SUPERIOR COURT
CIVIL CASE INFORMATION STATEMENT (CIS)

COUNTY: (N) K S **CIVIL ACTION NUMBER:**

CAPTION:	**Civil Case Code:** CPRL **Civil Case Type:** Product Liability
Richard Williams,	**Mandatory Non-Binding Arbitration (MNA)** ___NO_____
Plaintiff,	**Name and Status of Party filing document:** RICHARD WILLIAMS, plaintiff
v.	
Aziyo Biologics, Inc., Medtronic PLC, Medtronic USA, Inc., and Medtronic, Inc.,	
Defendants.	**Document Type: (E.G.; Complaint; Answer with Counterclaim)** **COMPLAINT**
	Jury Demand: **Yes** ☒ **No** ☐

ATTORNEY NAME(S): KEITH E. DONOVAN (3044) MATTHEW R. FOGG (4254)	**IDENTIFY ANY RELATED CASES NOW PENDING IN THE SUPERIOR COURT BY CAPTION AND CIVIL ACTION NUMBER INCLUDING JUDGE'S INITIALS**
FIRM NAME: Morris James, LLP	
ADDRESS:	

803 N. Broom Street P.O. Box 2328 Wilmington, DE 19899-2328	**Explain The Relationship(s):**
TELEPHONE NUMBER: (302) 655-2599	
FAX NUMBER: (302) 655-8831	**Other Unusual Issues that Affect Case Management:**
E-MAIL ADDRESSES: KDONOVAN@MORRISJAMES.COM MFOGG@MORRISJAMES.COM	
	(If Additional Space Is Needed, Please Attach Pages)

THE PROTHONOTARY WILL NOT PROCESS THE COMPLAINT, ANSWER OR FIRST RESPONSIVE PLEADING IN THIS MATTER FOR SERVICE UNTIL THE CASE INFORMATION STATEMENT (CIS) IS FILED. THE FAILURE TO FILE THE CIS AND TO HAVE THE PLEADING PROCESSED FOR SERVICE MAY RESULT IN THE DISMISSAL OF THE COMPLAINT OR MAY RESULT IN THE ANSWER OR FIRST RESPONSIVE PLEADING BEING STRICKEN.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

Richard Williams,	:	
	:	
Plaintiff,	:	C.A. No.:
	:	
v.	:	TRIAL BY JURY DEMANDED
	:	
Aziyo Biologics, Inc., Medtronic PLC, Medtronic USA, Inc., and Medtronic, Inc.,	:	
	:	
Defendants.	:	

PRAECIPE

TO: PROTHONOTARY
New Castle County Superior Court

PLEASE ISSUE SUMMONS, directing the **Sheriff of New County** to serve the Summons, Complaint, Answers to Form 30 Interrogatories, and Affidavit of Counsel as follows:

1. Upon the Defendants Aziyo Biologics, Inc. via its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808;

2. Medtronic PLC, via its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808;

2. Upon the Defendant, Medtronic USA, Inc., via its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808;

3. Upon the Defendant, Medtronic, Inc., via its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808.

MORRIS JAMES LLP

Keith E. Donovan, I.D. #3044
Matthew R. Fogg, I.D. #4254
803 North Broom Street
P.O. Box 2328
Wilmington, DE 19899
(302) 655-2599
Attorneys for Plaintiff

SALTZ MONGELUZZI & BENDESKY, P.C.

Lawrence R. Cohan, Esq.
Joshua C. Cohan, Esq.
One Liberty Place, 52nd Floor
1650 Market Street
Philadelphia, PA 19103
(215) 486-8282
subject to admission pro hac vice

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

Richard Williams,	:	
	:	
Plaintiff,	:	C.A. No.:
	:	
v.	:	TRIAL BY JURY DEMANDED
	:	
Aziyo Biologics, Inc., Medtronic PLC, Medtronic USA, Inc., and Medtronic, Inc.,	:	
	:	
Defendants.	:	

THE STATE OF DELAWARE,
TO: THE SHERIFF OF NEW COUNTY
YOU ARE COMMANDED:

To summon the above named Defendants by serving the Summons and Complaint upon the Defendants such that, within 20 days after service hereof upon Defendants, exclusive of the day of service, Defendants shall serve upon Matthew R. Fogg, Plaintiff's attorney, whose address is 803 North Broom Street, P.O. Box 2328, Wilmington, Delaware 19899, an Answer to the Complaint.

To serve upon Defendants a copy hereof and of the Complaint.

Date:

LISA G. FONTELLO
Prothonotary

_____
Per Deputy

TO THE ABOVE NAMED DEFENDANTS

In case of your failure, within 20 days after service hereof upon you, exclusive of the day of service, to serve Plaintiff's attorney named above an

Answer to the Complaint, judgment by default will be rendered against you for the relief demanded in the Complaint.

LISA G. FONTELLO
Prothonotary

_____
Per Deputy

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

RICHARD WILLIAMS Plaintiff, v. AZIYO BIOLOGICS, INC., MEDTRONIC, PLC, MEDTRONIC USA, INC., AND MEDTRONIC, INC. Defendants.	CIVIL ACTION NO. DEMAND FOR JURY TRIAL

COMPLAINT

COMES NOW Plaintiff, RICHARD WILLIAMS, by and through his attorneys, as and for his complaint against Defendants, Aziyo Biologics, Inc., Medtronic, PLC, Medtronic USA, Inc., and Medtronic, Inc. (collectively, "Defendants"), alleges as follows:

I. INTRODUCTION

1. This action seeks to recover damages for the personal injuries suffered by RICHARD WILLIAMS, which were the direct and proximate result of the wrongful conduct of AZIYO BIOLOGICS, INC., MEDTRONIC, PLC, MEDTRONIC USA, INC., and MEDTRONIC, INC. in connection with the research, testing, design, development, manufacture, production, inspection,

labeling, advertisement, marketing, promotion, sale, and distribution of FiberCel Fiber Viable Bone Matrix ("FiberCel").

II. PARTIES

2. Plaintiff RICHARD WILLIAMS ("Plaintiff"), is and at all relevant times was a resident of the State of Delaware, residing in Bear, Delaware

3. Defendant AZIYO BIOLOGICS, INC. ("Aziyo") is a Delaware corporation, whose registered agent for service of process is Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. Aziyo's principal place of business is located at 12510 Prosperity Drive, Suite 370, Silver Springs, Maryland 20904.

4. Aziyo sells a variety of medical products, including implantable electronic devices, orthopedic and spinal repair products, and soft tissue reconstruction products.

5. Upon information and belief, Aziyo developed, manufactured, marketed, promoted, distributed, supplied and/or sold FiberCel which was implanted into Plaintiff and which is the subject of this complaint.

6. Defendant MEDTRONIC, PLC is incorporated in Ireland, having its principal place of business at 20 Lower Hatch Street, Dublin, 2, Ireland. MEDTRONIC PLC's U.S. operational headquarters are located at 710 Medtronic Parkway, Minneapolis, MN 55432-5604 USA with a registered agent for service

located at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. MEDTRONIC, PLC is the parent company of MEDTRONIC, INC. MEDTRONIC, PLC does business throughout the United States, including conducting regular business in Delaware.

7. Defendant MEDTRONIC USA, INC is incorporated in Minnesota, having its principal place of business at 710 Medtronic Parkway, Minneapolis, MN 55432-5604 USA with a registered agent for service located at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. MEDTRONIC USA, INC. does business throughout the United States, including conducting regular business in Delaware.

8. Defendant MEDTRONIC, INC is incorporated in Minnesota, having its principal place of business at 710 Medtronic Parkway, Minneapolis, MN 55432-5604 USA with a registered agent for service located at Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808. MEDTRONIC, INC. does business throughout the United States, including conducting regular business in Delaware.

9. MEDTRONIC, PLC, MEDTRONIC USA, INC, and MEDTRONIC, INC. (collectively, "Medtronic") develop therapeutic and diagnostic medical products, and is among the world's largest medical technology, services, and solutions companies.

10. Upon information and belief, Medtronic was designated as the exclusive U.S. distributor of the FiberCel manufactured by Defendant Aziyo.

11. At all times relevant, Medtronic distributed, supplied and/or sold FiberCel in Delaware which was implanted into Plaintiff and which is the subject of this complaint.

12. Defendants, at all times relevant to this lawsuit, manufactured, developed, designed, marketed, distributed, promoted, supplied and/or otherwise sold (directly or indirectly) FiberCel to various locations for use in surgeries requiring bone grafting, including to Christiana Care in Delaware where it was surgically implanted into Plaintiff Richard Williams, causing him to suffer harm as described herein.

III. JURISDICTION AND VENUE

13. This claim arises out of a cervical spine operation performed on Plaintiff Richard Williams at Christiana Care in New Castle County, Delaware on April 13, 2021, in which FiberCel was surgically implanted into his body.

14. This lawsuit is properly before this Court pursuant to Article 4, Section 7 of the Delaware Constitution because Plaintiff is seeking legal damages.

15. The Court has subject matter jurisdiction over this action.

16. The State of Delaware and this Court have personal jurisdiction over all Defendants because they each are either organized under Delaware law, transact

business in this state, or have members who are residents and/or are organized under the laws of Delaware.

IV. FACTUAL ALLEGATIONS

A. FiberCel Fiber Viable Bone Matrix

17. FiberCel Fiber Viable Bone Matrix ("FiberCel") is made from human tissue consisting of cancellous bone particles with preserved cells, combined with demineralized cortical fiber. It is engineered to be like natural tissue and is used as a bone void filler in various orthopedic and spinal procedures. The allografts contain the scaffold, growth factors and cells required for regeneration critical for successful bone formation.

18. FiberCel is marketed for use in orthopedic and reconstructive bone grafting procedures with the use of autologous bone or other forms of allograft bone or alone as a bone graft. FiberCel is made with donor tissue and growth factor cells.

19. On June 20, 2019, Aziyo announced it had signed an exclusive, multi-year distribution agreement with defendant Medtronic in the U.S. orthopedic market. According to the agreement, Aziyo agreed to manufacture and supply FiberCel to Medtronic for distribution through the company's sales and marketing organization.

B. FiberCel Recall

20. On June 2, 2021, the United States Food & Drug Administration (FDA) issued an urgent voluntary recall of FiberCel, specifically three products from Donor Lot Number NMDS210011: VMB9901, VBM9905, and VBM9910.

21. Aziyo initiated the voluntary recall in response to reports of patients testing positive for Tuberculosis and post-surgical infections following the surgical implantation of FiberCel as part of an orthopedic or spinal procedure.

22. Tuberculosis ("TB") is an infectious disease caused by bacteria known as Mycobacterium tuberculosis. TB is highly contagious, and mostly impacts the lungs, but can also spread through the lymph nodes to other parts of the body, including the kidneys, brain, and spine.

23. Once mycobacterium tuberculosis is introduced to the body, the bacteria must then proliferate within the new host for the host to develop disease. When this bacteria is introduced in a surgical wound, the patient is already in an immunocompromised position, causing them to have an increased likelihood of developing TB, which can be fatal.

24. The recalled contaminated FiberCel lot contained 154 units delivered to 20 states.

25. Upon information and belief, Christiana Care received 30 units from the contaminated FiberCel Donor Lot No. NMDS210011, and the contaminated units were implanted into 23 patients, including Plaintiff.

26. Defendant Aziyo has acknowledged that at least one hospital reported post-surgical infections in seven of twenty-three patients that received FiberCel from Donor Lot No. NMDS210011. At least four patients that have received FiberCel from this Donor Lot have tested positive for Tuberculosis, including Plaintiff.

27. This recall acknowledged that viruses and bacteria, including Tuberculosis, can be transplanted into patients along with the FiberCel product.

C. Plaintiff Received the Contaminated FiberCel and as a Result, Suffered Severe Injury

28. Plaintiff Richard Williams underwent cervical spine surgery on April 13, 2021 at Christiana Care in Delaware.

29. Plaintiff Richard Williams' surgery included bone grafting, utilizing FiberCel from Donor Lot Number NMDS210011.

30. Unbeknownst to Plaintiff or his physicians at the time of his surgery, the FiberCel implanted into Plaintiff was contaminated with tuberculosis.

31. Following his April 13, 2021 operation, Plaintiff Richard Williams' surgical wound tested positive for tuberculosis.

32. Plaintiff's tuberculosis was caused by the contaminated and recalled FiberCel used in his cervical spine surgery.

33. As a direct and proximate result of the implantation of contaminated FiberCel, Plaintiff was forced to undergo a painful and complicated revision surgery to remove the contaminated FiberCel product and to insert a new bone product free from contamination.

34. Plaintiff underwent revision surgery to remove the contaminated bone on June 7, 2021 at Christiana Care in Newark, Delaware.

35. Due to the need for a revision surgery, Plaintiff's spine was fused at an additional level, which will lead to a decreased range of motion and more substantial permanent injury when compared to the long term outlook of his original fusion surgery.

36. Plaintiff's revision surgery has subjected him to much greater risks of complication than he had before the revision surgery.

37. Plaintiff's diagnosis of tuberculosis will require extensive and invasive medical protocols to manage the manifestation of this disease.

38. Plaintiff will require continued medical monitoring now and into the future in order to monitor Plaintiff's health related to the ongoing and serious nature of his tuberculosis diagnosis.

39. Plaintiff would not have suffered from tuberculosis, as well as the need to undergo subsequent revision surgery, had Defendants sold and distributed a product that was free from tuberculosis contamination.

40. As a direct and proximate result of Plaintiff's exposure to Defendants' contaminated FiberCel product used in his cervical spine surgery, Plaintiff has suffered and continues to suffer from severe pain and discomfort, emotional distress, the loss of daily functions, and economic loss, including, but not limited to, present and future medical expenses, lost earnings and future lost earning capacity, all of which are a direct result of Defendants' liability producing conduct.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligence

41. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

42. Defendants owed a duty to Richard Williams to exercise reasonable care in designing, researching, manufacturing, marketing, supplying, promoting, sale, testing, quality, assurance, quality control, and distribution of FiberCel into the stream of commerce, including a duty to assure that the FiberCel would not cause those who used it, including Richard Williams, to suffer adverse harmful effects.

43. Defendants failed to exercise reasonable care in the designing, researching, manufacturing, marketing, supplying, promoting, sale, testing, quality assurance, quality control and distribution of FiberCel.

44. Defendants knew or should have known that those individuals who used the defective FiberCel were at risk for suffering harmful effects from it, including but not limited to, tuberculosis, as well as other severe injuries which are permanent and lasting in nature, physical pain, mental anguish, and diminished enjoyment of life.

45. Defendants were negligent in designing, researching, supplying, manufacturing, promoting, packaging, distributing, testing, advertising, warning, marketing, and sale of FiberCel. The negligence of Defendants, their agents, servants, and employees, included, but was not limited to, the following acts and/or omissions:

a. Designing, manufacturing, producing, creating, and/or promoting FiberCel without adequately, sufficiently, or thoroughly testing the FiberCel units to ensure they were free from contamination of communicable diseases, including but not limited to, tuberculosis;

b. Not conducting a sufficient quality control testing program to determine whether or not the subject FiberCel was manufactured properly and was free from contamination or other defects making it unsafe for users of the product;

c. Failing to adequately and properly obtain and review complete donor medical history;

d. Negligently failing to timely recall their dangerous and defective FiberCel lots at the earliest date that it became known that certain lots of FiberCel were, in fact, dangerous and defective;

e. Negligently manufacturing FiberCel in a manner that was dangerous to those individuals who had FiberCel transplanted into their bodies;

f. Negligently producing FiberCel in a manner that was dangerous to those individuals who had it transplanted into their bodies;

g. Failing to warn individuals who were using the product of the risks of contracting tuberculosis; and

h. Were otherwise careless and negligent.

46. Defendants knew or should have known that consumers, such as Plaintiff Richard Williams, would suffer foreseeable injury and be at increased risk of suffering an injury as a result of Defendants' failure to exercise ordinary care, as set forth above.

47. Defendants' negligence was the proximate cause of Richard Williams' physical, mental, emotional injuries and harm, and economic loss.

48. By reason of the foregoing, Defendants are liable to Richard Williams for all of his injuries, harm, damages, and economic and non-economic losses in an amount to be determined in the future.

SECOND CAUSE OF ACTION

Breach of Implied Warranty

49. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

50. Defendants are in the business of designing, manufacturing, supplying, selling, and placing into the stream of commerce certain goods, including FiberCel.

51. By placing FiberCel into the stream of commerce, Defendants impliedly warranted that it was merchantable and fit and safe for its intended use.

52. The FiberCel placed into the stream of commerce by Defendants and implanted into Plaintiff was contaminated, leading those persons who received FiberCel implants to develop tuberculosis, including Plaintiff, and accordingly, was not fit, safe, or merchantable for its intended use.

53. The contamination in the FiberCel, manufactured, supplied, and placed into the stream of commerce by Defendants was present at the time the FiberCel units left Defendants' control and at the time it was implanted into Plaintiff as part of his spinal operation.

54. Defendants breached the implied warranty for FiberCel because it was contaminated, unmerchantable, and not fit for its intended purpose, resulting in personal injuries suffered by Plaintiff Richard Williams, including his development of tuberculosis.

55. Plaintiff Richard Williams was a foreseeable user of the FiberCel designed, manufactured, and placed into the stream of commerce by Defendants.

56. By reason of the foregoing, Defendants are liable to Plaintiff Richard Williams for his injuries, harm, damages, and economic and non-economic losses in an amount to be determined at trial.

THIRD CAUSE OF ACTION

Breach of Express Warranty

57. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if they were set forth at length herein.

58. At all times mentioned, Defendants expressly represented and warranted to Plaintiff and Plaintiff's agents and physicians, by and through statements made by Defendants and their authorized agents or sales representatives, orally and in publications, package inserts, and other written materials intended for physicians, medical patients, and the public, that FiberCel is safe, effective, fit, and proper for its intended use. Plaintiff and Plaintiff's physicians utilized FiberCel relying upon these warranties.

59. Defendants' own promotion states that FiberCel is processed in sterile conditions, and is screened for bacteria and communicable disease.

60. In utilizing FiberCel, Plaintiff relied on the skill, judgment, representation, and foregoing express warranties of the Defendants. These

warranties and representations were false in that FiberCel is unsafe and unfit for its intended uses.

61. As a result of the abovementioned breach of express warranties by Defendants, Plaintiff suffered injuries and damages as alleged herein.

FOURTH CAUSE OF ACTION

Medical Monitoring

62. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if they were set forth at length herein.

63. As a result of the Defendants' negligence, Plaintiff has been diagnosed with TB, and may in the future experience ongoing symptoms of TB, in addition to other injuries and harm that he may suffer as a result of his TB diagnosis and subsequent need for revision surgery.

64. A monitoring procedure exists to monitor Plaintiff's TB since all TB patients require continual and ongoing monitoring of their potentially deadly disease.

65. Plaintiff will be required to undergo testing and analysis to monitor the spread and progression of his TB.

66. Ongoing TB testing requires expenditures of time and money.

67. The prescribed monitoring regime is different from that normally recommended for an individual like Plaintiff in the absence of the development of TB.

68. The prescribed monitoring regime is reasonably necessary according to contemporary scientific and medical principles.

69. Defendants' acts were negligent and reckless and they should be held accountable, and should compensate Plaintiff for the ongoing costs of monitoring his TB.

FIFTH CAUSE OF ACTION

Punitive Damages

70. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

71. Plaintiff is further informed and believes that Defendants' misconduct, as previously outlined herein, constituted a conscious disregard for the rights and safety of other persons, including Plaintiff Richard Williams, that had a great probability of causing substantial harm including, but not limited to, exposing Richard Williams and other recipients of FiberCel to tuberculosis, a potentially deadly infectious disease.

72. Plaintiff is further informed and believes that Defendants engaged in conduct with respect to the contaminated FiberCel unit alleged herein which was a

legal cause of loss, damages, injuries, and harm to Plaintiff, and which exposed Plaintiff and other recipients of the contaminated FiberCel units to serious complications, including the diagnosis of tuberculosis in Plaintiff's post-surgical wound.

73. Defendants' actions and inactions leading to the contamination of the FiberCel product were outrageous, willful and wanton, and done with reckless disregard for the safety of the Plaintiff.

74. The Defendants' outrageous, willful and wanton, and reckless conduct in disregard of the safety of the Plaintiff was the direct proximate cause of Plaintiff's injuries and damages.

75. As a direct and proximate result of the Defendants' outrageous, willful and wanton, and reckless conduct in disregard of the safety of the Plaintiff, the Plaintiff has suffered and continues to suffer damages as set forth above.

76. Defendants thereby acted with a conscious disregard for the rights and safety of Plaintiff Richard Williams and many other users of the contaminated FiberCel units, thus warranting an award of punitive damages to Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendants, jointly and severally, as follows:

a. Compensatory damages exclusive of interest and costs, and in an amount to fully compensate Plaintiff for all past, present, and future pain and suffering.

b. Special damages, exclusive of interest and costs, and in an amount to fully compensate Plaintiff for all of his injuries and damages, both past and present;

c. Punitive and/or exemplary damages for the wanton, willful, fraudulent, reckless acts of the Defendants who demonstrated a complete disregard and reckless indifference for the safety and welfare of the general public and to the Plaintiff in an amount sufficient to punish Defendants and deter future similar conduct;

d. An order to establish a medical monitoring protocol for Plaintiff to monitor his health;

e. Attorneys' fees, expenses, and costs of this action;

f. Pre-judgment and post-judgment interest in the maximum amount allowed by law; and

g. Such further relief as this Court deems necessary, just, and proper.

Respectfully submitted,

/s

Keith E. Donovan, Esq. – Bar ID 3044
Matthew R. Fogg, Esq. – Bar ID 4254
MORRIS JAMES LLP
500 Delaware Avenue
Suite 1500
Wilmington, DE 19801
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/s/ Lawrence R. Cohan

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Joshua C. Cohan, Esq.
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lcohan@smbb.com
jcohan@smbb.com

Dated: June 16, 2021

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

Richard Williams,	:	
Plaintiff,	:	C.A. No.:
v.	:	TRIAL BY JURY DEMANDED
Aziyo Biologics, Inc., Medtronic PLC, Medtronic USA, Inc., and Medtronic, Inc.,	:	
Defendants.	:	

PLAINTIFF'S ANSWERS TO FORM 30 INTERROGATORIES

1. Give the name and present or last known residential and employment address and telephone number of each eyewitness to the incident which is the subject of this litigation.

ANSWER: None other than the parties to this action.

2. Give the name and present or last known residential and employment address and telephone number of each person who has knowledge of the facts relating to the litigation.

ANSWER: In addition to the parties to this action, the following would have hearsay knowledge:

Cpl. Kerrigan, Badge #01584 **Delaware State Police, Troop 2** **P.O. Box 430** **Dover, DE 19903**	**Christiana Care Hospital** **4755 Ogletown-Stanton Road** **Newark, DE 19713**
Personnel of Hartford Insurance Company **P.O. Box 14269** **Lexington, KY 40512**	**George Quentin G. Viterbo, M.D.** **Delaware Medical Associates** **5311 Limestone Road, Ste. 100** **Wilmington, DE 19808**
Personnel of Progressive **131 Continental Drive, Ste. 209** **Newark, DE 19713**	**Pivot Physical Therapy** **1651-53 Pulaski Highway** **Bear, DE 19701**

Mark S. Eskander, M.D. **Delaware Orthopaedic Specialists** **1941 Limestone Road, Ste. 101A** **Wilmington, DE 19808**	**Michael Sugarman, M.D.** **Delaware Neurosurgical Group** **774 Christiana Road, Ste. 202** **Newark, DE 19713**
Remote Neuromonitoring Physicians **3 Maryland Farms, Ste. 200** **Brentwood, TN 37207**	**Family and Friends of Plaintiff**

Plaintiff reserves the right to add to or amend this answer.

3. Give the names of all persons who have been interviewed in connection with the above litigation, including the names and present or last known residential and employment addresses and telephone numbers of the persons who made said interviews and the names and present or last known residential and employment addresses and telephone numbers of persons who have the original and copies of the interview.

ANSWER: None other than what is contained in the police report. Plaintiff has been interviewed by his attorney, the contents of which are protected by the attorney/client privilege and/or attorney work product.

4. Identify all photographs, diagrams, or other representations made in connection with the matter in litigation, giving the name and present or last known residential and employment address and telephone number of the person having the original and copies thereof (in lieu thereof, a copy can be attached).

ANSWER: See police accident report.

5. Give the name, professional address, and telephone number of all expert witnesses presently retained by the party, together with the dates of any written opinions prepared by said expert. If an expert is not presently obtained, describe by type the experts who the party expects to retain in connection with the litigation.

ANSWER: Plaintiff anticipates calling medical experts including, but not limited to orthopedic surgeons, infectious disease doctors, and life care planners. Plaintiff further anticipates retaining additional scientific experts with regard to the processes and procedures applicable to the facts of this case. To be supplemented.

6. Give a brief description of any insurance policy, including excess coverage, that is or may be applicable to the litigation, including:

(a) the name and address of all companies insuring the risk;
(b) the policy number;
(c) the type of insurance;
(d) the amounts of primary, secondary and excess coverage.

ANSWER:
(a) Hartford Insurance Company;
(b) Y79AF97381
(c) PIP/UIM
(d) 50/250

(a) Progressive;
(b) 20-3158122;
(c) Liability;
(d) 25/50.

7. Give the name, professional address, and telephone number of all physicians, chiropractors, psychologists, and physical therapists who have examined or treated you at any time during the ten year period immediately prior to the date of the incident at issue in this litigation.

ANSWER: To the best of the Plaintiffs' recollection, the following is a list of all physicians, chiropractors, psychologists, and physical therapists who have examined or treated her at any time during the ten year period prior to the date of the incident at issue in this litigation: George Quentin G. Viterbo, M.D., 5311 Limestone Road, Ste. 100, Wilmington, DE 19808; Kevin Murray, D.C., 650 Plaza Drive, Newark, DE 19702; Delaware Spine Center, 550 Stanton-Christiana Road, Ste. 101, Newark, DE 19713. Plaintiff reserves the right to add to or amend this answer.

MORRIS JAMES LLP

Keith E. Donovan, I.D. #3044
Matthew R. Fogg, I.D. #4254
803 North Broom Street
P.O. Box 2328
Wilmington, DE 19899
(302) 655-2599
Attorneys for Plaintiff

SALTZ MONGELUZZI & BENDESKY, P.C.

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Joshua C. Cohan, Esq.
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1650 Market Street
Philadelphia, PA 19103
(215) 486-8282
subject to admission pro hac vice

AFFIDAVIT

STATE OF DELAWARE)
) SS.
COUNTY OF NEW CASTLE)

I, Richard Williams, being duly sworn do depose and state as follows:

1. I am the Plaintiff in the foregoing action.

2. Plaintiff's information contained in Plaintiff's Answers to the Form 30 Interrogatories are true and correct to the best of my knowledge, information and belief.

Richard Williams

Richard Williams

SWORN TO AND SUBSCRIBED before me, a Notary Public for the State and County aforesaid, this 15th day of June, 2021.

NOTARY PUBLIC

SUSAN D. AMENT
ATTORNEY

12696481/1

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

Richard Williams,	:	
	:	
Plaintiff,	:	C.A. No.:
	:	
v.	:	TRIAL BY JURY DEMANDED
	:	
Aziyo Biologics, Inc., Medtronic PLC, Medtronic USA, Inc., and Medtronic, Inc.,	:	
	:	
Defendants.	:	

AFFIDAVIT OF COUNSEL
PURSUANT TO SUPERIOR COURT RULE 3(h)(I)(II) and (III)

I, MATTHEW R. FOGG, ESQ, being duly sworn this 16 day of June, 2021, does depose and say:

1. I am the attorney for the Plaintiff in the above captioned matter.

2. This action involves a claim for personal injuries, and special damages.

3. Documents supporting these claims will be provided upon receipt of a formal Entry of Appearance by the attorney(s) for the Defendant.

MATTHEW R. FOGG

SWORN TO AND SUBSCRIBED before me this date and year aforesaid.

Marie A. Masciantonio
Notary Public

MARIE A. MASCIANTONIO
MY COMMISSION EXPIRES JUNE 22, 2024
NOTARY PUBLIC
STATE OF DELAWARE

12941643/1

File & ServeXpress Transaction Receipt

File & ServeXpress Transaction ID:	66693414
Submitted by:	Marie Masciantonio, Morris James LLP
Authorized by:	Matthew R Fogg, Morris James LLP
Authorize and file on:	Jun 16 2021 4:16PM EDT

Court:	DE Superior Court-New Castle County
Case Class:	Civil
Case Type:	CPRL - Products Liability
Case Name:	Richard Williams v. Aziyo Biologics, Inc.

Transaction Option:	Originating Event
Billing Reference:	137114-0002

Documents List

7 Document(s)			
Originating Document, 18 Pages			
Document Type: Complaint	**Access:** Public	**Statutory Fee:** $211.25	**Linked:**
Document title: Complaint			
Attached Document, 2 Pages			
Document Type: Praecipe	**Access:** Public	**Statutory Fee:** $1.25	**Linked:**
Document title: Praecipe			
Attached Document, 2 Pages			
Document Type: Summons	**Access:** Public	**Statutory Fee:** $1.25	**Linked:**
Document title: Summons			
Attached Document, 2 Pages			
Document Type: Case Information Statement	**Access:** Public	**Statutory Fee:** $1.25	**Linked:**
Document title: Case Information Statement			
Attached Document, 4 Pages			
Document Type: Answer to Form 30 Interrogatories	**Access:** Public	**Statutory Fee:** $1.25	**Linked:**
Document title: Plaintiff's Answers to Form 30 Interrogatories			
Attached Document, 1 Pages			
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Affidavit of Counsel Pursuant to Rule 3(h)(I)(II) and (III)

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Sending Parties (2)

Party	Attorney	Firm
Williams, Richard (pending)	Donovan, Keith E	Morris James LLP
Williams, Richard (pending)	Fogg, Matthew R	Morris James LLP

Case Parties

Party	Attorney	Firm
Aziyo Biologics, Inc. (pending)	No Answer on File	Firm TBD
Medtronic PLC (pending)	No Answer on File	Firm TBD
Medtronic USA, Inc. (pending)	No Answer on File	Firm TBD
Medtronic, Inc. (pending)	No Answer on File	Firm TBD
Williams, Richard (pending)	Donovan, Keith E	Morris James LLP
Williams, Richard (pending)	Fogg, Matthew R	Morris James LLP

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