

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

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

MDL NO. 2326

THIS DOCUMENT RELATES TO THE FOLLOWING CASES:

2:12-cv-05762 and 2:12-cv-08186

PRETRIAL ORDER # 109
**(FOURTH AMENDED DOCKET CONTROL ORDER
FIRST AND SECOND ROUND OF FORMER BELLWETHER CASES)**

Pursuant to the agreement of the parties, PTO # 103 (Third Amended Docket Control Order First and Second Round of Former Bellwether Cases) is amended with respect to the *Sanchez* case related to supplemental depositions. Otherwise, all remaining deadlines and provisions remain in force and effect:

By PTO # 76, I vacated PTO # 71 (Second Amended Docket Control Order – First and Second Round of Bellwether Trials) after Boston Scientific declined to waive its rights under *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998), as to the above cases. In order to satisfy my obligations as an MDL Judge and so that these cases do not languish on the docket, it is **ORDERED** that the following scheduling deadlines apply in these cases:

Sanchez, et al. v. Boston Scientific Corp. 2:12-cv-05762:

The parties have advised the court that Ms. Sanchez has undergone additional procedures since the original motions were filed. As a result, supplemental fact discovery of plaintiff and her treating physicians is necessary. The parties may conduct additional fact discovery to be completed by **August 15, 2014**. Boston Scientific will have the opportunity to take supplemental depositions of plaintiff and treating physicians after the timing of trial is determined.

1. *Daubert* Motion Practice:
 - a. Drs. Mayes & Gido: Response shall be filed by **July 17, 2014**; any reply shall be filed by **July 22, 2014**.
 - b. Dr. Trepeta: Response shall be filed by **July 17, 2014**; any reply shall be filed by **July 22, 2014**.
 - c. Dr. Culligan: Response shall be filed by **July 17, 2014**; any reply shall be filed by **July 22, 2014**.
 - d. Additional *Daubert* Motions for **Pence, Slack, Finnamore, Spiegelberg, Badylak and Brauer**: Any *Daubert* Motions for these experts are due **July 18, 2014**; Responses shall be filed by **July 25, 2014**. Any replies shall be filed by **July 30, 2014**.
2. Boston Scientific Corp.'s Motion to Exclude Plaintiffs' Experts' Opinion that Polypropylene Mid-Urethral Slings are Defective: Response shall be filed by **July 17, 2014**; any reply shall be filed by **July 22, 2014**.
3. Motions in Limine and *Daubert* based Dispositive Motions. Motions in limine and *Daubert* based dispositive motions shall be filed by **August 18, 2014**. Response briefs shall be filed by **August 25, 2014**. Motions in limine are limited to 3 pages each, responses are limited to 2 pages each.
4. Dates for summary judgment and *Daubert* hearings, if any, will be set at an upcoming status conference.
5. 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 court will not be inclined to grant motions to exceed the page limit. The court requests that the parties abide by Local Civil Rule 7.1(a)(5) regarding courtesy copies.
6. 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.

Hall v. Boston Scientific Corp. 2:12-cv-08186:

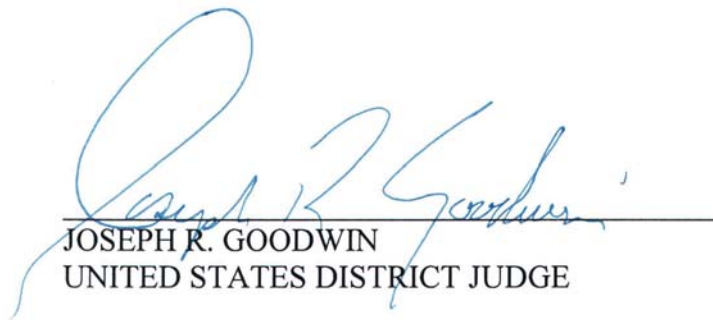
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 - c. Dr. Culligan: Response shall be filed by **July 17, 2014**; any reply shall be filed by **July 22, 2014**.
 - d. Dr. Ostergard: Response shall be filed by **July 17, 2014**; any reply shall be filed by **July 22, 2014**.
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The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2326 **and in 2:12-cv-05762 and 2:12-cv-08186**, and it shall apply to each member related 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-24138. 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.

ENTER: July 31, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE