

**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 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);
 Dubois-Jean, et al. v. Boston Scientific Corporation, 2:14-cv-04455
 (member case);
 Betancourt v. Boston Scientific Corporation, 2:14-cv-08802 (member
 case).

**Pretrial Order # 95
(Docket Control Order on Consolidated Florida Pinnacle Cases)**

Pursuant to Pretrial Order # 91, dated April 11, 2014, the parties hereby submit as follows:

1. *Plaintiff Fact Sheets*. By **May 8, 2014**, each Plaintiff in the above-captioned cases must serve a substantively completed Plaintiff Fact Sheet (PFS) and Medical Authorizations. If a Plaintiff in any of the above-captioned cases fails to provide a substantially complete PFS or executed authorization by this deadline, Boston Scientific has the option to request appropriate remedy from the Court.
2. *Defendant Fact Sheets*. By **May 22, 2014**, each Defendant shall serve a substantially completed Defendant Fact Sheet (DFS) for each of the above-captioned cases, including the disclosure of the identity of all sales representatives for each of the above-captioned

cases and the custodial file for the identified sales representative. If Boston Scientific fails to provide a substantially completed DFS by this deadline, Plaintiff has the option to request appropriate remedy from the Court.

3. Bellwether Experts. If either Plaintiffs or Boston Scientific designate the same expert on the same report as designated pursuant to Pretrial Order # 57 (First Amended Docket Control Order: First and Second Bellwether Trials), no additional depositions of such experts shall be taken except by agreement of the parties and/or leave of Court.
4. Plaintiffs' Expert Reports. On **June 9, 2014**, plaintiffs shall serve expert reports. Depositions of plaintiffs' experts shall not begin until after the June 16, 2014 deadline for disclosure of defendant's experts.
5. Defendant's Expert Reports. On **June 16, 2014**, defendant shall serve expert reports.
6. Plaintiffs' Rebuttal Expert Reports. The plaintiffs shall serve any rebuttal expert reports by **June 27, 2014**.
7. Written Discovery. Parties shall serve any and all final, non-duplicative case specific written discovery no later than **June 16, 2014**.
8. Expert Discovery. Expert Discovery shall be completed by **July 18, 2014**.
9. Case-Specific Discovery. Discovery in the bellwether cases shall be completed by **August 1, 2014**.
10. Motion Practice.
 - a. *Daubert* Motions and Non-*Daubert* based Dispositive 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. Reply briefs for Non-*Daubert* based Dispositive motions shall be filed by **July 30, 2014**.

- b. *Daubert*-based Dispositive motions and motions in limine shall be filed by **August 14, 2014**. Response briefs shall be filed by **August 21, 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.
 - c. Dates for summary judgment and *Daubert* hearings, if any, will be set at an upcoming status conference.
 - d. 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 requests that the parties abide by Local Civil Rule 7.1(a)(5) regarding courtesy copies.
 - e. 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.
11. *Deposition Designations*. Deposition designations shall be filed by **September 5, 2014**. Any objections to an opposing party's designations, and any counter-designations shall be filed by **September 12, 2014**. Any objections to the counter-designations, and any counter-designations to an opposing party's counter-designations, shall be filed by **September 17, 2014**.
12. *Exhibit and Witness Lists*. The parties will exchange exhibit and witness lists by **September 12, 2014**.

13. 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).

14. Pretrial and Final Settlement Conference. The Court shall conduct a final pretrial conference on **September 18, 2014 at 10:00 am EST** and will notify the parties as to the date of a final settlement conference.

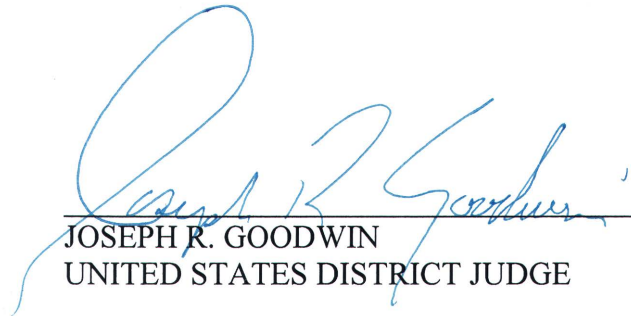
15. Proposed Jury Instructions. The parties shall file proposed jury instructions in charge form on substantive theories of recovery or defense, on damages and on evidentiary matters peculiar to the case, and special interrogatories, if any be appropriate to the case, along with a proposed verdict form on **September 25, 2014**. The court requests that the parties email the proposed jury instructions to the court's law clerk in Word format.

16. Trial. Trial shall commence on **September 29, 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 in 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-15167. 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: April 23, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE