

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

IN RE: BOSTON SCIENTIFIC CORP.  
PELVIC REPAIR SYSTEM PRODUCTS LIABILITY  
LITIGATION

MDL No. 2326

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THIS DOCUMENT RELATES TO THE FOLLOWING CASES:

Civil Action Nos.     *Eghnayem v. Boston Scientific Corporation*, 2:13-cv-07965 (lead case);  
                              *Dortes v. Boston Scientific Corporation*, 2:13-cv-10077 (member case);  
                              *Nunez, et al. v. Boston Scientific Corporation*, 2:13-cv-24346 (member  
                              case);  
                              *Betancourt v. Boston Scientific Corporation*, 2:14-cv-08802 (member  
                              case).

**Pretrial Order # 104  
(First Amended Docket Control Order on Consolidated Florida Pinnacle Cases)**

Pending is Boston Scientific Corporation's Motion for Extension of Time to File Non-*Daubert* Based Dispositive Motions, filed July 16, 2014. [Docket 73.] In the motion, Boston Scientific Corporation ("Boston Scientific") seeks an order extending the non-*Daubert* based dispositive motion deadline until August 15, 2014, because depositions of three implanting physicians must still be completed in three of the four consolidated cases. The current deadline is July 18, 2014. Plaintiffs have indicated to the court they have no objection to the motion. For good cause shown and in light of the lack of objection from plaintiffs on this narrow issue, it is **ORDERED** that Boston Scientific Corporation's Motion for Extension of Time to File Non-*Daubert* Based Dispositive Motions is **GRANTED**.

This change to the non-*Daubert* based dispositive motion deadline of nearly a month affects the remaining deadlines in the Docket Control Order. The court cannot rule on motions

filed on August 15, 2014, before the current motions in limine deadline of August 14, 2014. As a result, the court makes the following changes to the original Docket Control Order:

1. Expert Discovery. Expert Discovery shall be completed by **July 18, 2014**, with the exception of the depositions of Dr. Emery Salom (July 18-19, 2014); Dr. William Porter (July 22, 2014); and Dr. Jonathan Bratter (July 30, 2014).
2. Case-Specific Discovery. Discovery in the bellwether cases shall be completed by **August 1, 2014**.
3. Motion Practice.
  - a. *Daubert* Motions shall be filed by **July 18, 2014**. Response briefs shall be filed by **July 25, 2014**. By party agreement, no reply briefs shall be filed for *Daubert* Motions.<sup>1</sup>
  - b. *Non-Daubert* based Dispositive Motions shall be filed by **August 15, 2014**. Response briefs shall be filed by **August 22, 2014**. Reply briefs for *Non-Daubert* based Dispositive motions shall be filed by **August 27, 2014**.
  - c. *Daubert*-based Dispositive motions and motions in limine shall be filed by **September 22, 2014**. Response briefs shall be filed by **September 29, 2014**. Motions in Limine are limited to 3 pages each, responses are limited to 2 pages each. By party agreement, no reply briefs shall be filed for *Daubert*-based Dispositive motions and motions in limine.
  - d. Dates for summary judgment and *Daubert* hearings, if any, will be set at an upcoming status conference.
  - e. Local Rule of Civil Procedure 7.1(a)(2) applies regarding the page limits on memoranda in support of dispositive motions as well as responses and replies. The

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<sup>1</sup> The court notes there is no change to these deadlines.

court will not be inclined to grant motions to exceed the page limit. The requests that the parties abide by Local Civil Rule 7.1(a)(5) regarding courtesy copies.

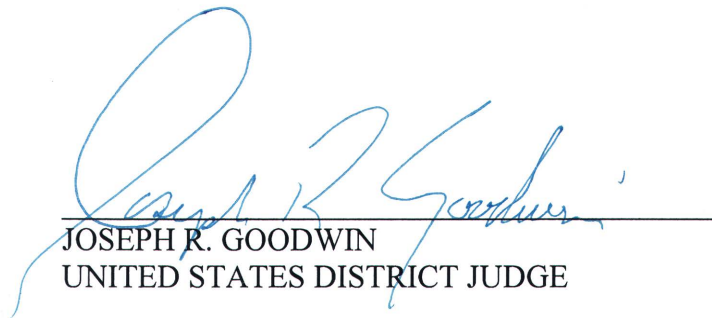
- f. The parties may file placeholder exhibits for documents with potential sealing issues. However, within five days of filing, the party who filed the at-issue exhibits must either file the appropriate motion to seal or file a motion with the at-issue exhibits (dedesignated or redacted) attached asking that the court direct the Clerk to replace the placeholder exhibits with the attached exhibits.
4. Deposition Designations. Deposition designations shall be filed by **September 23, 2014**. Any objections to an opposing party's designations, and any counter-designations shall be filed by **October 3, 2014**. Any objections to the counter-designations, and any counter-designations to an opposing party's counter-designations, shall be filed by **October 10, 2014**.
5. Exhibit and Witness Lists. The parties will exchange exhibit and witness lists by **October 3, 2014**.
6. Proposed Pretrial Order. The parties shall file a proposed integrated pretrial order pursuant to Fed. R. Civ. P. 16 3 days prior to the pretrial conference. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Civil Rule 16.7(b).
7. Pretrial and Final Settlement Conference. The Court shall conduct a final pretrial conference on **October 2, 2014** at **9:00 am EST** and will notify the parties as to the date of a final settlement conference.
8. Proposed Jury Instructions. The parties shall file proposed jury instructions in charge form on substantive theories of recovery or defense, on damages and on evidentiary

matters peculiar to the case, and special interrogatories, if any be appropriate to the case, along with a proposed verdict form on **October 7, 2014**. The court requests that the parties email the proposed jury instructions to the court's law clerk in Word format.

9. Trial. Trial shall commence on **October 14, 2014 at 8:30 a.m.**

The court DIRECTS the Clerk to file a copy of this order in 2:12-md-2326 **and the above-referenced lead case 2:13-cv-07965** and it each member case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:14-cv-23712. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at [www.wvsd.uscourts.gov](http://www.wvsd.uscourts.gov).

ENTER: July 18, 2014

  
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JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE