Personal Injury		☐ 751 Family and Medical Leave Act	☐ 862 Black Lung (923)	☐ 490 Cable/Sat TV
☐ 195 Contract Product Liability	☐ 362 Personal Injury - Medical Malpractice		☐ 790 Other Labor Litigation	☐ 863 DIWC/DIWW (405(g))	☐ 850 Securities/Commodities/ Exchange
☐ 196 Franchise			☐ 791 Employee Retirement Income Security Act	☐ 864 SSID Title XVI	☐ 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		☐ 865 RSI (405(g))	☐ 891 Agricultural Acts
☐ 210 Land Condemnation	☐ 440 Other Civil Rights	Habeas Corpus:	IMMIGRATION	FEDERAL TAX SUITS	☐ 893 Environmental Matters
☐ 220 Foreclosure	☐ 441 Voting	☐ 463 Alien Detainee	☐ 462 Naturalization Application	☐ 870 Taxes (U.S. Plaintiff or Defendant)	☐ 895 Freedom of Information Act
☐ 230 Rent Lease & Ejectment	☐ 442 Employment	☐ 510 Motions to Vacate Sentence	☐ 465 Other Immigration Actions	☐ 871 IRS—Third Party 26 USC 7609	☐ 896 Arbitration
☐ 240 Torts to Land	☐ 443 Housing/ Accommodations	☐ 530 General			☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
☐ 245 Tort Product Liability	☐ 445 Amer. w/Disabilities - Employment	☐ 535 Death Penalty			☐ 950 Constitutionality of State Statutes
☐ 290 All Other Real Property	☐ 446 Amer. w/Disabilities - Other	Other:			
	☐ 448 Education	☐ 540 Mandamus & Other			
		☐ 550 Civil Rights			
		☐ 555 Prison Condition			
		☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. 1332

Brief description of cause:
Wrongful death action regarding defective Medtronic MiniMed insulin pump infusion sets

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE
02/09/2018

SIGNATURE OF ATTORNEY OF RECORD
/s/Jason Nabors

FOR OFFICE USE ONLY

RECEIPT # 1519725 AMOUNT $400 APPLYING IFP _____ JUDGE DMB MAG. JUDGE JMV

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.