IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
JEFFERSON CITY DIVISION

JOHN FRANK, BOTH AS ADMINISTRATOR OF THE ESTATE OF MICHAEL E. DOMANOWSKI AND INDIVIDUALLY AND ON BEHALF OF ALL WRONGFUL DEATH BENEFICIARIES OF MICHAEL E. DOMANOWSKI, DECEASED

PLAINTIFF

VS.

CAUSE NO. _____

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, John Frank, both as the Administrator of the Estate of Michael E. Domanowski, as well as, individually and on behalf of all wrongful death beneficiaries of Michael E. Domanowski, 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, John Frank, is an adult resident citizen of Cuyahoga County, Ohio, who serves as the duly appointed and official Administrator of the Estate of Michael E. Domanowski, decedent.

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 Missouri and the State of Ohio. 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 Missouri and the State of Ohio. This Defendant may be served with process via service upon its registered agent, CSC – Lawyers Incorporating Service Company, 221 Bolivar Street, Jefferson City, Missouri 65101.

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 Missouri and the State of Ohio. This Defendant may be served with process via service upon its registered agent, CSC – Lawyers Incorporating Service Company, 221 Bolivar Street, Jefferson City, Missouri 65101.

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 Missouri and the State of Ohio. This Defendant may be served with process via service upon its registered agent, CSC – Lawyers Incorporating Service Company, 221 Bolivar Street, Jefferson City, Missouri 65101.

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over Medtronic because Medtronic regularly conducts business in the State of Missouri and the State of Ohio and has sufficient minimum contacts in both/either the State of Missouri and the State of Ohio. 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 the State of Missouri and the State of Ohio. Defendant further availed itself of jurisdiction in the State of Missouri and the State of Ohio 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 the State of Missouri and the State of Ohio.

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. Decedent, Michael E. Domanowski, resided, lived and died at 5219 Lookout Peak Drive, Columbia, in Boone County Missouri.

10. The Estate of Michael E. Domanowski is being actively administrated in the Boone County Probate Court in the State of Missouri.

11. The Decedent, Michael E. Domanowski, 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 he was at her home in Boone County, Missouri, within the jurisdiction of the United States District Court for the Western District of Missouri. Jurisdiction and venue are appropriate in this Court.

STATEMENT OF FACTS

12. Upon information and belief, on or about August 9, 2020, Michael E. Domanowski was a relatively healthy, 43-year-old resident of Boone County, Missouri. He worked as a supervisory chef at the University of Missouri, Columbia. Michael E. Domanowski was not currently married but did have a surviving mother, Carol Domanowski, a surviving father, Edmund Domanowski, a surviving brother, Todd Domanowski and a surviving sister and Nancy

Domanowski and a surviving brother-in-law, John Frank.

13. Michael E. Domanowski was a diabetic, and he used a Medtronic insulin pump to deliver the necessary amount of insulin into his blood stream to properly treat his diabetes. Said Medtronic insulin pump stored several days-worth of insulin.

14. Upon information and belief, on or about the night of August 9, 2020, at his home in Boone County, Missouri, Michael E. Domanowski went to bed with a fully loaded and properly attached insulin pump, which contains enough insulin to last several days. Debbie then went to bed.

15. Sometime over the next few days Michael E. Domanowski failed to show up to his place of employment for his scheduled shift, as this was unusual his employees reported this absence to Michael's supervisor who was so concerned by Michael's highly unusual absence that they had the police check Michael's residence.

16. When Michael failed to answer the officers seeing Michael's truck in his driveway and after being so urged by his employer used force to break through the locked front door and found Michael deceased laying face down on his carpet in the direction of his bathroom.

17. Unfortunately, Michael lived alone and had no one to help him living at his residence.

18. Upon information and belief and based upon an observation of the scene Michael did lay upon his bedroom floor, presumably in great pain and suffering, for some extended period of time before dying from severe hypoglycemia as the direct and proximate result of the malfunction of his Medtronic insulin pump. Michael had no chance.

19. Upon information and belief, sometime after loading his insulin pump, the Medtronic insulin pump delivered up to a week's worth of insulin at one time into Michael's body.

20. The large amount of insulin resulted in injuries from which Michael E. Domanowski never recovered.

21. During the post-mortem examinations Michael E. Domanowski's eyes were tested and it was determined beyond a shadow of any doubt that there was absolutely no sugar in the vitreous fluid.

22. The Medtronic pump at issue malfunctioned as a result of a defect that caused a massive dose of all the insulin in the pumps reservoir resulting in over-delivery of insulin.

23. The Medtronic pump was part of a lot of infusion sets that were subsequently recalled, due to the defective condition that killed Michael.

24. Defendant(s) further failed to notify Michael of this recall in a timely manner.

25. Following Michael's death his mother, Carol Domanowski, was notified that Michael had passed away and immediately traveled from New York State to Missouri to recover Michael's remains and take care of all the related necessities, Michael's uncle, Stanley Domanowski, and his brother-in-law, John Frank, accompanied Carol Domanowski on this awful trip.

26. Within a few days of being at Michael's home an independent carrier approached John Frank with a next day delivery from the Defendant(s) advising of the recall on Michael's defective Medtronic's insulin pump. Simply too little too late even though the Defendant(s) had full knowledge of the exceptionally dangerous defect and had sufficient time to warn Michael of this defect while Michael was still alive.

27. Upon information and belief, Defendant(s) discovered Michael's death and attempted to send this next day notice of the defect and their recall in an attempt to cover their own misconduct.

28. The Defendant(s) intentional behavior in sending this notice letter immediately following Michael's death is so repugnant, disgusting and malicious that it has caused severe emotional distress to all three of Michael's close relatives that were present at Michael's home cleaning up after their beloved Michael's death. The Defendant(s) conduct could not have been worse.

THE PRODUCT

29. The Defendants designed, manufactured, marketed and distributed the aforesaid Medtronic insulin pump, which are marketed to deliver insulin to a diabetes patient in measured amounts.

30. The Medtronic insulin pump set is designed 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 programmedto release larger doses at meals or at times when blood sugar is too high.

31. Michael E. Domanowski had no way of knowing that the Medtronic product and all its associated pieces that he 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

32. 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."

33. In spite of Medtronic's stated mission, Medtronic 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 ...

34. In contravention of applicable regulations, Medtronic had failed to report an incident involving a 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."

35. 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].

36. 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.

37. 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."

38. These issues led to a Class 1 Recall of many of the Defendants' insulin infusion sets where approximately three million disposable infusion sets were recalled.

39. Unfortunately, past recalls and problems associated with Medtronic infusion sets did not result in Medtronic designing and marketing safe products for use by Michael E. Domanowski.

40. On September 7, 2017, Medtronic issued an "Urgent Medical Device Recall" 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."

41. 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.

42. As a result of the defective Medtronic product, Michael E. Domanowski received a large quantity of insulin, which resulted in extreme hypoglycemia and eventual death. Causes of action are hereby asserted for the wrongful death of Michael E. Domanowski.

CAUSES OF ACTION

COUNT I
PRODUCT LIABILITY

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

44. The Plaintiff hereby asserts a design defect claim pursuant to the Missouri Product Liability Statute and other applicable law.

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

46. 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.

47. Defendants' further failed to provide timely notice of defects, recalls and dangers related to their product

48. 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.

49. 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.

50. 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.

51. 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.

52. 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.

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

54. 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

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

56. 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.

57. 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, sale and subsequent notifications of the defects and dangers of the 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 and updated warnings 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.

58. 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 timely provide continuous ongoing and updated information and warnings regarding the defects and dangers and risks of their product to its users in light of the known potential risks

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

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

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

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

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

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

60. 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.

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

62. 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.

63. 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.

64. 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

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. The Defendants represented and warranted to the Decedent that its Medtronic insulin pump sets were safe for use in accordance with the Defendants' protocols.

67. The Medtronic insulin pump sets at issue did not conform to Defendants' express representations and warranties.

68. 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.

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

70. 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 Missouri law.

COUNT IV
BREACH OF IMPLIED WARRANTY

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

72. 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.

73. 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, and continuing failure to timely update and keep current 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.

74. 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 Missouri law, proximately resulted in the damages sustained by the Decedent and Plaintiff.

COUNT IV
INFLICTION OF EMOTIONAL DISTRESS

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

76. Following Michael's death his mother, Carol Domanowski, uncle, Stanley Domanowski, and his brother-in-law, John Frank, traveled from New York State to Missouri to recover Michael's remains and take care of all the related arrangements.

77. Within a few days of being at Michael's home an independent carrier approached John Frank with a next day delivery from the Defendant(s) advising of the

recall on Michael's defective Medtronic's insulin pump.

78. The Defendant(s) had full knowledge of the exceptionally dangerous defect and had sufficient time to warn Michael of this defect while Michael was still alive but had failed to do so.

79. Upon information and belief, Defendant(s) discovered Michael's death and attempted to send this next day notice of the defect and their recall in an attempt to cover their own misconduct.

80. The Defendant(s) intentional behavior in sending this notice letter immediately following Michael's death is so repugnant, disgusting and malicious that it has caused severe emotional distress to all three of Michael's close relatives that were present at Michael's home cleaning up after their beloved Michael's death. The Defendant(s) conduct could not have been worse.

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

82. 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.

COMPENSATORY DAMAGES

83. 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, 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 Missouri Wrongful Death Law and other applicable law.

84. As a result of the Defendants intentional wrongful conduct the Plaintiffs suffered severe emotional distress and damages. The Plaintiff is seeking monetary damages from the Defendants to compensate the Plaintiff to compensate for those damages and deter Defendants from such conduct in the future.

85. 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.

86. 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

87. 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 Missouri Punitive Damages Statute and other law.

88. 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.

89. 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 Missouri Code 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, John Frank, both as the Administrator of the Estate of Michael E. Domanowski, as well as individually and on behalf of all wrongful death beneficiaries of Michael E. Domanowski, 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 7h day of July 2023.

JOHN FRANK, BOTH AS THE ADMINISTRATOR OF THE ESTATE OF MICHAEL E. DOMANOWSKI, AS WELL AS INDIVIDUALLY AND ON BEHALF OF ALL WRONGFUL DEATH BENEFICIARIES OF MICHAEL E. DOMANOWSKI, DECEASED

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