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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

GLORIA JEAN ROGET, Individually and As Special Administrator and Heir to the Estate of **ANDRE CARL ROGET**, Deceased, Plaintiff, vs. **MEDTRONIC, INC.**, a California Corporation, **MEDTRONIC MINIMED, INC.**, a Minnesota Corporation, and **DOES 1-20, ROE CORPORATIONS 1-20,** Defendants.	Case No.:

PLAINTIFF'S ORIGINAL COMPLAINT FOR WRONGFUL DEATH, SURVIVAL ACTIONS AND JURY DEMAND

COMES NOW Plaintiff, GLORIA JEAN ROGET, Individually (hereinafter "Plaintiff") and as Special Administrator and Heir to the Estate of ANDRE CARL ROGET, Deceased

(hereinafter "Decedent"), by and through the undersigned counsel, who brings this action for wrongful death pursuant to Section NRS 41.085 of the Nevada Rules of Civil Procedure, and come now Plaintiff who brings this survival action pursuant to NRS 41.130 of the Nevada Rules of Civil Procedure against Defendants, MEDTRONIC, INC., and MEDTRONIC MINIMED, INC., DOES 1-20 and ROES 1-20 (collectively "Defendants"). As grounds thereof, Plaintiff states the following:

INTRODUCTION

1. This is a products liability action against Defendants for the failure of their medical device, prescribed to Decedent. The device was used by Decedent, and because of defects related to the device, Decedent suffered an insulin-induced coma that led to his eventual death on May 14, 2020.

2. This complaint alleges claims under parallel state law duties based on the Defendants' failure to conform with the FDA's Pre-Market Approval (PMA) process for this medical device and failure to conform and violations of FDA regulations.

3. The Decedent was a Type II diabetic and was prescribed the Defendants' insulin infusion medical device – Medtronic's MiniMed 630G insulin infusion pump - intended and used for the treatment of Type II diabetes mellitus. The Decedent then used the device that malfunctioned and put him in an insulin-induced coma causing his eventual death. Plaintiff and Decedent were informed and believed and thereon allege that these devices, were researched, designed, tested, manufactured, produced, processed, assembled, inspected, distributed, marketed, labeled, promoted, packaged, advertised for sale, placed in the stream of commerce, and sold or otherwise provided to Decedent by Defendants, MEDTRONIC MINIMED, INC. and/or MEDTRONIC, INC. and/or DOES 1-20 and/or ROES 1-20.

JURISDICTION AND VENUE

4. This Court has jurisdiction over Defendants and this action pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship between Plaintiff and Defendants. Defendants are either incorporated and/or have their principal place of businesses outside of the State of Nevada in which the Plaintiff resides.

5. The amount in controversy between Plaintiff and Defendants exceeds $75,000, exclusive of interest and cost.

6. The Court also has supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

7. Venue is proper within this district pursuant to 28 U.S.C. § 1391 in that Defendants conduct business here and is subject to personal jurisdiction in this district. Furthermore, Defendants sell, market, and/or distribute insulin pumps within the District of Nevada. Also, a substantial part of the acts and/or omissions giving rise to these claims occurred within this district.

PARTIES

8. Plaintiff is an adult citizen and resident of Las Vegas, Clark County, Nevada.

9. Plaintiff is the surviving spouse and personal representative of Decedent's estate.

10. Plaintiff and Decedent were married on May 13, 1967, and remained married until Decedent's death.

11. The Decedent died on May 14, 2020, in Las Vegas, Clark County, Nevada.

12. 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 State of Nevada, and which operated, conducted, engaged in, and/or carried on a business or business venture throughout the State of Nevada for

which it received substantial revenue. Its principal place of business is located at 710 Medtronic Parkway, Minneapolis, Minnesota 55432. This defendant may be served via its Registered Agent: **Corporation Service Company, 112 North Curry Street, Carson City, Nevada 89703**.

13. At all times material hereto, Defendant, MEDTRONIC MINIMED, INC., was and is a Foreign For-Profit Corporation (incorporated in Delaware) which was doing business throughout the State of Nevada for which it received substantial revenue. Its principal place of business is located at 18000 Devonshire Street, Northridge, California 91325. This Defendant may be served via its Registered Agent: **Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808**.

14. Plaintiff does not know the true names and identities of those Defendants designated as DOES I through 20, ROES I through 20 inclusive, but alleges that each of said fictitiously named Defendants was negligently and unlawfully responsible for the events herein described, and for the injuries and damages sustained by Plaintiff and Decedent. Plaintiff will ask leave of court to amend this complaint when the identity of each such fictitiously named Defendant has been ascertained.

15. Decedent's injuries, including death, proximately resulted from the wrongful, reckless, and negligent acts and omissions, and fraudulent misrepresentations of Defendants and/or each of them, all of which occurred within the venue of this court.

16. At all times relevant to this action, the term "Defendants" includes all Defendants unless otherwise noted, including but not limited to MEDTRONIC MINIMED, INC., MEDTRONIC, INC., DOES 1 through 20, and ROES 1 through 20, inclusive.

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17. At all times material hereto, Defendants were the manufacturer(s) and/or sellers and/or distributors of the MiniMed Insulin Infusion Pumps, Model Nos. 630G and 670G are described as an "artificial pancreas," designed, manufactured, and intended to monitor a patient's blood glucose levels in real-time and deliver and/or suspend basal and bolus insulin doses under pre-set but modifiable parameters.

THE COMPANIES

18. Medtronic is a global healthcare products company, with annual revenue in the billions of dollars. Medtronic touts its leadership in the medical device industry, explicitly 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. 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."

19. Despite Medtronic's stated mission, 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. In criticizing Medtronic's manufacturing and report 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

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