

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

STEVEN LOUIS JARMON,

Plaintiff,

v.

MEDTRONIC USA, INC., COVIDIEN LP n/k/a
MEDTRONIC INC., COVIDIEN, INC., COVIDIEN
plc, and COVIDIEN HOLDING INC.,

Defendants.

Civil Action No.

JURY TRIAL DEMANDED

NOTICE OF REMOVAL¹

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Medtronic USA, Inc., Covidien LP n/k/a Medtronic Inc., Covidien, Inc., Covidien plc, and Covidien Holding Inc. (collectively “Defendants”) jointly file this Notice of Removal, hereby removing the action to the United States District Court for the Eastern District of Texas, Sherman Division, and respectfully state as follows:

SUMMARY

1. On February 2, 2026, Plaintiff Steven Louis Jarmon filed his Original Petition (the “Petition”) in Cause No. 366-00634-2026 in the 366th District Court of Collin County, Texas, initiating a civil cause of action against Defendants styled as *Steven Louis Jarmon v. Medtronic USA, Inc. et al.*, (the “State Court Action”). *See* Ex. A, Pet.

2. The Petition alleges five causes of action related to Plaintiff’s use of hernia mesh. *Id.*

3. Removal is proper based on diversity jurisdiction, 28 U.S.C. § 1332(a)(1), because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and there is complete

¹ Defendants do not concede that service has been properly effected for all Defendants, especially Covidien plc, and expressly reserve all defenses and objections relating to insufficiency of service of process.

diversity of citizenship between Plaintiff and Defendants. Specifically, Plaintiff is a citizen and domiciliary of the State of Texas; none of Defendants are citizens of Texas. Pursuant to the Petition, “Plaintiff seeks monetary relief in excess of \$1,000,000.” *Id.* ¶ 1.

4. No further pleadings have been filed, and no proceedings have occurred in the State Court Action. The action was served on Defendants or around March 18, 2026; removal is therefore timely. Exhibit D (“Ex. D”), Decl. of Brandon Fuqua (“Decl.”) ¶ 9; 28 U.S.C. § 1446(b).

BASIS FOR REMOVAL: DIVERSITY JURISDICTION

5. Removal of the State Court Action to this Court is proper pursuant to 28 U.S.C. §§ 1332, and 1446 because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and there is complete diversity between the parties. This Court is the proper venue for removal under 28 U.S.C. § 1441(a) because it is “the district and division embracing the place where such action is pending,” specifically Collin County.

COMPLETE DIVERSITY OF CITIZENSHIP EXISTS

6. Diversity of citizenship exists when a suit is between citizens of different states or citizens of a state and citizens of a foreign state. 28 U.S.C. § 1332(a)(1), (a)(2); *see also Corfield v. Dallas Glen Hills LP*, 355 F.3d 853, 857 (5th Cir. 2003) (“It is well-established that the diversity statute requires ‘complete diversity’ of citizenship: A district court cannot exercise diversity jurisdiction if one of the plaintiffs shares the same state citizenship as any one of the defendants.”).

7. Plaintiff is a resident of Texas. *See Ex. A, Pet.* ¶ 4; *see also Anderson v. Watt*, 138 U.S. 694, 706 (1891) (“The place where a person lives is taken to be [her] domicile until facts adduced establish the contrary.”).

8. Defendant Medtronic USA, Inc. is a Minnesota corporation with its principal place of business in Minnesota. *See Ex. D, Decl.* ¶ 2. Accordingly for purposes of diversity jurisdiction,

Medtronic USA Inc. is a citizen of Minnesota. *See Est. of Jaimes v. Moreno*, No. 6:06-CV-97, 2006 WL 8440691, at *1 (E.D. Tex. Apr. 19, 2006) (“Under 18 U.S.C. § 1332(c)(1), ‘a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.’”).

9. Defendant Covidien LP n/k/a/ Medtronic Inc. (f/k/a Tyco Healthcare Group LP) is a limited partnership organized and existing under the laws of Delaware, with its principal place of business in Mansfield, Massachusetts. *See* Ex. D, Decl. ¶ 3. For purposes of diversity jurisdiction, this District has held that the citizenship of a limited partnership is attributed to the citizenship of each of its members. *See Tatfook Technology (Hong Kong) Co. v. Schok, LLC*, No. 4:21-CV-00411, 2021 WL 7541242, at *1 (E.D. Tex. Sept. 29, 2021) (“For purposes of diversity, the citizenship of a limited liability company and a limited partnership is determined by considering the citizenship of all the members and partners.”). The only general partner of Covidien LP is Defendant Covidien Holding Inc. (f/k/a Covidien Inc.). *See* Ex. D, Decl. ¶ 3.

10. Defendant Covidien Holding Inc. is a Delaware corporation with its principal place of business in Mansfield, Massachusetts. *See* Ex. D, Decl. ¶ 6. Accordingly for purposes of diversity jurisdiction, Covidien Holding Inc. is a citizen of Delaware and Massachusetts. *See Est. of Jaimes*, 2006 WL 8440691, at *1.

11. Covidien LP’s limited partners and their respective citizenships are set forth below:

- Sherwood Medical Company I is a Delaware corporation with its principal place of business in Massachusetts. *See* Ex. D, Decl. ¶ 7.
- United States Surgical Corporation is a Delaware corporation with its principal place of business in Massachusetts. *Id.*

- Valleylab Holding Corporation is a Delaware corporation with its principal place of business in Colorado. *Id.*
- VNUS Medical Technologies II, Inc. is a Delaware corporation with its principal place of business in Massachusetts. *Id.*
- Life Design Systems Inc. is a Wisconsin corporation with its principal place of business in Massachusetts. *Id.*
- Covidien US Holdings, Inc. is a Delaware corporation with its principal place of business in Massachusetts. *Id.*
- Covidien Holding Inc. is a Delaware corporation with its principal place of business in Massachusetts. *Id.*
- Batts, Inc. is a Delaware corporation with its principal place of business in Massachusetts. *Id.*
- MSCH LLC is a Delaware limited liability company with its principal place of business in Massachusetts. *Id.*
 - MSCH LLC's only member is Mallinckrodt US LLC, which is a Delaware limited liability company with its principal place of business in Massachusetts. *Id.*
 - Mallinckrodt US LLC's only member is United States Surgical Corporation, which is a Delaware corporation with its principal place of business in Massachusetts. *Id.*
- Nellcor Puritan Bennett LLC is a Delaware limited liability company with its principal place of business in Colorado. *Id.*

- Nellcor Puritan Bennett LLC's only member is United States Surgical Corporation, which is a Delaware corporation with its principal place of business in Massachusetts.

Id.

12. Accordingly, for purposes of diversity jurisdiction, Covidien LP is a citizen of Colorado, Delaware, Massachusetts, Minnesota, and Wisconsin. *See Tatfook Tehcnology (Hong Kong) Co.*, 2021 WL 7541242, at *1. Covidien LP is not, and was not at the time of filing, a citizen of the State of Texas within the meaning of the Acts of Congress relating to the removal of actions. *See* 28 U.S.C. § 1332(c)(1).

13. Defendant Covidien, Inc. was a corporation organized and existing under the laws of Delaware, with its principal place of business in Mansfield, Massachusetts. *See* Ex. D, Decl. ¶ 4. Accordingly for purposes of diversity jurisdiction, Covidien, Inc. is a citizen of Delaware and Massachusetts. *See Est. of Jaimes*, 2006 WL 8440691, at *1.

14. Defendant Covidien plc no longer exists. *See* Ex. D, Decl. ¶ 5.

15. Therefore, because Plaintiff is a citizen of Texas and Defendants are citizens of other states, complete diversity of citizenship exists in this case. *See* 28 U.S.C. § 1332.

THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000

16. To satisfy the amount-in-controversy requirement, “a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin Oper. Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014) (citing 28 U.S.C. § 1446(a)). Courts will not find that diversity action is lacking unless it “appear[s] to a legal certainty that the claim is really for less than the jurisdictional amount.” *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289 (1938).

17. The availability and allegations of entitlement to punitive damages may also be

considered in determining the amount in controversy. *See Bell v. Preferred Life Assur. Soc. Of Montgomery, Ala.*, 320 U.S. 238, 240 (1943) (including demand for punitive damages in determining the amount in controversy); *Ahearn v. Fibreboard Corp.*, 162 F.R.D. 505, 522 (E.D. Tex. 1995) (“In determining the amount in controversy, claims for punitive damages must be included in the computation.”).

18. In the instant case, Plaintiff asserts five causes of action related to his use of hernia mesh: (1) violation of Tex. Bus. & Comm. Code § 17.41 *et seq.* Deceptive Trade Practices-Consumer Protection Act; (2) strict liability: manufacturing and design defect; (3) negligence: manufacturing and design defect; (4) breach of implied warranty; (5) punitive damages. *See* Ex. A, Pet. ¶¶ 59-97.

19. The face of Plaintiff’s own pleading states the amount in controversy exceeds the sum of \$75,000: “Plaintiff seeks monetary relief in excess of \$1,000,000.” *Id.* ¶ 1.²

20. Thus, the requisite amount in controversy for purposes of diversity jurisdiction under 28 U.S.C. § 1332(a) is met. *See Dart Cherokee Basin Oper. Co., LLC v. Owens*, 574 U.S. 81, 84, 89

² Plaintiff also alleges that he underwent a “laparoscopic right-sided inguinal hernia repair” with a “Covidien Mesh” which “caused and ultimately resulted in Plaintiff undergoing multiple surgeries and the removal of a significant portion of the Plaintiff’s bowel.” *See* Ex. A, Pet. ¶¶ 12, 13, 57. Plaintiff claims he has “suffered and continues to suffer life-altering complications from his short-bowel syndrome, as well as intermittent pain and decrease in strength and stamina.” *Id.* at ¶ 57. He seeks recovery of his “reasonable and necessary past medical expenses and costs,” recovery of his “reasonably foreseeable future medical expenses and costs,” “compensation for [his] past [and future] physical pain and suffering,” compensation for his “physical disfigurement” and “possible future disfigurement,” compensation for “past physical impairment” and “on-going physical impairment,” compensation for “past” and “on-going/future loss of the normal enjoyment and pleasure of life,” treble damages under the DTPA, punitive damages, “[a]ll costs of court together with its reasonable and necessary attorneys’ fees,” “[p]rejudgment and post-judgment interest at the maximum legal rate,” and “[s]uch other and further relief to which the Plaintiff may show himself to be justly entitled.” *Id.* at Prayer. Accordingly, although Defendants deny any liability to Plaintiff in this action, even absent specifying that his monetary relief exceeds \$1,000,000, it is clear that based on the claims asserted, particularly when taking into account the alleged severity of the injuries sustained and the extent of damages claimed, including punitive and treble damages, the amount in controversy well-exceeds \$75,000.

(2014) (holding that a notice of removal “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold”); *Manguno v. Prudential Prop. & Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002) (stating that the amount in controversy is met if “it is apparent from the face of the petition that the claims are likely to exceed \$75,000”).

REMOVAL IS PROCEDURALLY PROPER

21. All Defendants have been served with the Petition and citation on or about March 18, 2026. Ex. D, Decl. ¶ 9.

22. Accordingly, the Notice of Removal is timely because it is filed within thirty days of service. 28 U.S.C. § 1446(b).

23. Venue for removal is proper in this District and Division under 28 U.S.C. §§ 1441(a) and 1446(a) because this district and division embrace the 366th District Court of Collin County, Texas, in which the removed action was pending.

24. All Defendants join in or consent to removal. *See* 28 U.S.C. § 1446(b)(2)(A).

25. A copy of this Notice of Removal will be filed promptly with the clerk of the 366th District Court of Collin County and will be promptly served on Plaintiff. *See* 28 U.S.C. § 1446(d).

26. A separate jury demand is also being filed herewith in compliance with Local Rule CV-38(a) pursuant to E.D. Tex. Local Civil Rule 81(b).

27. Pursuant to L.R. CV-81(a), Defendants furnish the following information to the clerk:

- A separate jury demand pursuant to L.R. CV-38(a) is being filed concurrently with this Notice of Removal. *See* L.R. CV-81(b).
- A list of all parties in the case, their party type, and current status of the removed case is provided below:

Steven Louis Jarmon

c/o David Clouston
SESSIONS ISRAEL & SHARTLE LLC
5700 Granite Parkway, Suite 260
Plano, Texas 75024-6622

Plaintiff in this Action

-and-

Medtronic USA, Inc.
Covidien LP n/k/a Medtronic Inc.
Covidien, Inc.
Covidien plc
Covidien Holding Inc.
c/o Brandon A. Fuqua
DLA PIPER LLP (US)
1900 N. Pearl Street, Suite 2200
Dallas, Texas 75201-4629

Defendants in this Action

The removed case is pending.

- A civil cover sheet has been filed with this removal as Exhibit B.
- A copy of the state court docket sheet has been filed with this Notice of Removal as Exhibit C. A copy of all pleadings has been attached as Exhibit A.
- A complete list of attorneys involved in the action being removed is provided below:

David Clouston
Texas Bar No. 00787253
dclouston@sessions.legal
Leslye Moseley
Texas Bar No. 24044557
lmoseley@sessions.legal
SESSIONS ISRAEL & SHARTLE LLC
5700 Granite Parkway, Suite 260
Plano, Texas 75024-6622
Telephone: (214) 741-3001

Counsel for Plaintiffs

-and-

Brandon A. Fuqua
Texas Bar No. 24078522
brandon.fuqua@us.dlapiper.com
DLA PIPER LLP (US)
1900 N. Pearl Street, Suite 2200
Dallas, Texas 75201-4629
Telephone: (214) 743-4500

Counsel for Defendants

- Plaintiff has requested a jury trial.
- The case was removed from:

366th District Court
Russell A. Steindam Courts Building
2100 Bloomdale Rd., 30146
McKinney, TX 75071

NON-WAIVER OF DEFENSES

28. By removing this action, Defendants do not waive any arguments, defenses, or rights available, all of which are hereby specifically reserved. Further, Defendants do not admit any of the allegations in the Petition. Medtronic reserves the right to amend or supplement this notice of removal.

Dated: March 30, 2026

Respectfully submitted,

DLA PIPER LLP (US)

By: /s/ Brandon A. Fuqua

Brandon A. Fuqua
Texas Bar No. 24078522
brandon.fuqua@us.dlapiper.com
1900 N. Pearl Street, Suite 2200
Dallas, Texas 75201

Telephone: 214-743-4500
Facsimile: 214-743-4545

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record on March 30, 2026, by electronic service.

/s/ Brandon A. Fuqua

Brandon A. Fuqua

EXHIBIT A

JURISDICTION AND VENUE

2. Jurisdiction is proper in this Court because the amount in controversy exceeds the Court's jurisdictional requirements. Further, Texas law is applicable to all causes of action pursuant the Texas Longarm Statute, as well as, U.S. Supreme Court's decision in *Ford Motor Co. v. Mont.* Eighth Judicial Dist. Court, 141 S. Ct. 1017 (2021), the Texas Supreme Court's decision in *Luciano v. SprayFoamPolymers.com, LLC*, 625 S.W.3d 1 (Tex. 2021), and the decision by the U.S. District Court for the Eastern District of Texas in *In re Toyota Hybrid Brake Litig.*, No. 4:20-CV-127, 2021 WL 2805455, at *2 (E.D. Tex. July 6, 2021). Where a company is foreign to Texas, and even to the United States, the Defendants should have reasonably anticipate being subject to Texas jurisdiction and laws when they engaged in the sale, retail, marketing, advertising and/or manufacturing of Parietex ProGrip self-fixating mesh ("Covidien Mesh"). In conducting their business in Texas, Defendants have purposefully established minimum contacts within the state of Texas and the exercise of jurisdiction in Texas comports with fair play and substantial justice. By engaging in business activities throughout the state of Texas, Defendants not only purposefully availed themselves of the privilege of conducting business in the state, but by their business activities invoked the benefits and protections of the laws of the State of Texas. Defendants' business activities in Texas are not random, fortuitous, or attenuated. Defendants have repeatedly and purposefully availed themselves of the laws of the state of Texas by purposefully submitting themselves to the jurisdiction of Texas courts both as Plaintiffs and Defendants.

3. Venue is proper in Collin County, Texas pursuant to Texas Civil Practice and Remedies Code §15.002(a)(1), as all or a substantial part of the events giving rise to the claims occurred in Collin County, Texas. Further, Plaintiff has been a resident of Collin County at all times relevant to this litigation.

III.

PARTIES

4. Plaintiff is an individual who resides in Collin County, Texas.

5. Defendant Medtronic USA Inc. is a Minnesota corporation with its US operational headquarters at 710 Medtronic Parkway, Minneapolis, MN 55432-5603, has offices in Texas including one at 14643 Dallas Pkwy, Ste 620, Dallas, TX 75254 and can be served with process by serving Corporation Service Company, 2780 Snelling Avenue N, Ste 10, Roseville, MN 55113.

Issuance of Citation is Requested.

6. Defendant Covidien LP n/k/a Medtronic Inc. is a Minnesota corporation with its US operational headquarters at 710 Medtronic Parkway, Minneapolis, MN 55432-5603, has offices in Texas including one at 14643 Dallas Pkwy, Ste 620, Dallas, TX 75254 and can be served with process by serving Corporation Service Company, 2780 Snelling Avenue N, Ste 10, Roseville, MN 55113. **Issuance of Citation is Requested.**

7. Defendant Covidien, Inc. (“Covidien Inc.”) is a Delaware corporation with its principal place of business at 15 Hampshire Street, Mansfield, Bristol County, Massachusetts and can be served with process at CT Corporation System, 155 Federal Street, Ste. 700, Boston, Massachusetts, 02110. **Issuance of Citation is Requested.**

8. Defendant Covidien plc, is an Irish public limited company with its US operational place of business at 15 Hampshire Street, Mansfield, Bristol County, Massachusetts and can be served with process at CT Corporation System, 155 Federal Street, Ste. 700, Boston, Massachusetts, 02110. **Issuance of Citation is Requested.**

9. Defendant Covidien Holding Inc. (“Covidien Holding”) is a Delaware corporation with its principal place of business at 15 Hampshire Street, Mansfield, Bristol County, Massachusetts and

can be served with process at CT Corporation System, 155 Federal Street, Ste. 700, Boston, Massachusetts, 02110. **Issuance of Citation is Requested.**

10. At all times relevant hereto, Defendants were engaged in the business of developing, manufacturing, publishing information, marketing, distributing, promoting and/or selling, either directly or indirectly, through third parties, as successor in interest, or other related entities, the Covidien Mesh implanted in the Plaintiff, in the State of Texas and in interstate commerce, for which they derived significant and regular income.

IV.

ESTOPPEL AND TOLLING OF STATUTE OF LIMITATIONS

11. The statute of limitations on Plaintiff's claims was tolled and did not begin to run until August 29, 2024, when he was informed by his surgeon that the mesh used to repair his hernia in 2016 had perforated his bowel requiring a removal of the mesh and removal/resection of his affected bowel. Prior to August 29, 2024, Plaintiff was completely unaware that a defective product had been implanted in his abdomen.

V.

BACKGROUND

12. On June 24, 2016, Dr. Scott de Villeneuve, MD, ("Dr. V") performed a laparoscopic right-sided inguinal hernia repair on Plaintiff.

13. During the repair, Dr. V implanted the Covidien Mesh.

14. In early June 2024, Plaintiff began feeling pressure in his mid-abdomen and noticed that an abscess had formed. The abscess was red, swollen and warm to the touch.

15. Plaintiff attempted to relieve the abscess with an over-the-counter topical antibiotic. The abscess did not respond to that treatment and continued to grow more swollen and painful and soon began leaking a foul-smelling, puss-like substance.

16. On June 18, 2024, Plaintiff consulted his primary care physician, Dr. Oromolu (“Dr. O”) who prescribed an oral antibiotic for Plaintiff and instructed him to try and extract as much cyst material from the abscess as possible.

17. Despite taking oral antibiotics as described and following instructions to extract as much of the cyst material from the abscess as possible, Plaintiff’s wound did not heal, in fact, it continued to worsen.

18. Plaintiff again consulted Dr. O, who lanced the abscess and extracted the contents he could see. Dr. O again prescribed oral antibiotics.

19. Unfortunately, the abscess continued to grow, leak and cause pain for Plaintiff and he continued change the dressings regularly.

20. During a vacation to Colorado, Plaintiff was in so much pain and discomfort, he was forced seek medical assistance at the Vail Valley Hospital, ER, where again the doctors attempted to treat his abscess with antibiotics.

21. Unfortunately, the abscess continued to be painful and continued to leak a foul-smelling substance.

22. Plaintiff’s activities and physical abilities became diminished, and he was forced to constantly change bandages and clothing due to the leaking puss.

23. In August, Plaintiff was in Austin, Texas helping care for a family member with end-stage cancer. During his time in Austin, Plaintiff was forced again to seek medical attention for the

abscess. Plaintiff was advised by the doctors at St. David's Hospital to seek the advice of a surgeon when he returned home to Frisco.

24. Upon returning home, Plaintiff asked his primary care physician, Dr. O, to refer him to a surgeon for a consultation.

25. Dr. O referred Plaintiff, to Dr. Steven Duffy ("Dr. Duffy").

26. Plaintiff was examined by Dr. Duffy at which time Dr. Duffy requested an MRI of Plaintiff's abdomen.

27. The MRI showed a large mass or infection in Plaintiff's central abdomen.

28. Dr. Duffy informed Plaintiff he would need to surgically remove the mass to determine the exact cause and could not rule out malignancy.

29. On August 29, 2024, Plaintiff was admitted to Texas Health Frisco for surgery.

30. Dr. Duffy performed surgery on Plaintiff for over 3 hours to remove the Covidien Mesh and remove/resect a portion of Plaintiff's bowel.

31. After the surgery, Dr. Duffy relayed to the Plaintiff that the Covidien Mesh had perforated his bowel and had adhered to other organs and his abdominal wall. Dr. Duffy stated that the infection was significant and that he was fortunate he had not developed sepsis. He also stated that the perforated portion of Plaintiff's bowel looked like "hamburger meat" and it was extremely difficult to separate and remove the Covidien Mesh.

32. The next several days were extremely painful and difficult for Plaintiff. His pain and discomfort continued to increase, and Plaintiff was unable to have a normal bowel movement or pass gas. His stomach began to expand causing more pain and more pressure.

33. Dr. Duffy ordered another scan and on September 4, 2024, at which point he was forced to perform two additional surgeries on Plaintiff due to a hernia recurrence and a liver hematoma that

had formed. Shortly after the second surgery, Plaintiff's stitches failed, and Dr. Duffy had to reopen and close his wound.

34. After his surgery, Plaintiff was placed under the care of an infectious disease doctor who determined the exact strains of infection and the course of antibiotics necessary to combat the pervasive and resistant infection in his body.

35. Prior to leaving the hospital, Plaintiff was fitted with a peripherally inserted central catheter ("PICC line") to allow Plaintiff to self-administer his antibiotics.

36. Plaintiff spent almost two weeks in the hospital followed by months of aftercare.

37. As a result of the infection, surgeries and loss of a portion of his bowel, Plaintiff continues to suffer life-altering side effects. His once robust immune system is depleted. Prior to the Covidien Mesh perforating Plaintiff's bowel causing waste to leak into his body, Plaintiff was rarely sick and if he did catch whatever illness was going around, he would routinely only have one or two days of illness and be back on his feet and fully recovered. Since the infection and surgeries, Plaintiff has had one illness after another, and each illness has lasted weeks even months before the symptoms subsided. Even long after the illness' symptoms are gone, Plaintiff feels fatigued and has trouble participating in normal daily activities. Although Plaintiff works remotely, his job is high stress and requires him to concentrate and be "on point" for eight to nine hours a day. His physical fatigue and mental fatigue have forced him to take medications for attention deficit disorder just to try and meet the demands of his job and daily life. These drugs have negative side effects such as headaches and irritability. Even on his very best day, Plaintiff feels he is at most seventy percent of the employee he was prior to the infection and surgeries.

38. Prior to the development of the abscess, infection and his subsequent surgeries, Plaintiff was extremely physically active and enjoyed several life-long passions and hobbies. In addition to

his full-time job, Plaintiff has played guitar in a band since 2020. His band performs in and around the Dallas metroplex. Although he continues to perform with his band, his stamina has never been the same. He doesn't have adequate strength to attend as many of his band's gigs and or to assist with the setup of the equipment. He struggles with long periods of standing and can't comfortably bend at the waist.

39. Since the infection and surgeries, Plaintiff has had to limit the number of gigs he can play per month which effects his mental state and income as this is a major outlet for both his artistic expression, a crucial element of his mental wellbeing and a source of income.

40. Plaintiff was an avid golfer and worked out at the gym almost every morning. It was many months before he could return to any form of exercise, and to this day, he experiences discomfort from the incision and numbness in his groin and abdomen during exercise. He has suffered a loss of muscle mass and strength and can no longer endure many of the workouts he has enjoyed his entire life. Plaintiff suffers from bowel issues and can't be far from a bathroom, making most of his activities painful, stressful and at times, embarrassing. He has, unfortunately, been unable to return to playing golf regularly. Plaintiff's conditions and limitations appear to be getting worse and not better as the effects of his bowel resection and the trauma his body endured have taken a toll.

VI.

COVIDIEN (MEDTRONIC) MESH INFORMATION

41. The Covidien Mesh implanted in Plaintiff's body was designed, manufactured and distributed by Covidien (now Medtronic).

42. The Covidien Mesh implanted in Plaintiff was designed, patented, manufactured, labeled, marketed, sold, distributed, or otherwise placed on the market by Defendants and is a knitted polyester mesh with an absorbable collagen film that is intended to be placed next to the viscera.

43. Defendants sought and obtained FDA clearance to market their Covidien Mesh under Section 510(k) of the Medical Device Amendment to the Food, Drug and Cosmetics Act. Section 510(k) provides for marketing of a medical device if the device is deemed “substantially equivalent” or “substantially similar” to other predicate Device marketed prior to May 28, 1976. The 510(k) process is not a formal review for safety or efficacy. No clinical testing or clinical study is required to gain FDA clearance under this process. Upon information and belief, no formal review for safety or efficacy was ever conducted for the Covidien Mesh.

44. The “510(k) tree” or predicate Device for all of Defendants polyester hernia meshes, like the Covidien Mesh at issue here, interlink with each other. Therefore, Defendants have represented to the FDA that all hernia mesh devices are “substantially similar” to one another.

45. Testing done on one polyester hernia mesh was frequently used by Defendants to avoid doing testing on its other hernia mesh devices.

46. Testing done on one polyester hernia mesh was frequently used by Defendants to market other of its polyester hernia meshes.

47. Defendants marketed and sold their polyester hernia meshes to the medical community at large and patients through carefully planned, multifaceted marketing campaigns and strategies. These campaigns and strategies include, but are not limited to, aggressive marketing to health care providers at medical conferences, hospitals, and private offices, as well as the provision of valuable benefits to healthcare providers. Defendants further utilized documents, patient brochures, and websites.

48. Defendants' polyester hernia meshes were cleared for marketing pursuant to the FDA's premarket notification process, which is also referred to as the "510(k)" process. Covidien Mesh that entered the market through the 510(k) process are not "approved" by the FDA and are not formally reviewed for safety or efficacy by the FDA under the 510(k) process. Under the 510(k) process, the FDA does not evaluate the product's safety or effectiveness.

49. The polyester polymer used in the design of Defendants polyester hernia meshes, like the Covidien Mesh at issue here, is more brittle and significantly more susceptible to fatigue fracture, breakage, fragmentation and other mechanical failures than alternative polymers, including but not limited to polyvinylidene fluoride (PVDF) and polypropylene. Peer-reviewed, published literature prior to the introduction of Defendants' PET mesh in the U.S. concluded that "Polyester mesh should no longer be used for incisional hernia repair." *Leber, et al.* Long-term complications associated with prosthetic repair of incisional hernias. *Arch Surg.* 1998; 133(4):378-82. Subsequent literature observed that "the use of PET in hernia surgery is at least questionable in respect to the obligate long-term degradation of this polymer," *Klosterhalfen, et al.*, Polymers in hernia repair – common polyester vs. polypropylene surgical meshes. *J. Materials Science*, 35:4769-4776 (2000), that "[i]t has also been reported that patients with polyethylene mesh implants have higher incidences of wound-healing complications, fistula and seroma formation and higher incidences of hernia recurrence as compared to polypropylene meshes" and that "due to the loss of stability and the reported mesh-related complications, polyethylene meshes nowadays do not seem fully suitable for a permanent reinforcement of the abdominal wall." *Schumpelick, et al.* Light weight meshes in incisional hernia repair. *J. Minim Access Surgery*. 2006; 2(3):117-23.

50. The polyester material used in the Defendants' mesh is susceptible to degradation by hydrolysis, oxidation and/or enzymatic degradation. See, e.g., *Smith, et al.* The enzymatic degradation of polymers in vivo. *J Biomed Mater Res* 1987; 21: 991-1003 (demonstrating degradation of polyester by certain enzymes); *Riepe, et al.* Long-term in vivo alterations of polyester vascular grafts in humans. *Eur J Vasc Endovasc Surg.* 1997;13(6):540-8 (Study of explanted polyester implant Device demonstrating in vivo hydrolytic degradation with scission of macromolecular chains and loss of strength); *King, et al.* Microstructural changes in polyester biotextiles during implantation in humans. *Journal of Textile and Apparel, Technology and Management.* 2001;1(3):1-8 (demonstrating biodegradation and loss of mechanical strength of polyester implants); *Schumpelick, supra* ("One problem of polyethylene meshes is their degradation, which leads to a reduced mechanical stability after 10 years."); *Robinson, et al.* Major mesh-related complications following hernia repair: events reported to the Food and Drug Administration. *Surg Endosc.* 2005; 19(12): 1556-60 ("Incorporated PET can be degraded hydrolytically, resulting in an increased brittleness of the polymer with loss of the mechanical features."); *Voskerician, et al.* Effect of biomaterial design criteria on the performance of surgical meshes for abdominal hernia repair: a pre-clinical evaluation in a chronic rat model. *J Mater Sci Mater Med.* 2010;21(6):1989-95 ("While materials such as PP and PTFE will not undergo hydrolytic degradation, PET, a polyester, will. Further, PET is also susceptible to oxidative degradation due to its ester groups, enhanced by a supplementary degradation mechanism common to all polymers, the direct oxidation by the host. The latter degradation mechanism is the result of host generated molecular species culminating with a foreign body reaction characterized by a continuous process of frustrated phagocytosis by the foreign body giant cells."); *Klosterhalfen, et al.*, Pathology of traditional surgical nets for hernia repair after long-term implantation in humans.

Der Chirurg 2000;71:53-51 (microscopic examination of fragmented and fractured Mersilene (multifilament polyester) mesh after explantation showed pronounced splitting and degradation of polyester fibers). The individual polyester fibers that make up the PET mesh are unreasonably susceptible to degradation. The gamma irradiation sterilization of the PET produces free radicals that contribute to degradation before implant.

51. The polyester material used in the PET Device incites inflammation and heightened foreign body response, which increases the risks of post-operative complications. *Jin, et al.*, Human peritoneal membrane controls adhesion formation and host tissue response following intra-abdominal placement in a porcine model. *J. Sur. Res.* 2009;156(2):297-304 (noting polyester collagen composite had higher foreign body reaction than other materials); *Zinther, et al.* Shrinkage of intraperitoneal on lay mesh in sheep: coated polyester mesh versus covered polypropylene mesh. *Hernia.* 2010;14(6):611-615 (noting statistically significant increase in shrinkage rate for Parietex versus covered polypropylene mesh and further noting histology showed “marked inflammatory reaction with giant cells adjacent to the polyester filaments, which was absent in the polypropylene specimens”); Orenstein, et al. Comparative analysis of histopathologic effects of synthetic meshes based on material, weight, and pore size in mice. *J Surg Res.* 2012;176(2):423-9 (“[P]olyester-based meshes appear to create a local hostile environment with marked foreign body reaction and chronic inflammatory response” and “[o]f the five synthetic meshes implanted, the polyester-based mesh was the greatest inducer of inflammation and appeared to impose severe chronic foreign body reaction.”); *Nguyen, et al.*, Influence of a new monofilament polyester mesh on inflammation and matrix remodeling . *J. Invest. Surg.* 2012;25(5):330-9 (noting heightened inflammatory response with multifilament polyester material both at molecular level and histologically and recognizing the potential clinical implantations “as there is a higher associated

risk for postoperative complications and delayed wound healing in the setting of a persistent and prolonged inflammatory response after mesh implantation.”); *Riet, et al.* Prevention of adhesion to prosthetic mesh: comparison of different barriers using an incisional hernia model. *Ann Surg.* 2003;237(1):123-128 (“in the group with Parietex mesh, a more severe inflammatory reaction was found, with the presence of many admixed inflammatory cells and micro abscesses (grade 3 on the inflammation grading scale).”); *Voskerician, supra* (observing host tissue response elevated and arrested in a chronic inflammatory phase in the presence of PET mesh).

52. The polyester polymer used in the PET mesh design is significantly more susceptible to loss of mechanical strength over time than alternative materials. *Robinson, et al.* Major mesh-related complications following hernia repair: events reported to the Food and Drug Administration. *Surg Endosc.* 2005; 19(12): 1556-60 (“A significant disadvantage of polyester is loss of mechanical strength over time..., which may lead to hernia recurrence. Polyester is not commonly implanted in the United States, and its continued use for incisional hernia repair has been questioned.”).

53. Due to the hydrophilic nature of the PET mesh, the strands of polyester attract and retain bodily fluids, resulting in excessive swelling of the mesh, further increasing the weight and density of the mesh after implant and thus the foreign body load, which increases and prolongs the inflammatory and foreign body reaction to the PET mesh.

54. The fragmentation or flaking-off of particles of the PET fibers exacerbates inflammation and prolonged and excessive foreign body reaction. This chronic and excessive inflammatory and foreign body reaction, in turn, exacerbates the degradation of the mesh fibers in a vicious cycle. The degradation and fragmentation of the fibers within the PET mesh can lead to the total loss of functionality of the mesh. Covidien Mesh contains a permanent, non-inert polymer, specifically

polyester. Despite Defendants' claims that polyester is inert, scientific evidence shows that polyester is biologically incompatible with human tissue and incite a chronic immune response in much of the population after implantation. The immune response promotes degradation and contracture of the mesh, as well as the surrounding tissue, and can contribute to the formation of severe adverse reactions to the Covidien Mesh.

55. The Covidien Mesh is defective due to its high rates of failure, injury, and complications, its failure to perform as intended, its requirement of frequent and often debilitating re-operations, and its cause of severe and irreversible injuries, conditions, and damage to numerous patients, including Plaintiff.

56. The nature of the Covidien Mesh's defects includes, but is not limited to, the following:

- a. The use of polyester in the Covidien Mesh and the immune reactions resulting from such material, causes adverse reactions and injuries.
- b. Adverse reactions to the polyester in the Covidien Mesh consist of adhesions, injuries to nearby organs, nerves, or blood vessels, and other complications, including infection, chronic pain, and hernia recurrence.
- c. The Covidien Mesh has a propensity to degrade or fragment over time, causing a chronic inflammatory and fibrotic reaction, and resulting in continuing injury over time as the polyester acts as a chronic trigger for inflammation.
- d. Upon information and belief, Defendants utilized various substandard and/or adulterated polyester in the Covidien Mesh.
- e. The weave of the Covidien Mesh produces very small interstices allowing bacteria to enter and hide from white blood cells and macrophages—the host defenses designed to eliminate bacteria. The bacteria also secrete an encasing biofilm,

serving to further protect them from destruction by white blood cells and macrophages. In addition, some bacteria are capable of accelerating the degradation of polyester.

- f. The polyester contains numerous additive compounds, which leach from the Covidien Mesh and are toxic to tissue, enhancing the inflammatory reaction and the intensity of fibrosis.
- g. Scanning electron microscopy has shown polyester to not be inert, with degradation leading to flaking, fissuring, and release of toxic compounds. This enhances the inflammatory and fibrotic reactions.
- h. Over time, polyester was known to shrink 30-50+%.
- i. Polyester is subject to oxidation by acids and other byproducts produced during the inflammatory reaction, causing degradation and loss of compliance.
- j. Inadequate porosity. Mesh porosity is important for tissue ingrowth, with low porosity decreasing tissue incorporation. Porosity also affects the inflammatory and fibrotic reaction. With mechanical stress, the effective porosity is decreased.
- k. After implantation in the human body, polyester is known to depolymerize, cross-link, undergo oxidative degradation by free radicals, and stress crack.
- l. The Covidien Mesh has a tendency to unravel or fray, causing polyester fibers to protrude from the mesh, which harden after implantation, causing an increased foreign body reaction, pain, and risk of organ perforation.
- m. The large surface area of polyester promotes wicking of fluids and bacteria, and is a “bacterial super highway” providing a safe haven for bacteria.

- n. Common complications associated with polyester include restriction of abdominal wall mobility and local wound disturbances. Failures of polyester often include persistent and active inflammatory processes, irregular or low formation of scar tissue, immature collagen formation, and unsatisfying integration of the mesh in the regenerative tissue area.
- o. Shrinkage, stiffness, and deformation of flexible meshes is affected by scar tissue. The Covidien Mesh has inter-filament distances and pores that are too small and close together, increasing the risk of bridging by scar tissue.

57. Defendants knew or should have known that the Covidien Mesh implanted in Plaintiff's abdomen would shrink, move, bend, compress and ultimately attach/adhere to the Plaintiff's organs causing fissures and tearing. In the Plaintiff's case these defects caused and ultimately resulted in Plaintiff undergoing multiple surgeries and the removal of a significant portion of the Plaintiff's bowel. Plaintiff has suffered and continues to suffer life-altering complications from his short-bowel syndrome, as well as intermittent pain and decrease in strength and stamina.

VII.

CONDITIONS PRECEDENT

58. All conditions precedent to Plaintiff's recovery of his claims have been performed, waived or have occurred.

VIII.

CAUSES OF ACTION

Count One – Violation of Tex. Bus. & Comm Code § 17.41 et seq. Deceptive Trade Practices-Consumer Protection Act (“DTPA”)

59. Plaintiff realleges and incorporates all paragraphs above as if fully set forth herein.

60. At all relevant times, Defendants were engaged in commerce in the state of Texas.

61. The DTPA prohibits all false, misleading or deceptive acts or practices in the conduct of any trade or commerce.

62. The Defendants, as alleged herein, have in the course of trade and commerce, engaged in false, misleading, and deceptive acts and practices declared unlawful by sections 17.46(a) and (b) of the DTPA, including, but not limited to:

- a. Failing to disclose the likelihood of potential complications from the implanting of the Covidien Mesh in Plaintiff's abdomen as described in detail in paragraph 56;
- b. Failing to disclose Defendants' lack of testing of the specific Covidien Mesh used in Plaintiff's hernia surgery; and
- c. Falsely advertising the specific Covidien Mesh implanted in Plaintiff as being an improved version of prior meshes with less tendency for adhesion or damage to the patient's internal organs.

63. Due to Defendants' violations under the DTPA, Plaintiff has suffered and will continue to suffer significant economic, physical and mental damages.

64. Under the DTPA, Defendants are liable to Plaintiff for treble damages.

Count Two – Strict Liability: Manufacturing and Design Defect

65. Plaintiff realleges and incorporates all paragraphs above as if fully set forth herein.

66. The Covidien Mesh implanted in Plaintiff's abdomen was not reasonably safe for its intended use as a matter of law with respect to its manufacture.

67. Under Texas law, the manufacturer is strictly liable in tort where the product is defective in the same sense that it is not reasonably safe for its intended use. The standard of reasonable

safeness is determined not by the particular manufacturer, but by what a reasonable prudent manufacturer's standards should have been at the time.

68. The Covidien Mesh implanted in Plaintiff's abdomen was a type of use that Defendants intended and foresaw when they designed, manufactured and sold the products.

69. There were at the time that the Covidien Mesh was implanted in Plaintiff's abdomen, safer alternatives which include meshes that have incorporated biocompatible polymer monofilaments, mesh that would not degrade leaving the internal organs exposed to bare polyester and/or a mesh with a coating that would not inflame the surrounding tissue with a foreign body response.

70. The Defendants' Covidien Mesh was defectively designed, manufactured, labeled, supplied, sold, distributed and/or otherwise placed into the stream of commerce when it was implanted in Plaintiff's abdomen.

71. Despite the fact that Defendants knew or should have known that the Covidien Mesh significantly increased the risk of injury to the consumers in the form of adhesion, tearing, infection, nerve and organ damage, and bowel perforation (all suffered by Plaintiff), Defendants continued to negligently market and label the Covidien Mesh.

72. Defendants' negligence was the proximate cause of Plaintiff's injuries, harm and economic losses, which Plaintiff will continue to suffer.

73. Defendants did not exercise care to avoid the manufacture and sale of the defective Covidien Mesh implanted in Plaintiff's abdomen.

74. Had Plaintiff not had the Covidien Mesh implanted in his abdomen, he would not have suffered injuries and damages.

75. As a foreseeable, direct and proximate result of the Defendants' negligent misrepresentations, upon which Plaintiff (and his medical providers) reasonably relied, Plaintiff

had the Covidien Mesh implanted in his abdomen. The unreasonably dangerous characteristics of the Covidien Mesh, which caused it to adhere, tear and perforate Plaintiff's bowel has caused Plaintiff ongoing severe pain, deformity, mental anguish and economic injuries.

Count Three– Negligence: Manufacturing and Design Defect

76. Plaintiff realleges and incorporates all paragraphs above as if fully set forth herein.

77. Under Texas law, a manufacturer is liable in tort when (1) the manufacturer owed the consumer a duty to design/manufacture/warn regarding the product, (2) the product was defective thereby breaching that duty, (3) the breach of the duty proximately caused the plaintiff's injuries, and (4) the plaintiff was injured.

78. Regarding manufacturing defects, the defendant is liable where (1) the product was defective (i.e. not reasonably safe for its intended use) (2) due to a manufacturing defect (3) present at the time the product left the manufacturer's control and (4) which proximately caused plaintiff's injury.

79. Under Tex. Health & Safety Code Ann. §431.111, the following acts and causing them are prohibited: (1) The introduction or delivery for introduction into commerce of any food, drug, device, or cosmetic that is adulterated or misbranded; (2) The adulteration or misbranding of any food, drug, device or cosmetic in commerce; and (3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

80. The Covidien Mesh implanted in Plaintiff's abdomen was manufactured in violation of standards required under Texas law. Each of these violations in manufacture are clearly described above.

81. Plaintiff suffered direct and proximate damages due to the failures of Defendants to properly manufacture, produce, construct, create, assemble, and/or test its Covidien Mesh prior to sale resulting in the Covidien Mesh implanted in Plaintiff causing irreparable harm to his person. The harm to Plaintiff could have been avoided if the Covidien Mesh had met reasonable standards and had been manufactured according to standards and with the proper materials.

82. Defendants produced a defective Covidien Mesh which was then sold to and implanted in Plaintiff's abdomen. Defendants' production of the defective Covidien Mesh was caused and allowed by Defendants' significant violations of laws and standards and by side-stepping FDA approval of the exact product that was sold to and implanted in Plaintiff.

83. Despite Defendants' knowledge that the materials used to manufacture the Covidien Mesh could cause irreparable harm to consumers and further with the knowledge that the Covidien Mesh implanted had not met FDA approval as an independent product, Defendants continued to negligently market and label the Covidien Mesh.

84. Defendants' negligence was the proximate cause of Plaintiff's injuries, harm and economic loss, which Plaintiff will continue to suffer.

85. Defendants did not exercise care to avoid the manufacture and sale of Plaintiff's defective Covidien Mesh, as shown by the numerous lawsuits (in the thousands) against Defendants for the very same Covidien Mesh they implanted in Plaintiff.

86. As a foreseeable, direct, and proximate result of Defendants' negligent misrepresentations, upon which Plaintiff and his medical providers relied, Plaintiff had the Covidien Mesh implanted in his abdomen. The unreasonably severe and pervasive complications caused by the Covidien Mesh included repetitive instances of infection, surgeries to remove the Covidien Mesh, and damage/tears/adhesion to internal organs which threatened Plaintiff's life, as he was on the verge

of sepsis at the time the issue was identified. Plaintiff suffered injury and damages, including pain and suffering, mental anxiety and anguish, lasting injury, and medical bills.

Count Four – Breach of Implied Warranty

87. Plaintiff realleges and incorporates all paragraphs above as if fully set forth herein.

88. Under Texas law, a defendant violates the implied warranty of merchantability under Tex. Bus. & Com. Code § 2.314 (UCC 2-314) when goods are not merchantable at the time they are sold. To be merchantable, goods must, among other things, be of fair, average quality within the description; fit for ordinary purpose for which such goods are used; and be of even kind, quality and quantity, within each unit and among all units involved.

89. Under Texas law, a defendant violates the implied warranty of fitness for a particular purpose under Tex. Bus. & Com. Code § 2.315 (UCC 2-315) when “the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that they buyer is relying on the seller’s skill or judgment to select or furnish suitable goods” and such goods fail to function for that particular purpose for which they are sold.

90. The Covidien Mesh sold to Plaintiff was not merchantable because the manufacture and sale of the device violated the law and standards in that the device was misbranded as to its safety and specifically as the branding related to the long-term effects of the Covidien Mesh on the internal organs of the consumer in which the product was designed to be implanted.

91. The Covidien Mesh that was sold to Plaintiff was not fit for the particular use for which it was sold, as described in more detail above.

92. At all relevant times, Defendants, and each of them, made misrepresentations and omissions of material facts, in violation of Tex. Bus. & Com. Code § 17.46 and other laws, statutes and codes. These misrepresentations include the following:

- a. That the Covidien Mesh was fit for its intended use;
- b. That the Plaintiff's implant was of merchantable quality;
- c. That the Plaintiff's implant was safe and effective for the treatment of Plaintiff's condition;
- d. That Plaintiff's implant was not unreasonably dangerous;
- e. That Plaintiff's implant had full FDA approval; and
- f. That Plaintiff's implant used safe and improved materials with long-term advantages.

93. At all relevant times, these representations and omissions were false and misleading at the times they were made.

Count Five – Punitive Damages

94. Plaintiff realleges and incorporates all paragraphs above as if fully set forth herein.

95. Under Texas law, a plaintiff may recover for punitive damages where his injuries were caused by malicious, oppressive, wanton, willful or reckless conduct – or by conduct constituting criminal indifference to civil obligations.

96. Defendants knew (from historical data on the effects of the materials used in the Covidien Mesh on the human body) or should have known (had proper testing and approvals been conducted) that the Covidien Mesh was defective and presented an unreasonable risk of harm to Plaintiff.

97. Defendants' conduct as described in this Complaint, for which Plaintiff is entitled to recover compensatory damages, manifested the entire want of care such that it demonstrated a conscience indifference to, flagrant disregard of, and malice towards the safety of those persons

who might foreseeably have been (and were) harmed by the Covidien Mesh, including Plaintiff, justifying the imposition of punitive damages under Tex. Civ. Prac. & Rem. Code § 41.003.

IV.

ATTORNEY'S FEES

98. Under the DTPA, Plaintiff is entitled to recover his reasonable and necessary attorneys' fees and costs.

V.

JURY DEMAND

99. Plaintiff hereby makes demand for a jury trial on all issues in this matter.

PRAYER

WHEREFORE, Plaintiff respectfully requests that Defendants be cited to appear and answer and that upon final trial, Plaintiff have and recover judgment of and from such Defendants jointly and severally as follows:

- A. Plaintiff's reasonable and necessary past medical expenses and costs;
- B. Plaintiff's reasonably foreseeable future medical expenses and costs;
- C. Compensation for Plaintiff's past physical pain and suffering;
- D. Compensation for Plaintiff's future physical pain and suffering;
- E. Compensation for Plaintiff's physical disfigurement (i.e. removal of a section of Plaintiff's bowel and multiple surgeries);
- F. Compensation for possible future disfigurement (i.e. possible future surgeries related to Plaintiff's short bowel syndrome);
- G. Compensation for past physical impairment;

- H. Compensation for on-going physical impairment;
- I. Compensation for past loss of the normal enjoyment and pleasure of life;
- J. Compensation for on-going/future loss of the normal enjoyment and pleasure of life;
- K. Treble damages under the DTPA;
- L. Punitive Damages;
- M. All costs of court together with its reasonable and necessary attorneys' fees;
- N. Prejudgment and post-judgment interest at the maximum legal rate; and
- O. Such other and further relief to which the Plaintiff may show himself to be justly entitled.

February 2, 2026

Respectfully submitted,

By: /s/ David R. Clouston
David R. Clouston, SBN 00787253
Leslye E. Moseley, SBN 24044557
Sessions Israel & Shartle LLC
5700 Granite Parkway, Suite 260
Plano, Texas 75024-6622
Telephone: 504-828-3700;
Facsimile: 214-741-3055
dclouston@sessions.legal
lmoseley@sessions.legal

Attorneys for Plaintiff

EXHIBIT B

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

STEVEN LOUIS JARMON

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

(c) Attorneys (Firm Name, Address, and Telephone Number) David R. Clouston; Bar No. 00787253; 5700 Granite Parkway # 260, Plano, Tx 75024; 214-741-3005; dclouston@sessions.legal

DEFENDANTS

Medtronic USA, Inc., Covidien LP n/k/a Medtronic Inc., Covidien Inc., Covidien plc, and Covidien Holding, 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) DLA PIPER, LLP (US); Brandon Fuqua; Bar No. 24078522; 1900 N. Pearl Street, Ste 2200, Dallas, Tx 76201; brandon.fuqua@us.dlapiper.com: 214-743-4500

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status. Includes options for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each category contains a list of specific legal claims with checkboxes.

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(a)(2)
Brief description of cause: Personal Injury from use of hernia mesh

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 1,000,000 CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Tom Nowak DOCKET NUMBER 366-00635-2026

DATE March 30, 2026 SIGNATURE OF ATTORNEY OF RECORD /s/ Brandon A. Fuqua

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 statute.
- 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 cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT C

366-00635-2026, Steven Louis Jarmon v. Medtronic USA Inc., Covidien LP n/k/a Medtronic Inc., Covidien Inc., Covidien plc, and Covidien Holding Inc.

TX District & County - Collin District

366th District Court

This case was retrieved on **03/29/2026****Header****Case Number:** 366-00635-2026**Date Filed:** 02/02/2026**Date Full Case Retrieved:** 03/29/2026**Status:** Open**Misc:** (38) Other - Product Liability; Civil**Details****Case Type:** Civil**Participants****Litigants****Jarmon, Steven Louis**
Plaintiff

Covidien Holding Inc.

Defendant

Covidien Inc.

Defendant

Covidien LP

Defendant

Also Known As: Medtronic Inc.

Covidien plc

Defendant

Medtronic USA Inc.

Defendant**Attorneys**David R. Clouston
Plaintiff
504-828-3700(W)

Pro Se

Defendant

Pro Se

Defendant

Pro Se

Defendant

Pro Se

Defendant

Pro Se

Defendant

Financial Information

Date	Entry	Receipt	Party	Payment
02/03/2026	Payment	DC-03875-2026	<u>Jarmon, Steven Louis</u>	(\$213.00)
02/06/2026	Payment	DC-04688-2026	Heather Preston	(\$24.00)
03/09/2026	Payment	DC-09295-2026	<u>Jarmon, Steven Louis</u>	(\$40.00)

Proceedings

Date	#	Proceeding Text	Details
02/02/2026		Plaintiff's Original Petition (OCA) \$350.00	Plaintiff's Original Petition

Steven Louis Jarmon v. Medtronic USA Inc., Covidien LP n/k/a Medtronic Inc., Covidien Inc., Covidien plc, and Covidien Holding Inc.

Date	#	Proceeding Text	Details
02/02/2026		Case Information Sheet	Civil Case Information Sheet
03/09/2026		Letter	Request For Issuance
03/09/2026		Request for Citation \$8.00	
03/09/2026		Citation	Plaintiff's Original Petition Medtronic USA Inc. Served 03/18/2026 Returned 03/24/2026 Covidien Inc. Served 03/18/2026 Returned 03/23/2026 Covidien LP Served 03/18/2026 Returned 03/24/2026 Covidien plc Served 03/18/2026 Returned 03/23/2026 Covidien Holding Inc. Served 03/18/2026 Returned 03/23/2026
03/23/2026		Service Return	Return of Service - Citation - Covidien Inc.
03/23/2026		Service Return	Return of Service - Citation - Covidien PLC
03/23/2026		Service Return	Return of Service - Citation - Covidien Holding Inc.
03/24/2026		Service Return	Return of Service - Citation - Medtronic USA Inc.
03/24/2026		Service Return	Return of Service - Citation - Covidien LP a/k/a Medtronic Inc.

Copyright © LexisNexis CourtLink, Inc. All Rights Reserved.
 *** THIS DATA IS FOR INFORMATIONAL PURPOSES ONLY ***

End of Document

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

STEVEN LOUIS JARMON,

Plaintiff,

v.

MEDTRONIC USA, INC., COVIDIEN LP n/k/a
MEDTRONIC INC., COVIDIEN, INC., COVIDIEN
plc, and COVIDIEN HOLDING INC.,

Defendants.

Civil Action No.

DECLARATION OF BRANDON FUQUA IN SUPPORT OF NOTICE OF REMOVAL

I, Brandon Fuqua, declare as follows:

1. I represent Defendants Medtronic USA Inc., Covidien LP n/k/a/ Medtronic Inc., Covidien, Inc., Covidien plc, and Covidien Holding Inc. (collectively “Defendants”). I submit this Declaration in support of Defendants’ Notice of Removal (the “Notice”). I am over the age of 18 years old, I have personal knowledge of the facts by virtue of review of publicly available filings set forth in this Declaration and if called as a witness, could and would competently testify hereto.

2. Defendant Medtronic USA, Inc. is a Minnesota corporation with its principal place of business in Minnesota.

3. Defendant, Covidien LP n/k/a Medtronic Inc. (f/k/a Tyco Healthcare Group LP) is a limited partnership organized and existing under the laws of Delaware, with its principal place of business in Mansfield, Massachusetts. The only general partner of Covidien LP is Covidien Holding Inc. (f/k/a Covidien Inc.).

4. Defendant Covidien, Inc. was a corporation organized and existing under the laws of Delaware, with its principal place of business in Mansfield, Massachusetts.

5. Defendant Covidien plc no longer exists as of January 26, 2015.

6. Defendant Covidien Holding Inc. is a Delaware corporation with its principal place of business in Mansfield, Massachusetts.

7. Covidien LP's limited partners and their respective Covidien LP's limited partners and their respective citizenships are set forth below:

- Sherwood Medical Company I is a Delaware corporation with its principal place of business in Massachusetts.
- United States Surgical Corporation is a Delaware corporation with its principal place of business in Massachusetts.
- Valleylab Holding Corporation is a Delaware corporation with its principal place of business in Colorado.
- VNUS Medical Technologies II, Inc. is a Delaware corporation with its principal place of business in Massachusetts.
- Life Design Systems Inc. is a Wisconsin corporation with its principal place of business in Massachusetts.
- Covidien US Holdings, Inc. is a Delaware corporation with its principal place of business in Massachusetts.
- Covidien Holding Inc. is a Delaware corporation with its principal place of business in Massachusetts.
- Batts, Inc. is a Delaware corporation with its principal place of business in Massachusetts.

- MSCH LLC is a Delaware limited liability company with its principal place of business in Massachusetts.
 - MSCH LLC's only member is Mallinckrodt US LLC, which is a Delaware limited liability company with its principal place of business in Massachusetts.
 - Mallinckrodt US LLC's only member is United States Surgical Corporation, which is a Delaware corporation with its principal place of business in Massachusetts.
- Nellcor Puritan Bennett LLC is a Delaware limited liability company with its principal place of business in Colorado.
 - Nellcor Puritan Bennett LLC's only member is United States Surgical Corporation, which is a Delaware corporation with its principal place of business in Massachusetts.

8. A true and correct copy of Plaintiff's Original Petition filed in the 366th District Court of Collin, County, Texas is attached to the Notice of Removal as Exhibit A.

9. Upon information and belief, Plaintiff's Original Petition and citation were served on Defendants Medtronic USA, Inc., Covidien Inc., Covidien LP, Covidien plc, and Covidien Holding Inc. on or about March 18, 2026.

10. Attached as Exhibit B to the Notice is a true and correct copy of the civil cover sheet filed with the Notice.

11. Attached as Exhibit C to the Notice is a true and correct copy of the state court docket sheet.

I declare under the penalty of perjury under the laws of the United States of America and the State of Texas that the foregoing is true and correct.

Executed this 30th day of March 2026 in Dallas, Texas.

/s/ Brandon A. Fuqua
Brandon A. Fuqua