



2. Plaintiffs Kay Eugene Foulks and Roma Gay Foulks are citizens and residents of Florida and claim damages as set forth below.

**ALLEGATIONS AS TO INJURIES**

3. Plaintiff Kay Eugene Foulks, has suffered injuries as a result of having been implanted with the following Sprint Fidelis Lead (the "Lead") manufactured by Defendants:

1. Model 6948-65, Serial Number LFH009580V.

Defendants, listed below, by their actions or inactions proximately caused Plaintiff's injuries.

4. As a result of the injuries that Plaintiff has sustained, he is entitled to recover compensatory, equitable and other relief.

5. On November 28, 2005, Plaintiff had the above-referenced Lead implanted by David Gayle, MD, at Southeast Alabama Medical Center.

6. Plaintiff experienced inappropriate shocks as a result of the Lead(s). These shocks occurred on or around January 10, 2008.

7. On January 14, 2008, Plaintiff had the above-referenced Lead(s) capped by Michael E. Pinson, MD, at Southeast Alabama Medical Center.

8. As a result of the Lead, Plaintiff suffered injury and damages as set forth in the Master Complaint.

9. To the extent that this Complaint by Adoption includes a claim for loss of consortium, Plaintiff Roma Gay Foulks is entitled to recover compensatory, equitable and/or other relief. [Not Applicable: \_]

**ALLEGATIONS AS TO DEFENDANTS**

10. The following entity is named as Defendant herein and the allegations with regard thereto in the Master Complaint are herein adopted by reference.

X \_\_\_\_\_ MEDTRONIC, INC.

X \_\_\_\_\_ MEDTRONIC PUERTO RICO, INC., (N/K/A MEDTRONIC INTERNATIONAL TECHNOLOGY, INC.),

X \_\_\_\_\_ MEDTRONIC PUERTO RICO OPERATIONS CO.

\_\_\_\_\_ OTHER

**SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY**

11. The following claims and allegations asserted in the Master Complaint and the allegations with regard thereto in the Master Complaint are herein adopted by reference:

X \_\_\_\_\_ INTRODUCTION;

X \_\_\_\_\_ PARTIES;

X \_\_\_\_\_ JURISDICTION AND VENUE;

X \_\_\_\_\_ FACTUAL ALLEGATIONS;

X \_\_\_\_\_ COUNT ONE (Strict Liability – Failure to Warn and Instruct);

X \_\_\_\_\_ COUNT TWO (Strict Liability – Manufacturing Defect);

X \_\_\_\_\_ COUNT THREE (Negligence);

X \_\_\_\_\_ COUNT FOUR (negligence Per Se);

X \_\_\_\_\_ COUNT FIVE (Breach of Implied Warranty);

X \_\_\_\_\_ COUNT SIX (Breach of Express Warranty);

X \_\_\_\_\_ COUNT SEVEN (Negligent Misrepresentation);

X \_\_\_\_\_ COUNT EIGHT (Intentional Misrepresentation);

X \_\_\_\_\_ COUNT NINE (Fraud);

X \_\_\_\_\_ COUNT TEN (Constructive Fraud);

\_\_\_\_\_ COUNT ELEVEN (Violation of Minnesota False Statements in Advertising Act);

\_\_\_\_\_ COUNT TWELVE (Violation of the Minnesota Deceptive Trade Practice Act);

\_\_\_\_\_ COUNT THIRTEEN (Violation of the Minnesota Prevention of Consumer Fraud Act);

COUNT FOURTEEN (Violation of the Senior Citizen and Handicapped Person Consumer Fraud Act, Minnesota Statute 325F.71);  
 COUNT FIFTEEN (Negligent Infliction of Emotional Distress);  
 COUNT SIXTEEN (Loss of Consortium)  
 COUNT SEVENTEEN (Wrongful Death, Minn. Stat. §573.02(1));  
 COUNT EIGHTEEN (Survival Action, Minn. Stat. §573.02(2));  
 COUNT NINETEEN (Medical Monitoring);  
 COUNT TWENTY (Unjust Enrichment);  
 COUNT TWENTY ONE (Medicare Secondary Payer Act);  
 COUNT TWENTY TWO (State Law Specific Cause of Action or Other Cause of Action to be set forth on an attached document and incorporated by reference).

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment in favor against Defendants as follows:

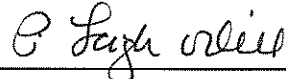
1. Economic and non-economic damages in an amount in excess of \$75,000 as provided by law and to be supported by the evidence at trial;
2. For the equitable relief requested;
3. For compensatory damages according to proof;
4. For all applicable statutory damages under the Medicare Secondary Payer Act and the applicable consumer protection legislation;
5. For declaratory judgment that Defendants are liable to Plaintiff for all evaluative, monitoring, diagnostic, preventative, and corrective medical, surgical, and incidental expenses, costs and losses caused by Defendants' wrongdoing;
6. For disgorgement of profits;
7. For an award of attorneys' fees and costs;
8. For prejudgment interest and the costs of suit; and
9. For such other and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury as to all claims in this action.

Date: 11/29/09.

BEASLEY, ALLEN, CROW,  
METHVIN, PORTIS & MILES, P.C.



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