IN THE UNITED STATE DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Carol Sheldon, Plaintiff, vs. Medtronic, Inc., Medtronic Minimed Inc., And John Does 1-20, Defendants.	:	CIVIL ACTION NO. Electronically Filed

COMPLAINT

Plaintiff, CAROL SHELDON, hereinafter ("Plaintiff") by and through the undersigned counsel, brings this Complaint against Defendants, MEDTRONIC, INC., MEDTRONIC MINIMED, INC., and JOHN DOES 1-20. As grounds thereof, Plaintiff states:

JURISDICTION AND VENUE

1. This is an action for damages in excess of Seventy Five Thousand Dollars ($75,000.00), exclusive of interest, costs, and attorney's fees, thus vesting this Court with jurisdiction under 28 U.S.C. §1332. Additionally, venue is proper pursuant to 28 U.S.C. §1391.

PARTIES

2. Plaintiff CAROL SHELDON is a citizen and resident of the Commonwealth of Pennsylvania.

3. At all times material hereto, Defendant, MEDTRONIC, INC., was and is a Foreign For-Profit Corporation (incorporated in Minnesota) which, at all times relevant to this lawsuit, was authorized to do business in the Commonwealth of Pennsylvania, and which operated, conducted, engaged in, and/or carried on a business or business venture throughout the Commonwealth of Pennsylvania for which it received substantial revenue. MEDTRONIC, INC., has designated Corporation Service Company, 1201 Hays Street, Tallahassee, Florida 32301, as its registered agent for service of process

4. At all times material hereto, Defendant, MEDTRONIC MINIMED, INC., was and is a Foreign Corporation (incorporated in Delaware) which was doing business throughout the Commonwealth of Pennsylvania for which it received substantial revenue. Its principal place of business is located at 18000 Devonshire Street, Northridge, California 91325.

5. The events, acts, errors, and/or omissions, which are the subject matter of this Complaint, occurred in Wyoming County, Pennsylvania.

STATEMENT OF FACTS

6. Type 1 diabetes is typically diagnosed in children and young adults and was previously known as juvenile diabetes. In Type 1 diabetes, the body does

not produce insulin. Insulin is a hormone produced by the pancreas that converts sugar and starch from food into the energy needed to live.

7. On November 18, 2018, Carol Sheldon was a Type 1 diabetic when she suffered a hypoglycemic episode resulting in a fall, as well as her suffering loss of consciousness, a broken foot, toenails torn off of other foot, and a brain injury.

8. Because of her diabetic condition, Carol Sheldon managed her diabetes through the use of insulin pump therapy, specifically, by using the Medtronic MiniMed 670G MMT-1780 Insulin Pump to deliver the necessary amount of insulin into her blood stream to properly treat her diabetes. When functioning properly, these devices and their components mimic the ways a healthy pancreas works by delivering continuous and controlled doses of rapid-acting insulin, 24 hours a day, to match the user's body's needs.

9. Since June 2018, Carol Sheldon used the Medtronic MiniMed 670G MMT-1780 Insulin Pump until the time of her hypoglycemic episode that resulted in the injuries stated above on November 18, 2018.

10. On November 18, 2018, Carol Sheldon was at her home when her insulin pump indicated that her blood sugar was low. As a result of the low blood sugar alert, Ms. Sheldon headed toward the kitchen to obtain food and subsequently fell, sustaining the injuries stated above.

11. The Medtronic MiniMed 670G MMT-1780 Insulin Pump at issue was part of a FDA issued a Class 1 Device Recall on November 21, 2019. Unfortunately, this was after Ms. Sheldon's injury.

12. The collective Defendants, along with their agents and employees, negligently caused the defective insulin pumps to be designed, manufactured, assembled, distributed, and sold to members of the public and they further negligently failed to remove the recalled infusion sets from the marketplace and stream of commerce after they had knowledge of the defects as well as the recall.

13. The Defendants designed, manufactured, marketed and distributed the Medtronic MiniMed 670G MMT-1780 Insulin Pump and Pro Set Infusion Sets, which were marketed to deliver insulin to a person with diabetes in measured amounts. The MiniMed pump was manufactured with a retainer ring designed to lock the patient's insulin cartridge into place in the pump's reservoir compartment. Pro Set Infusion Sets consist of a membrane and disposable plastic tubes which transport insulin from the pump to the patient's body.

14. The Medtronic MiniMed 670G MMT-1780 Insulin Pump and Pro Set Infusion Sets are used in conjunction with one another to help people with diabetes regulate their blood sugar by providing a constant source of insulin. They provide an alternative to daily injections of insulin the pump connects to flexible plastic tubing that delivers insulin to the body. Users set the pump to deliver insulin

throughout the day. It can be programmed to release larger doses at meals or at times when blood sugar levels are too high.

15. Carol Sheldon had no way of knowing that the Medtronic MiniMed 670G MMT-1780 Insulin Pump and Pro Set Infusion Sets that she used on the night of the incident were defective in design, manufacture, and marketing, and that, even when used in conformance with Defendants' instructions, were prone to deliver incorrect and life threatening doses of insulin.

THE COMPANIES

16. 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 8:20-cv-00804-BHH Date Filed 02/21/20 Entry Number 1 Page 6 of 207 "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."

17. 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 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 pumps are manufactured. In criticizing Medtronic's manufacturing and reporting process, the FDA cited Medtronic for:

> Failure to report to the 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 you have on the 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 the death or serious injury, if the malfunction were to recur...

18. In contravention of applicable regulations, Medtronic has 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 recur."

19. The FDA also found fault with the personnel that Medtronic entrusted at its manufacturing facility in Puerto Rico when 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 8:20-cv-00804-BHH Date Filed 02/21/20 Entry Number 1 Page 7 of 208 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.] Personnel qualified to make a medical judgment include physicians, nurses, risk managers and biomedical engineers under [United States Federal Law.]

20. According to FDA Investigators, this plant had a wide range of problems that included lax testing of products for defects, improper 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 process and its quality controls.

21. None of the cited violations reflect Medtronic's 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."

22. 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.

23. On or about June 7, 2013, Medtronic MiniMed Paradigm infusions sets were recalled via a Class 1 recall. The recall was issued "because of a potential safety issue that can occur if insulin or other fluids come in contact with the inside of the tubing connector. If this occurs it can temporarily block the vents that allow the pump to properly prime."

24. The 2013 recall admitted that "[t]his can result in too much or too little being delivered resulting in hypoglycemia or hyperglycemia which can be severe and lead to serious illness."

25. The 2013 recall was virtually identical to the 2017 recall with regard to the infusion set at issue in this case. The same problems – fluid causing a vent blockage – resulting in the same outcomes – over-delivery of insulin – are at issue in both recalls.

26. It is clear that Medtronic did not resolve the problem with their product that resulted in the 2013 recall. Medtronic marketed the subject infusion sets without fixing the problem, resulting in another recall for the same defect in 2017.

27. Unfortunately, past recalls and problems associated with Medtronic infusion sets did not result in Medtronic designing and marketing safer products for use by Carol Sheldon.

THE CURRENT RECALL

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

29. 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."

30. 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.

31. 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."

32. The Plaintiff would show unto the Court that prior to the Medtronic recall of September 2017, the Defendant Becton Dickinson and Company on December 23, 2016, issued a Class 2 recall for MiniMed Pro Sets, including Lot No. 6207537, citing a design defect. Said Lot specifically included Plaintiff's Pro Set Infusion Set and according to FDA Recall No. Z-1897-2017, Becton Dickinson and Company notified its sole customer, Medtronic, by email on December 26,

2016. Said recall further indicates that Becton Dickinson and Company recommended that Medtronic notify their customers of the situation. Plaintiff is informed and believes that each of the 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.

33. As a result of the defective MiniMed Infusion Sets, Carol Sheldon received a large quantity of insulin, which resulted in severe hypoglycemia, diabetic coma, seizures and physical as well as mental/emotional injury.

34. On November 21, 2019, Medtronic also notified the FDA of a defect in its Medtronic MiniMed 670G MMT-1780 Insulin Pump. The information supplied to the FDA prompted a Class 1 recall of all devices distributed between September 2016 and October 2019, which includes the Plaintiff's pump. According to Medtronic, defects in the locking retainer rings on Model 670G, prevent a patient's insulin reservoir from being properly seated within the pump when it is loaded.

35. The Plaintiff is now informed and believes that her pump likewise malfunctioned due to this defect resulting in hypoglycemic events. It was not until after her injury and the recent recall for all lots, that Plaintiff was ever made aware of that this product was unreasonably dangerous and had contributed to her injury. Plaintiff has returned to programming rates and blousing manually.

CAUSES OF ACTION

I. STRICT PRODUCT LIABILITY

36. The Plaintiff incorporates by reference and realleges each and every allegation in this Complaint the same as though specifically set forth herein.

37. The Plaintiff hereby asserts a design defect claim pursuant to applicable Pennsylvania law.

38. At all times relevant to the Complaint, the Defendants were in the business of designing, manufacturing, marketing, testing, labeling, selling and/or distributing Medtronic Model 670G (MMT-1780) Insulin Pumps and MiniMed Infusion Sets. The products at issue were defective and unreasonably dangerous at the time they left the hands of the respective Defendants. Defendants placed their products 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 products. The products reached the Plaintiff in the same condition they were in at the time they left the Defendants and were placed into the stream of commerce.

39. Defendants' products were unreasonably and dangerously defective beyond the extent contemplated by ordinary users with ordinary knowledge regarding the products. 8:20-cv-00804-BHH Date Filed 02/21/20 Entry Number 1

Page 11 of 20 12 Plaintiff was unaware of the dangers as Defendants provided ineffective and inadequate warnings and instructions.

40. Defendants' product were defective due to inadequate post-marketing warning and instructions, and/or inadequate testing and studies, and/or inadequate reporting regarding the results.

41. The defective and unreasonably dangerous conditions discussed herein existed when the products left Defendants' control. They existed when the Defendants sold the products. They existed when the Plaintiff received them. They were specifically known to Defendants and as to the infusion sets, had been the subject of recall since December 23, 2016, as was known to all of the Defendants prior to the Plaintiff's injury on November 18, 2018.

42. Defendants' failure of said sets prior to September 2017, showed a willful, wanton, and malicious want of care which raises the presumption of indifference to consequences. Specifically:

a. Defendants had a continuing duty to ensure that the products they provided were 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 products would be used and to design against reasonably foreseeable risk attending the products' 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 products;

d. Defendant had a continuing duty to assure the products they provided were properly labeled and true to the representations made by Defendants.

43. Defendants' products were defective in light of the dangers posed by their respective design and the likelihood of those avoidable dangers. Defendants' products were defective because the inherent risk of harm in Defendants' products' design outweighed the utility and benefits of the products.

44. Defendants' products were defective because reasonably cost-effective and feasible state-of-the-art alternatives existed at the time that would not have undermined the products' usefulness. Defendants were aware of effective substitutes for the products. The gravity and likelihood of dangers posed by the products' designs outweighed the feasibility, cost, and adverse consequences to the products' function of a safer alternative designs that Defendants reasonably should have adopted.

45. There were safer alternative designs 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 products left the Defendants' control by the application of existing or reasonably achievable scientific knowledge. Plaintiff would show that both the pump and the infusion sets in question were in the same condition when she received them as when the left the Defendants' and they were used in accordance with the Defendants' instructions.

46. As a direct and proximate cause of the design, manufacture and marketing defects and the Defendants' conduct alleged herein, Plaintiff sustained injuries and damages for which a cause of action is hereby stated.

II. NEGLIGENCE

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

48. At all times relevant to this Complaint, Defendants knew or reasonably should have known that their products were unreasonably dangerous and defective when used as designed and directed

49. 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 products, individually and collectively, deviated from reasonable and safe practices in the following ways, by:

a. Designing products 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 the use of Defendants' products;

d. Failing to conduct adequate post-market monitoring and surveillance;

e. Failing to include adequate warnings about and/or instructions;

f. Failing to include adequate warnings and/or proper instructions regarding proper uses of the products;

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 user about the unique characteristics of their products and proper way to use them;

i. Failing to implement and execute corrective and preventative actions to eliminate injuries;

j. Continuing to promote and market the products despite ongoing failures and known defects, and in the case of the Pro Set infusion sets, recalls by their co-manufacturer on December 23, 2016.

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

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

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

53. Injuries and damages sustained by the Plaintiff, Carol Sheldon, were both proximately caused and a reasonably foreseeable result of Defendants' products and conduct.

54. Defendants are bound for the care of their agents, servants, employees, officers and directors for the neglect of same. Defendants are liable for the conduct of their agents, servants, employees, officers and directors committed in the course of the activities on behalf of and in furtherance of the companies. 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 result of their agents', employees', servants', officers' and directors' conduct.

55. Defendants' conduct showed willful, wanton, malicious want of care that raises the presumption of conscious indifference to the consequences. Defendants' wrongdoing constitutes gross negligence and said gross negligence proximately caused the injury to the Plaintiff and damages sustained as a result thereof.

III. BREACH OF EXPRESS WARRANTY

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

57. The Defendants represented and warranted to the Plaintiff that it's Medtronic MiniMed Infusion Sets and MiniMed 670G (MMT-1780) Insulin Pump were safe for use in accordance with the Defendants' protocols. Said representations were in the form of marketing materials, device information and product materials provided to Carol Sheldon. Carol Sheldon justifiably relied on said representations and express warranties in electing to use said product.

58. The Medtronic MiniMed Infusion Sets and MiniMed 670G (MMT-1780) Insulin Pump at issue did not conform to Defendants' express representations and warranties.

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

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

61. As a direct and proximate consequence of the Defendants' conduct, the Plaintiff sustained injuries and was damaged. Plaintiff hereby asserts a claim for breach of express warranty pursuant to applicable Pennsylvania law.

IV. BREACH OF IMPLIED WARRANTY

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

63. By designing, marketing and selling the products at issue, the Defendants impliedly warranted to the Plaintiff that said products were merchantable and fit for ordinary use.

64. Defendants' products were not fit for the ordinary purposes for which such goods are used. They were unmerchantable when used as directed and

defective in design, and the Defendants' failure to provide adequate warnings and instructions also resulted in said products being unreasonably dangerous. Defendants' products were dangerous to an extent beyond the expectations of ordinary consumers with common knowledge of the products' characteristics, including Carol Sheldon.

65. Defendants breached their implied warranty because the products were not safe, adequately packaged and labeled, did not conform to the representations Defendants made. They were not properly usable according to the labeling and instructions provided.

66. The Defendants' breaches of implied warranties, pursuant to Pennsylvania law, proximately resulted in the damages sustained by the Plaintiff.

V. DAMAGES AS TO ALL CAUSES OF ACTION

67. The Plaintiff was injured 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 the Plaintiff to experience extreme hypoglycemia, along with orthopaedic injury, and neurological injury. Plaintiff is seeking monetary damages in the form of:

a. Damages for past medical, hospital and drug bills; 8:20-cv-00804-BHH Date Filed 02/21/20 Entry Number 1 Page 17 of 20 18

b. Damages for future medical, hospital and drug bills;

c. Damages for disfigurement, impairment and/or disability;

d. Damages for past and future mental anguish and emotional distress;

e. Damages for physical pain and suffering;

f. Damages for loss of enjoyment of life;

g. Damages for all other losses, both economic and intangible, arising from the injuries as set out herein, all of which were proximately caused by the act/or omissions of the Defendants;

h. Any other relief which the Court deems just and proper under the circumstances.

68. The Plaintiff reserves the right to prove the amount of damages at trial, in an amount to be determined by the jury

69. As set forth hereinabove, the Defendants' conduct exhibited gross negligence and a willful, wanton and reckless disregard for the safety of the Plaintiff and others. As a result of the Defendants conduct, alleged herein, they are liable for punitive damages and attorney's fees, all litigation expenses and associated costs of litigation, and any other damages allowed by Pennsylvania law.

70. Plaintiff prays that exemplary damages be assessed against the Defendants in an amount sufficient to punish the Defendants for their wrongful conduct as well as deter like conduct in the future, and to serve as an example and warning to others, so as to encourage the Defendants and other companies to have

due and proper regard for the rights of consumers and to protect the general public from future wrongdoing, pursuant to Pennsylvania law.

WHEREFORE, the Plaintiff, Carol Sheldon demands judgment against Defendants, and respectfully requests an Order from this Court awarding damages and compensation for:

1. An award of actual, consequential and incidental damages in such amounts as are sufficient to compensate in full the Plaintiff for her losses actually incurred as a result of the Defendants' wrongdoing;

2. An award of punitive damages in an amount adequate to punish the Defendants and deter similar conduct in the future;

3. An award of the Plaintiff's costs and expenses incurred in connection with this action, including attorney's fees, expert witness fees and all other costs herein;

4. Granting such other and further relief as the Court deems just and proper, including any extraordinary equitable or injunctive relief as permitted by law, equity or statutory provisions, as the Court deems proper to provide the Plaintiff with an effective remedy for the damages caused and injuries suffered as a result of the Defendants' wrongdoing.

JURY DEMAND

Plaintiff hereby demands a trial by jury in this case as to such issues so triable.

Respectfully submitted,

Dated: November 18, 2020

/s/ Michael B. Leh

Michael B. Leh (#42962)
Heather Schneider (#325615)
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mleh@lockslaw.com
hschneider@lockslaw.com
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Attorneys for Plaintiff

JS 44 (Rev. 10/20)

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

Carol Sheldon

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Michael B. Leh and Heather Schneider, Locks Law Firm, 601 Walnut St., Suite 720 E., Philadelphia, PA 19106, (215) 893-0100

DEFENDANTS

Medtronic, Inc. and Medtronic Minimed, Inc.

County of Residence of First Listed Defendant Hennepin County, MN
(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
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☒ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

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:
personal injury from defective insulin pump

VII. REQUESTED IN COMPLAINT:

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

DEMAND $ in excess of $75,000

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
11/18/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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.
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.