

James R. Hawkins (SBN 192925)
Christina M. Lucio (SBN 253677)
Mitchell J. Murray (SBN 285691)
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
Telephone: (949) 387-7200
Facsimile:

Attorneys for Plaintiffs Lan Le and Mario Estrada-Peralta,
on behalf of themselves and all others similarly situated

Douglas Han (SBN 232858)
Shunt Tatavos-Gharajeh (SBN 272164)
JUSTICE LAW CORPORATION
751 N. Fair Oaks Avenue Suite 101
Pasadena, California 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

Attorneys for Plaintiffs Oscar Benitez and Shaquille Howard,
on behalf of themselves and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

OSCAR BENITEZ, LAN LE,
SHAQUILLE HOWARD, and MARIO
JORGE ESTRADA-PERALTA, as
individuals and on behalf of all others
similarly situated,

Plaintiffs,

v.

MEDTRONIC, INC., a Minnesota
corporation; MEDTRONIC USA INC., a
Minnesota corporation; COVIDIEN,
L.P., a Delaware Limited Partnership;
and DOES 1-50, inclusive,

Defendants.

Case No. 30-2019-01069185-CU-OE-CXC

Consolidated with the following cases:

Benitez – 30-2019-01106385

Le – 30-2020-01140338

Le – 30-2020-01144725

Howard – 30-2020-01159995

Added Plaintiff: Mario Jorge Estrada-Peralta

Assigned for All Purposes to
Hon. Peter Wilson

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR PRELIMINARY
APPROVAL OF CLASS AND PAGA
ACTION SETTLEMENT**

Date: December 16, 2021

Time: 1:30 p.m.

Dept: CX-102

1 **PLEASE TAKE NOTICE** that on December 16, 2021 at 1:30 p.m., or as soon thereafter
2 as he may be heard in Department CX102 of the Superior Court of the State of California, County
3 of Orange, Plaintiffs Oscar Benitez, Lan Le, Shaquille Howard, and Mario Jorge Estrada-Peralta
4 (“Plaintiffs”), on behalf of themselves and all others similarly situated, will and hereby do move
5 this Court, pursuant to California Code of Civil Procedure section 382, for entry of the proposed
6 Order submitted herewith: (1) granting preliminary approval of the Joint Stipulation of Class and
7 PAGA Action Settlement and Release (the “Settlement Agreement”) by and between Plaintiffs
8 and Defendants Medtronic, Inc. and Covidien, LP (collectively, “Defendants”); (2) provisionally
9 certifying the Class for settlement purposes only; (3) appointing Plaintiffs as Class
10 Representatives, James R. Hawkins and Christina M. Lucio of James Hawkins APLC and Douglas
11 Han and Shunt Tatayos-Gharajeh of Justice Law Corporation as Class Counsel, and Phoenix Class
12 Action Administration Solutions (“Phoenix”) as Settlement Administrator; (4) approving the form
13 and content of the Notice of Proposed Class Action Settlement (the “Class Notice”); (5) directing
14 distribution of the Class Notice to the Class; and (6) setting a hearing for final approval of the
15 Settlement.

16 This motion is made pursuant to California Code of Civil Procedure section 382, California
17 Rules of Court, Rules 3.764, 3.766 and 3.769, on the grounds that the Parties have reached a class
18 and PAGA action settlement and now seek preliminary approval from this Court. This motion is
19 supported by Plaintiffs’ Memorandum of Points and Authorities in Support of Motion for
20 Preliminary Approval of Class and PAGA Action Settlement; the Declaration of James R.
21 Hawkins; the Declaration of Christina M. Lucio; the Declaration of Douglas Han; the Declaration
22 of Jodey Lawrence of Phoenix Settlement Administrators; and the exhibits attached thereto; all

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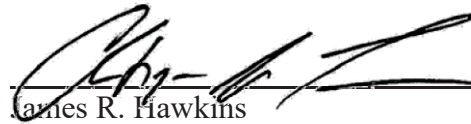
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1 filed concurrently herewith, and by all other evidence and arguments as may be presented to this
2 Court either prior to or at the hearing on this matter, and such matters as the Court may consider.

3
4 Dated: November 18, 2021

JAMES HAWKINS, APLC

5
6 By:



James R. Hawkins
Christina M. Lucio
Mitchell J. Murray

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9 Attorneys for Plaintiffs, on behalf of themselves and
10 all others similarly situated
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PROOF OF SERVICE, COUNTY OF ORANGE

I am a resident of the State of California, County of Orange. I am over the age of eighteen years and not a party to the within action. My business address is 9880 Research Drive., Suite 200, Irvine, California 92618.

On November 18, 2021, I served on the interested parties in this action the following document(s) entitled:

- **PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION APPROVAL**
- **PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**
- **DECLARATION OF JAMES R. HAWKINS IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**
- **DECLARATION OF CHRISTINA M. LUCIO IN SUPPORT OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**
- **DECLARATION OF DOUGLAS HAN IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT, CONDITIONAL CERTIFICATION, APPROVAL OF CLASS NOTICE, SETTING OF FINAL APPROVAL HEARING DATE**
- **DECLARATION OF JODEY LAWRENCE ON BEHALF OF PHOENIX SETTLEMENT ADMINISTRATORS**
- **[PROPOSED] ORDER PRELIMINARILY APPROVING CLASS ACTION SETTLEMENT AND SETTING HEARING FOR FINAL APPROVAL OF SETTLEMENT**

1 [XX] BY ELECTRONIC SERVICE: Based on a court Order or an agreement by the parties to
2 accept service by e-mail or electronic transmission, I caused the document(s) to be sent
3 from the email address Nicole@jameshawkinsaplc.com to the persons at the e-mail
4 addresses listed in the Service List below. I did not receive, within a reasonable time after
5 the transmission, any electronic message or other indication that the transmission was
6 unsuccessful.

7 **SERVICE LIST**

8 See Attached Service List

9 [X] **STATE:** I declare under penalty of perjury, under the laws of the State of
10 California, that the above is true and correct.

11 Executed on November 18, 2021, at Irvine, California

12 /s/ Nicole Miccolis

13 Nicole Miccolis
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SERVICE LIST

Jody A. Landry, Esq.
LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
San Diego, CA 92101-3577
Tel: 619-232-0441
Fax: 619-232-4302

Attorney for Defendant
MEDTRONIC, INC., MEDTRONIC USA, INC.
and COVIDIEN LP

jlandry@littler.com

Douglas Han, Esq.
Shunt Tatavos-Gharajeh, Esq.
Areen Babajanian, Esq.
JUSTICE LAW CORPORATION
751 N. Fair Oaks Ave, Suite 101
Pasadena, CA 91103
Tel: 818-230-7502
Fax: 818-230-7259

Attorneys for Plaintiff
OSCAR BENITEZ

ghan@justicelawcorp.com
statavos@justicelawcorp.com
ababajanian@justicelawcorp.com