

**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

THIS DOCUMENT RELATES TO ALL CASES

**PRETRIAL ORDER # 138
(Order Setting Briefing Schedule Regarding
Challenges to Certain Document Designations)**

Pending before the court is a Motion for Sanctions and to Strike All “Confidential” Designations from Defendant’s Documents [ECF No. 1294] (“Mostyn Motion”), filed on January 22, 2016, by The Mostyn Law Firm on behalf of all plaintiffs represented by that firm. Boston Scientific Corporation (“BSC”) filed its Response [ECF No. 1309] on February 8, 2016, and the plaintiffs filed their Reply [ECF No. 1308] the same day. The Mostyn Motion is now ripe for the court’s consideration.

In addition to the Mostyn Motion, on February 8, 2016, plaintiffs’ leadership counsel in MDL 2326 filed a Challenge to BSC’s Designation of Certain Documents as Confidential [ECF No. 1307] (“Plaintiffs’ MDL Motion”), wherein, pursuant to PTO # 11, plaintiffs’ leadership counsel challenges 102 documents designated as confidential by BSC and asks the court for an appropriate ruling removing the confidential designation on the challenged documents.

Given the overlap in issues and documents in the Mostyn Motion and the Plaintiffs’ MDL Motion, the court will address these motions at one time.

The court **FINDS** that the parties have, at least minimally, met and conferred to resolve these matters prior to seeking court intervention. The court further **FINDS** that due to the urgency and importance of these issues, additional briefing is necessary. Accordingly, the court **ORDERS** the parties to abide by the following briefing schedule:

- On or before **February 21, 2016, at 5:00 p.m.**, BSC must file a joint response to the Mostyn Motion and the Plaintiffs' MDL Motion discussing why it has designated as CONFIDENTIAL or HIGHLY CONFIDENTIAL those documents listed in Exhibit A of the Mostyn Motion [ECF No. 1294-1] and why such designations are proper pursuant to Pretrial Order # 11 [ECF No. 161].¹ To the extent that different documents are listed in the Plaintiffs' MDL Motion, BSC must include in its brief a discussion regarding the appropriateness of the designations applied to those additional documents listed in Exhibit A attached to the Plaintiffs' MDL Motion [ECF No. 1307-1], filed on behalf of all other plaintiffs in this MDL.
- Plaintiffs' Joint Response² must be filed with the court on or before **February 26, 2016, at 5:00 p.m.**
- BSC's Reply must be filed with the court on or before **February 29, 2016, at 5:00 p.m.**

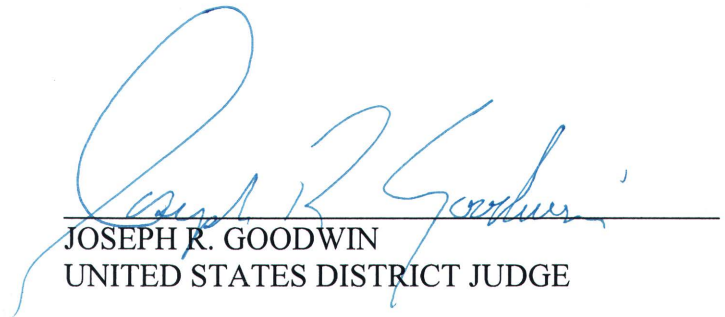
¹ The court will deal at a later time with the remaining universe of documents designated by BSC as confidential or highly confidential and challenged in the Mostyn Motion. The court expects strict compliance with PTO # 11 and its provisions about what should be marked confidential and highly confidential.

² The Joint Response will be from Mr. Mostyn and the plaintiffs' leadership counsel.

Pursuant to Pretrial Order # 11, “disputed material shall continue to be treated as designated, or redacted, until the Court orders otherwise.” PTO #11 at 3. Accordingly, the court **ORDERS** the parties to file their respective briefs under seal.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2326 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 2:16-cv-01452. 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.wvsc.uscourts.gov.

ENTER: February 11, 2016



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE