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10 Attorneys for Plaintiff

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2012 SEP 13 AM 11:36  
CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES  
BY MAD

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 LAURA BLANKENSHIP,  
14 Plaintiff,

15 v.

16 MEDTRONIC, INC.; MEDTRONIC  
17 SOFAMOR DANEK USA, INC.,  
18 MEDTRONIC VERTELINK, INC., and  
19 DOES 1-50, inclusive,  
20 Defendants.

CASE NO. **CV12-7884**

-RGK  
(FFM)

21 **COMPLAINT FOR DAMAGES**

- 22 1. MANUFACTURING DEFECT
- 23 2. FAILURE TO WARN
- 24 3. DESIGN DEFECT
- 25 4. NEGLIGENCE
- 26 5. FRAUD
- 27 6. INTENTIONAL MISREPRESENTATION
- 28 7. CALIFORNIA UNFAIR COMPETITION LAW

DEMAND FOR JURY TRIAL

*Handwritten notes:*  
I/S  
I/S  
GAVE CV-5  
DISMISSAL  
DOE

25 Plaintiff Laura Blankenship ("Plaintiff"), by and through her counsel, and for her  
26 Complaint against Defendants Medtronic Corporation, Medtronic Sofamor Danek USA,  
27 and Medtronic Vertelink ("Medtronic") alleges as follows:  
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Clare, MS District Court  
CLARE, MS

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**NATURE OF ACTION**

1. This is a products liability case arising out of injuries caused by the illegal off-label promotion of a medical drug manufacturer. To cure her neck and back pain, Laura Blankenship underwent a surgery wherein the surgeon used Infuse Bone Graft and LT-Cage, (collectively known as "Infuse"), manufactured by Defendant Medtronic. Infuse had only been approved for a limited surgical procedure, yet Medtronic illegally promoted it for a number of off-label procedures. The surgeon in this case used Infuse in an off-label manner. The surgery failed to remedy Plaintiff's condition and her pain has only been exacerbated. In July of 2011, the prominent medical journal, *The Spine Journal*, dedicated its entire journal to publishing numerous articles regarding the risks associated with Infuse. The Journal's articles discuss Medtronic's failure to accurately report the side effects from its clinical trials; Medtronic's failure to report that many of the authors who studied and promoted Infuse had significant financial ties to Medtronic; that Infuse can lead to severe side effects.

**JURISDICTION AND VENUE**

2. Original subject matter jurisdiction in this Court is appropriate pursuant to 28 U.S.C. Section 1332 because the parties are diverse and the amount in controversy exceeds \$75,000.

3. Venue is appropriate in this Court pursuant to 28 U.S.C. Section 1391(a) and 18 U.S.C. Section 1965 because Defendants either reside or transact business in this district, or alternatively, this district is where a substantial part of the events or

1 omissions giving rise to the claim have occurred.

2 **THE PARTIES**

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4 4. Plaintiff Laura Blankenship is, and all times herein mentioned was, a resident  
5 of Missouri.

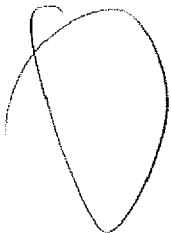
6 5. Defendant Medtronic, Inc. is, and at all times herein mentioned was, a  
7 corporation organized and existing under the laws of the State of Massachusetts, with its  
8 principal place of business in Minneapolis, Minnesota. Defendant Medtronic, Inc.  
9 maintains offices and is engaged in business in the State of California. Defendant  
10 Medtronic, Inc. maintains a distribution center in Riverside County, California, that is  
11 responsible for processing Medtronic's customer orders for Medtronic's Spine businesses.  
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14 6. Defendant Medtronic Sofamor Danek USA, Inc. is, and at all times herein  
15 mentioned was, a corporation organized and existing under the laws of the State of  
16 Tennessee, with its principle place of business in Memphis, Tennessee. Defendant  
17 Medtronic Sofamor Danek USA, Inc. conducts business in the State of California.  
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20 7. Defendant Medtronic Vertelink, Inc. is, and at all times herein mentioned  
21 was, a corporation organized and existing under the laws of the State of California, with  
22 its principal place of business in Minneapolis, Minnesota. Defendant Medtronic  
23 Vertelink, Inc. is engaged in business in the State of California.  
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26 8. Defendants Medtronic Inc., Medtronic Sofamor Danek USA, Inc., and  
27 Medtronic Vertelink, Inc., collectively known as "Medtronic" are now, and at all times  
28 mentioned in this complaint, were, in the business of designing, manufacturing,

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**



**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge R. Gary Klausner and the assigned discovery Magistrate Judge is Frederick F. Mumm.

The case number on all documents filed with the Court should read as follows:

**CV12- 7884 RGK (FFMx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

**Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

**Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

**Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the  
Central District of California

LAURA BLANKENSHIP,

Plaintiff(s)

v.

MEDTRONIC, INC.; MEDTRONIC SOFAMOR  
DANEK USA, INC., MEDTRONIC VERTELINK, INC.,  
and DOES 1-50, inclusive,

Defendant(s)

FOR OFFICE USE ONLY

Civil Action No.

C.V. 12-7884-RGK  
(FFM)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

J. Paul Sizemore, Bar #254981  
Ruth Rizkalla, Bar #224973  
SIZEMORE LAW FIRM, PLC.  
2101 Rosecrans Avenue, Suite 5290  
El Segundo, CA 90245

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Date: SEP 13 2012

CLERK OF COURT

MARILYN DAVIS

Signature of Clerk or Deputy Clerk



FOR OFFICE USE ONLY

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

<b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/> ) LAURA BLANKENSHIP	<b>DEFENDANTS</b> MEDTRONIC, INC.; MEDTRONIC SOFAMOR DANEK USA, INC., MEDTRONIC VERTELINK, INC., and DOES 1-50, inclusive
<b>(b) Attorneys</b> (Firm Name, Address and Telephone Number, If you are representing yourself, provide same.)  SIZEMORE LAW FIRM, P.L.C. 2101 Rosecrans Avenue, Suite 5290, El Segundo, CA 90245 (310) 322-8800	Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)  <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only</b> (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;"><b>PTF</b></td> <td style="width:10%; text-align: center;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input checked="" type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. ORIGIN** (Place an X in one box only.)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify):	<input type="checkbox"/> 6 Multi-District Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge
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**V. REQUESTED IN COMPLAINT:** JURY DEMAND:  Yes  No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23:  Yes  No      **MONEY DEMANDED IN COMPLAINT: \$ 75,000+**

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

*28 U.S.C. § 1341 (a) and 18 U.S.C. § 1965*

**VII. NATURE OF SUIT** (Place an X in one box only.)

<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input checked="" type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>TORTS</b> <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER</b> <b>PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <b>FORFEITURE / PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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CV12-7884

**FOR OFFICE USE ONLY:** Case Number: \_\_\_\_\_

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case?  No  Yes  
If yes, list case number(s): \_\_\_\_\_

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or  
 B. Call for determination of the same or substantially related or similar questions of law and fact; or  
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Missouri

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Missouri

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X SIGNATURE OF ATTORNEY (OR PRO PER): \_\_\_\_\_ Date 9/12/2012

**Notice to Counsel/Parties:** The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DJWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))