UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KATHY EDWARDS, Individually and For the Estate of WILLIAM STANLEY EDWARDS,	)	**Civil Action No.:**
Plaintiffs,	)	**JURY TRIAL DEMANDED**
v.	)	
JOHNSON & JOHNSON and ETHICON, INC.,	)	
Defendants.	)	

COMPLAINT

Come now Kathy Edwards (sometimes hereinafter referred to as "Plaintiff" or "Plaintiffs"), Individually and for the Estate of William Stanley Edwards (sometimes hereinafter referred to as "the Decedent"), by and through undersigned counsel, and brings this action against Defendants Ethicon, Inc. and Johnson & Johnson (hereinafter "Defendants"), and allege as follows:

Parties

1. Plaintiff Kathy Edwards, both Individually and as the Representative of the Estate of William Stanley Edwards, was a resident of Georgia and the United States.

2. The Decedent, William Stanley Edwards, at the times relevant, was a resident of Georgia and the United States.

3. The Decedent, William Stanley Edwards, passed away on January 31, 2017.

4. Kathy Edwards is the spouse and surviving heir of Decedent, William Stanley Edwards, and brings this Action on behalf of the Estate of Decedent, William Stanley Edwards and as the surviving spouse of William Stanley Edwards. Kathy Edwards was appointed as Temporary Representative of the Estate of William Stanley Edwards by the Brantley County Probate Court of Georgia on June 19, 2017

5. Defendant Johnson & Johnson ("J&J") is a corporation incorporated in New Jersey, and according to its website, the world's largest and most diverse medical device and diagnostics company, with its principal place of business located at One Johnson & Johnson Plaza, New Brunswick, New Jersey. Defendant J&J is a citizen of New Jersey.

6. Defendant J&J organizes its subsidiary businesses into individual Business Units to coordinate the development, manufacture, testing, marketing promotion, training, distribution and sale of its products, including but not limited to its hernia repair mesh products. Within J&J there are three sectors: medical

devices and diagnostics, pharmaceutical, and consumer. Within the medical devices and diagnostic sector are "Business Units" including the "Ethicon Franchise." the Ethicon Franchise was charged by J&J with the design, development, promotion, marketing, testing, training, distribution and sale of the hernia repair mesh products at issue in this case. the Company Group Chairman and Worldwide Franchise Chairman for the Ethicon Franchise, Gary Pruden, is employed by J&J. the companies which comprise the Ethicon Franchise are thus controlled by J&J and include, but are not limited to, Ethicon Inc.

7. Defendant Ethicon, Inc. ("Ethicon") is a wholly owned subsidiary of Defendant Johnson & Johnson. Defendant Ethicon, Inc. is a corporation incorporated in the State of New Jersey with its principal place of business in Somerville, New Jersey. Ethicon is a citizen of New Jersey. Ethicon's registered agent is Corporation Process Company located at 289 S. Culver Street, Lawrenceville, Georgia 30046-4805.

8. Ethicon is a medical device company involved in the research, development, testing, manufacture, production, marketing, promotion and/or sale of medical devices including Physiomesh (hereinafter may be referred to as the "product").

9. J&J, directly and/or through the actions of Ethicon, Inc., has at all pertinent times been responsible for the research, development, testing, manufacture, production, marketing, promotion, distribution and/or sale of Physiomesh.

10. Defendants are individually, jointly and severally liable to the Decedent for damages suffered by the Decedent arising from the Defendants' design, manufacture, marketing, labeling, distribution, sale and placement of its defective mesh products at issue in the instant action, effectuated directly and indirectly through their respective agents, servants, employees and/or owners, all acting within the course and scope of their representative agencies, services, employments and/or ownership.

11. Defendants are vicariously liable for the acts and/or omissions of its employees and/or agents who were at all times relevant hereto acting on behalf of Defendants and within the scope of their employment or agency with Defendants.

Jurisdiction and Venue

12. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) based on complete diversity of citizenship between the Decedent and all Defendants. The amount in controversy exceeds $75,000, exclusive of interests and costs.

13. This Court has personal jurisdiction over each of the Defendants pursuant to the Georgia Long-Arm Statute, Ga. Code Ann. 9-10-91. Defendants transact business within the State of Georgia, and Defendants committed tortious acts and omissions in Georgia. Defendants' tortious acts and omissions caused injury to the Decedent in the State of Georgia. Defendants have purposefully engaged in the business of developing, manufacturing, publishing information, marketing, distributing, promoting and/or selling, either directly or indirectly, medical devices including Physiomesh mesh products in Georgia, for which they derived significant and regular income. The Defendants reasonably expected that that their defective mesh products, including Physiomesh, would be sold and implanted in Georgia.

14. Venue is proper in the Northern District of Georgia pursuant to 28 USC 1391(b)(1), as Defendant Ethicon maintains its Registered Agent, Corporation Process Company located at 289 S. Culver Street, Lawrenceville, Georgia 30046-4805.

Facts Common To All Counts

15. On June 26, 2015, the Decedent William Stanley Edwards underwent open surgery to implant a 10 IN x 20 IN Physiomesh device at Southeast Georgia

Health System Brunswick Campus in Brunswick, Georgia, to attempt repair of an incarcerated ventral hernia.

16. Defendants manufactured, sold, and/or distributed the Physiomesh device to the Decedent, through his doctors, to be used for treatment of hernia repair.

17. On July 9, 2015, the Decedent was readmitted from primary care office in Brunswick, Georgia, with severe abdominal pain and a worsening pedal edema suggestive of compartment syndrome or the appearance of ascites.

18. On July 22, 2015, the Decedent was admitted for ventral hernia repair with a possible incarcerated small bowel.

19. On July 30, 2015, the Decedent William Stanley Edwards was readmitted with hematoma and related infection.

20. On November 1, 2015, the Decedent William Stanley Edwards was readmitted with abdominal wall cellulitis and underwent surgery to debride the abdominal wound.

21. On November 4, 2015, The Physiomesh implanted in Decedent William Stanley Edwards was found to be infected and found to lack incorporation to his tissues. The Physiomesh was then removed. A biologic form of mesh was then implanted and the wound vac was replaced.

22. On November 11, 2015, Home Health called the surgeon's office regarding feces hanging out of wound. The same was treated in his hospitalization. Continuous care and treatment followed.

23. On April 18, 2016, the Decedent William Stanley Edwards was examined in Brunswick, where it was noted that the wound in the abdomen was unimproved with the bowel hanging out in a closed windowed area and margins still wide apart and fistula open with basically whole fecal stream moving through.

24. On May 10, 2016, the Decedent was examined in Savannah, GA where he was diagnosed as in serious condition and referred to Emory Hospital in Atlanta, Georgia.

25. For ongoing complications and medical issues, Decedent William Stanley Edwards was subsequently hospitalized at Emory Hospital on separate occasions.

26. On January 31, 2017, the Decedent passed away due to the immediate effects of septic shock, respiratory failure and acute renal failure.

27. Defendants were responsible for the research, design, development, testing, manufacture, production, marketing, promotion, distribution and sale of Physiomesh, including providing the warnings and instructions concerning the product.

28. Among the intended purposes for which Defendants designed, manufactured and sold Physiomesh was use by surgeons for hernia repair surgeries, the purpose for which the Physiomesh was implanted in the Decedent.

29. Defendants represented to the Decedent and the Decedent's physicians that Physiomesh was a safe and effective product for hernia repair.

30. Defendants' Physiomesh was defectively designed and/or manufactured, was not reasonably safe for its intended use in hernia repair, and the risks of the design outweighed any potential benefits associated with the design. As a result of the defective design and/or manufacture of the Physiomesh, there was an unreasonable risk of severe adverse reactions to the mesh or mesh components including: chronic pain; recurrence of hernia; foreign body response; rejection; infection; inadequate or failure of incorporation/ingrowth; migration; scarification; deformation of mesh; improper wound healing; excessive and chronic inflammation; adhesions to internal organs; erosion; abscess; fistula formation; granulomatous response; seroma formation; nerve damage; tissue damage and/or death; and other complications.

31. Physiomesh has a unique design incorporating five (5) distinct layers: two layers of polyglecaprone-25 ("Monocryl") film covering two underlying layers of polydioxanone film ("PDS"), which in turn coat a polypropylene mesh. This

design is not used in any other hernia repair product sold in the United States. The multi-layer coating was represented and promoted by the Defendants to prevent or minimize adhesion and inflammation and to facilitate incorporation of the mesh into the body, but it did not. Instead, the multi-layer coating prevented adequate incorporation of the mesh into the body and caused or contributed to an intense inflammatory and chronic foreign body response resulting in an adverse tissue reaction including migration and damage to surrounding tissue in the form of sclerotic, granulomatous and/or fibrotic tissue and improper healing.

32. When affixed to the body's tissue, the impermeable multi-layer coating of the Physiomesh prevents fluid escape, which leads to seroma formation, and which in turn can cause infection, abscess formation and other complications.

33. The multi-layer coating provides a breeding ground for bacteria in which the bacteria cannot be eliminated by the body's immune response, which allows infection to proliferate.

34. The multi-layer coating of Defendants' Physiomesh is cytotoxic, immunogenic, and not biocompatible, which causes or contributes to complications such as delayed wound healing, inflammation, foreign body response, rejection, infection, and other complications.

35. Defendants knew or should have known of the cytotoxic and immunogenic properties of the multi-layer coating of the Physiomesh prior to introducing it into the stream of commerce.

36. The polypropylene mesh portion of the Physiomesh was insufficient to withstand normal abdominal forces, which resulted in recurrent hernia formation and/or rupture and deformation of the mesh itself.

37. When the multi-layer coating of the Physiomesh is disrupted and/or degrades, the "naked" polypropylene mesh is exposed to the adjoining tissue and viscera, and can become adhered to organs, and cause damage to organs, and potentiate fistula formation.

38. The manufacturing and design defects associated with the Physiomesh were directly and proximately related to the injuries suffered by the Decedent.

39. Neither the Decedent William Stanley Edwards nor his implanting physician were adequately warned or informed by Defendants of the defective and dangerous nature of Physiomesh. Moreover, neither the Decedent nor his implanting physician were adequately warned or informed by Defendants of the risks associated with the Physiomesh or the frequency, severity, or duration of such risks.

40. The Physiomesh implanted in the Decedent William Stanley Edwards failed to reasonably perform as intended. The mesh failed, causing serious injury, had to be surgically removed via invasive surgery, and necessitated additional invasive surgery to repair the hernia that the Physiomesh was initially implanted to treat.

41. In May of 2016, Defendants issued an "Urgent: Field Safety Notice" relating to its Physiomesh Flexible Composite Mesh, the same product implanted in the Decedent, and sent such notification to hospitals and medical providers in various countries worldwide. In this safety notice, Defendants advise these providers of "a voluntary product recall", citing two international device registries which reported data reflecting recurrence/reoperation rates after laparoscopic placement as being higher than that observed from a data set relating to patient outcomes after being implanted with other mesh. However, in the United States, Defendants failed to issue a nationwide recall, opting instead to simply remove the product from shelves and cease further sales within the United States.

COUNT I
Strict Product Liability: Defective Design

42. Plaintiff incorporates herein by reference the allegations in paragraphs 15 through 41 as if fully set forth herein.

43. At the time the Physiomesh was implanted in the Decedent William Stanley Edwards's body, the product was defectively designed. As described above, there was an unreasonable risk that the product would not perform safely and effectively for the purposes for which it was intended, and Defendants failed to design against such dangers, and failed to provide adequate warnings and instructions concerning these risks.

44. Defendants expected and intended the Physiomesh product to reach users such as the Decedent in the condition in which the product was sold.

45. The implantation of Physiomesh in the Decedent's body was medically reasonable, and was a type of use that Defendants intended and foresaw when it designed, manufactured and sold the product.

46. The risks of the Physiomesh design significantly outweigh any benefits that Defendants contend could be associated with the product's design. The multi-layer coating, which is not used in any other hernia mesh product sold in the United States, prevents tissue from incorporating into the mesh, leading to encapsulation, deformation, scarification and contraction, migration, erosion and rejection. The impermeable multi-layer coating leads to seroma formation, and provides a breeding ground for infection, and protects bacteria from being eliminated by the body's natural immune response.

47. The multi-layer coating of the Physiomesh, which was marketed, promoted and intended as a barrier against adhesion to the internal organs, was only temporary; it was expected and intended to degrade over time inside the body. Thus, this coating prevented tissue in-growth in the short term, and degraded in the long-term, eventually leaving the "naked" polypropylene mesh exposed to the internal viscera and tissues. The degradation of this multi-layer coating caused or exacerbated an intense inflammatory and foreign body reaction. Once exposed to the viscera, the polypropylene mesh will inevitably adhere to and can erode into and through the viscera, initiating a cascade of adverse consequences. Any purported beneficial purpose of the multi-layer coating (to prevent adhesion to the internal viscera and organs) was non-existent; the product provided no benefit while substantially increasing the risks to the patient.

48. The polypropylene mesh within the defective multi-layer coating of the Physiomesh was in itself dangerous and defective, particularly when used in the manner intended by Defendants in the Physiomesh. When implanted adjacent to the intestines and other internal organs, as Defendants intended for Physiomesh, polypropylene mesh is unreasonably susceptible to adhesion, bowel perforation or erosion, fistula formation and bowel strangulation or hernia incarceration, and other injuries.

49. The polypropylene mesh used in the Physiomesh device was insufficient in strength to withstand the internal forces of the abdomen after implantation, which made the device susceptible to rupture and/or deformation.

50. The appropriate treatment for complications associated with Physiomesh involves additional invasive surgery to remove the mesh from the body, thus eliminating any purported benefit that the mesh was intended to provide to the patient.

51. Physiomesh was designed and intended for intraperitoneal implantation, which involved the product being implanted in contact with the intestines and/or other internal organs, which unnecessarily increased the risks of adhesion, erosion, fistula formation, and other injuries.

52. At the time the Physiomesh was implanted in the Decedent, there were safer feasible alternative designs for hernia mesh products that would have prevented the injuries he suffered.

53. The Physiomesh product cost significantly more than competitive products because of its unique multi-layer coating, even though the multi-layer coating provided no benefit to consumers, and increased the risks to patients implanted with these devices.

54. The Physiomesh implanted in the Decedent failed to reasonably perform as intended, and had to be surgically removed necessitating further invasive surgery to repair the very issue that the product was intended to repair, and thus provided no benefit to her.

55. As a direct and proximate result of the defective and unreasonably dangerous condition of the product, the Decedent suffered injuries and damages as summarized herein.

COUNT II
Strict Product Liability: Failure to Warn

56. Plaintiff incorporates herein by reference the allegations in paragraphs 15 through 55 as if fully set forth herein.

57. At the time the Physiomesh was implanted in the Decedent's body, the warnings and instructions provided by Defendants for the Physiomesh were inadequate and defective. As described above, there was an unreasonable risk that the product would not perform safely and effectively for the purposes for which it was intended, and Defendants failed to design and/or manufacture against such dangers, and failed to provide adequate warnings and instructions concerning these risks.

58. Defendants expected and intended the Physiomesh product to reach users such as the Decedent in the condition in which the product was sold.

59. The Decedent and his physicians were unaware of the defects and dangers of Physiomesh, and were unaware of the frequency, severity and duration of the defects and risks associated with the Physiomesh.

60. The Defendants' Instructions for Use provided with the Physiomesh expressly understates and misstates the risks known to be associated specifically with the Physiomesh by stating that "Potential adverse reactions are those typically associated with surgically implantable materials." No other surgical mesh sold in the United States – and no other "surgically implantable material" – suffers the same serious design flaws as Physiomesh. No other device or material contains the dangerous and defective multi-layer coating, which itself causes or increases the risks of numerous complications, including prevention of incorporation, increased risk of seroma formation, immunologic response, increased risk for infection, and increased inflammatory reaction and foreign body response. Defendants provided no warning to physicians about the risks or increased risks specifically associated with the unique design of the Physiomesh.

61. The Defendants' Instructions for Use for the Physiomesh failed to adequately warn the Decedent's physicians of numerous risks which Defendants knew or should have known were associated with the Physiomesh, including the risks of the product's inhibition of tissue incorporation, pain, immunologic

response, dehiscence, encapsulation, rejection, migration, scarification, shrinkage/contraction, adhesion to internal organs and viscera, erosion through adjacent tissue and viscera, intestinal obstruction, failure of repair/hernia recurrence, hernia incarceration or strangulation, or deformation or rupture of the mesh.

62. Defendants failed to adequately train or warn the Decedent or his physicians about the necessity for invasive surgical intervention in the event of complications, or how to properly treat such complications when they occurred.

63. Defendants failed to adequately train or warn the Decedent or his physicians that the necessary surgical removal of the Physiomesh in the event of complications would leave the hernia unrepaired, and would necessitate further medical treatment to attempt to repair the same hernia that the failed Physiomesh was intended to treat.

64. Defendants represented to physicians, including the Decedent's physician, that the multi-layer coating would prevent or reduce adhesion, and expressly intended for the Physiomesh to be implanted in contact with the intestines and internal organs and marketed and promoted the product for said purpose. Defendants failed to warn physicians that the multi-layer coating prevented tissue ingrowth, which is the desired biologic response to an implantable

mesh device. Defendants failed to warn physicians that the multi-layer coating was only temporary and therefore at best would provide only a temporary adhesion barrier, and when the coating inevitably degraded, the exposed polypropylene would become adhered to the organs or tissue and would erode through adjacent tissue or organs.

65. With respect to the complications that were listed in the Defendants' warnings, Defendants provided no information or warning regarding the frequency, severity and duration of those complications, even though the complications associated with Physiomesh were more frequent, more severe and lasted longer than those with safer feasible alternative hernia repair treatments.

66. If the Decedent and/or his physicians had been properly warned of the defects and dangers of Physiomesh, and of the frequency, severity and duration of the risks associated with the Physiomesh, the Decedent would not have consented to allow the Physiomesh to be implanted in his body, and the Decedent physicians would not have implanted the Physiomesh in the Decedent.

67. As a direct and proximate result of the inadequate and defective warnings and instructions, the Decedent suffered injuries and damages as summarized herein.

COUNT III
Negligence

68. Plaintiff incorporates herein by reference the allegations of paragraphs 15 through 67 as if fully set forth herein.

69. Defendants had a duty to use reasonable care in designing, testing, inspecting, manufacturing, packaging, labeling, marketing, distributing, training, and preparing written instructions and warnings for Physiomesh, but failed to do so.

70. Defendants knew, or in the exercise of reasonable care should have known, that Physiomesh was defectively and unreasonably designed and/or manufactured, and was unreasonably dangerous and likely to injure patients in whom Physiomesh was implanted. Defendants knew or should have known that the Decedent and the Decedent's physicians were unaware of the dangers and defects inherent in the Physiomesh.

71. As a direct and proximate result of Defendants' negligence in designing, testing, inspecting, manufacturing, packaging, labeling, marketing, distributing, training and preparing written instructions and warnings for Physiomesh, the Decedent suffered injuries and damages as summarized herein.

COUNT IV
Loss of Consortium

72. Plaintiff incorporates herein by reference the allegations in paragraphs 15 through 71 as if fully set forth herein.

73. As a direct and proximate result of the above-described injuries sustained by the Decedent William Stanley Edwards, his wife Kathy Edwards has suffered a loss of her husband's consortium, companionship, society, affection, services and support.

Count V
Wrongful Death

74. Plaintiff incorporates herein by reference the allegations in paragraphs 15 through 74 as if fully set forth herein.

75. As a result of the individual, combined and concurring acts and omissions of Defendants as set forth herein above, each above-named Defendant, caused or contributed to cause injuries to Decedent William Stanley Edwards for which Plaintiffs may recover. Such damages include damages which may be recovered for:

1. The homicide and wrongful death of the William Stanley Edwards, deceased, entitling Plaintiffs to recover the full

value of William Stanley Edwards's life, as well as all other damages permitted under law;

2. Expenses associated with the last illness, death and burial of the William Stanley Edwards;
3. Pre-death physical injury, pain and suffering, disability, impairment, lost capacity to enjoy life, mental anguish, and lost earnings of William Stanley Edwards in an amount to be proven at trial which may be recovered by Plaintiffs; and

76. Pre-death medical expenses of William Stanley Edwards in an amount to be proven at trial; and Pre-death fear and mental anguish of William Stanley Edwards concerning existing and future medical problems including but not limited to his implantation of Defendants' Physiomesh, and all other related medical problems associated therewith in an amount to be proven at trial.

Count VI
Punitive Damages

77. Plaintiff incorporates herein by reference the allegations in paragraphs 15 through 77 as if fully set forth herein.

78. Defendants failed to adequately test and study the Physiomesh to determine and ensure that the product was safe and effective prior to releasing the

product for sale for permanent human implantation, and Defendants continued to manufacture and sell Physiomesh after obtaining knowledge and information that the product was defective and unreasonably unsafe. Even though Defendants has other hernia repair mesh devices that do not present the same risks as the Physiomesh, Defendants developed, designed and sold Physiomesh, and continue to do so, because the Physiomesh has a significantly higher profit margin than other hernia repair products. Defendants were aware of the probable consequences of implantation of the dangerous and defective Physiomesh, including the risk of failure and serious injury, such as suffered by the Decedent. Defendants willfully and recklessly failed to avoid those consequences, and in doing so, Defendants acted intentionally, maliciously and recklessly with regard the safety of those persons who might foreseeably have been harmed by the Physiomesh product, including the Decedents, justifying the imposition of punitive damages.

79. The conduct of each Defendant, as set forth herein above was intentional, willful, wanton, oppressive, malicious, and reckless, evidencing such an entire want of care as to raise the presumption of a conscious indifference to the consequences in that each Defendant acted only out of self-interest and personal gain. Such conduct evidences a specific intent to cause harm to Plaintiffs as provided under O.C.G.A. § 51-12-5.1. Accordingly, punitive damages should be

imposed against each Defendant pursuant O.C.G.A. § 51-12-5.1 and other applicable laws, to punish and deter each Defendant from repeating or continuing such unlawful conduct.

Prayer for Relief

WHEREFORE, as a result of the acts and omissions and conduct of Defendants set forth herein, the Decedent William Stanley Edwards is entitled to recover to the following:

A. Compensatory damages in excess of $75,000, exclusive of interest and costs;

B. Costs of suit;

C. Pre-judgment and post-judgment interest;

D. Punitive damages under the provisions of O.C.G.A. § 51-12-5.1;

E. All possible damages for the wrongful death of William Stanley Edwards; and

F. Such other relief as this Court deems just and proper under the circumstances.

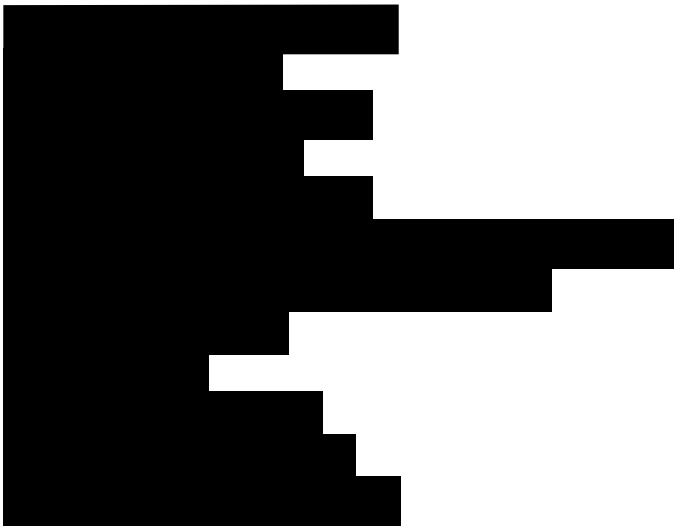
Jury Trial Demand

Plaintiff demands trial by jury, judgment against Defendants, jointly and severally, for compensatory and punitive damages in an amount not less than

$75,000, as well as costs, attorney fees, interest, or any other relief, monetary or equitable, to which she is entitled.

Dated: June 21, 2017.

Respectfully submitted,



JS44 (Rev. 6/2017 NDGA)

CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

KATHY EDWARDS, Individually and for the Estate of WILLIAM STANLEY EDWARDS

DEFENDANT(S)

JOHNSON & JOHNSON and ETHICON, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF WAYNESVILLE CO. GA
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Middlesex Co. New Jerse
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

[redacted]

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. GOVERNMENT PLAINTIFF
- ☐ 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- ☐ 2 U.S. GOVERNMENT DEFENDANT
- ☑ 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

PLF	DEF		PLF	DEF	
☑ 1	☐ 1	CITIZEN OF THIS STATE	☐ 4	☐ 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
☐ 2	☐ 2	CITIZEN OF ANOTHER STATE	☐ 5	☑ 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
☐ 3	☐ 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	☐ 6	☐ 6	FOREIGN NATION

IV. 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 District)
- ☐ 6 MULTIDISTRICT LITIGATION - TRANSFER
- ☐ 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- ☐ 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 USC 1332(a)

(IF COMPLEX, CHECK REASON BELOW)

- ☐ 1. Unusually large number of parties.
- ☑ 2. Unusually large number of claims or defenses.
- ☑ 3. Factual issues are exceptionally complex
- ☑ 4. Greater than normal volume of evidence.
- ☑ 5. Extended discovery period is needed.
- ☐ 6. Problems locating or preserving evidence
- ☐ 7. Pending parallel investigations or actions by government.
- ☑ 8. Multiple use of experts.
- ☐ 9. Need for discovery outside United States boundaries.
- ☑ 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT $_____ APPLYING IFP _____ MAG. JUDGE (IFP) _____

JUDGE _____ MAG. JUDGE _____ NATURE OF SUIT _____ CAUSE OF ACTION _____
(Referral)

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK
- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK
- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 151 MEDICARE ACT
- ☐ 160 STOCKHOLDERS' SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK
- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK
- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY
- ☐ 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- ☑ 365 PERSONAL INJURY - PRODUCT LIABILITY
- ☐ 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK
- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK
- ☐ 422 APPEAL 28 USC 158
- ☐ 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK
- ☐ 440 OTHER CIVIL RIGHTS
- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ ACCOMMODATIONS
- ☐ 445 AMERICANS with DISABILITIES - Employment
- ☐ 446 AMERICANS with DISABILITIES - Other
- ☐ 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK
- ☐ 462 NATURALIZATION APPLICATION
- ☐ 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK
- ☐ 463 HABEAS CORPUS- Alien Detainee
- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 530 HABEAS CORPUS
- ☐ 535 HABEAS CORPUS DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER
- ☐ 550 CIVIL RIGHTS - Filed Pro se
- ☐ 555 PRISON CONDITION(S) - Filed Pro se
- ☐ 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK
- ☐ 550 CIVIL RIGHTS - Filed by Counsel
- ☐ 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK
- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- ☐ 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK
- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT. RELATIONS
- ☐ 740 RAILWAY LABOR ACT
- ☐ 751 FAMILY and MEDICAL LEAVE ACT
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK
- ☐ 820 COPYRIGHTS
- ☐ 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK
- ☐ 830 PATENT
- ☐ 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK
- ☐ 861 HIA (1395ff)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC (405(g))
- ☐ 863 DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK
- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK
- ☐ 375 FALSE CLAIMS ACT
- ☐ 376 Qui Tam 31 USC 3729(a)
- ☐ 400 STATE REAPPORTIONMENT
- ☐ 430 BANKS AND BANKING
- ☐ 450 COMMERCE/ICC RATES/ETC.
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK
- ☐ 410 ANTITRUST
- ☐ 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK
- ☐ 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

☐ **CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23** **DEMAND $**_____

JURY DEMAND ☑ **YES** ☐ **NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)**

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE Richard W. Story **DOCKET NO.** MDL 2782

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- ☐ **1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.**
- ☑ **2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.**
- ☐ **3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.**
- ☐ **4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.**
- ☐ **5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.**
- ☑ **6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):**

- ☐ **7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. , WHICH WAS DISMISSED. This case ☐ IS ☐ IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.**

SIGNATURE OF ATTORNEY OF RECORD **DATE**