

**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 # 59

**(Revised Short Form Complaint and Amended Short Form Complaint
re: Addition of Cook Defendants; Revised Motion to Transfer MDL)**

I recently entered PTO # 13 in the In re: Cook Medical, Inc. Pelvic Repair System Products Liability Litigation, MDL 2440 titled Direct Filing Order; Master Complaint, Short Form Complaint, Amended Short Form Complaint and Master Responsive Pleadings Due Date. As a result, attached are a **revised** (1) Short Form Complaint (Exhibit A); and a **revised** (2) Amended Short Form Complaint (Exhibit B) that reflect the inclusion of defendants from the Cook MDL: Cook Incorporated, Cook Medical Incorporated and Cook Biotech Incorporated (collectively referred to as the “Cook Defendants”).

It is **ORDERED** as follows:

- (1) While PTO ##s 14, 25, 29, and 48 remain in force and effect where applicable, parties filing Short Form Complaints in new cases or Amended Short Form Complaints in existing cases, where appropriate, **must use the revised forms attached to this PTO and located on the court’s website beginning no later than November 21, 2013.**
- (2) To the extent a plaintiff filed a Short Form Complaint or an Amended Short Form Complaint in this MDL before the entry of this order naming one or more of the Cook

Defendants (by writing in or otherwise adding the Cook Defendants on the Short Form or Amended Short Form Complaint), this procedure was improper pursuant to PTOs cited above. Plaintiff must file an Amended Short Form Complaint within thirty (30) days of entry of this order using the court's form referenced above.

- (3) A revised PDF fillable form entitled "Motion to Transfer MDL," which also can be found on the court's website and which enables parties to now transfer their case, where necessary, to any of the six (6) MDLs assigned to me, is attached hereto as Exhibit C and must be used by the parties in place of the previous PDF fillable form.

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 2:13-cv-28572. 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: November 14, 2013



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

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*

Civil Action No. _____

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The Master Complaint in MDL No. 2326 by reference. Plaintiff(s) further show the Court as follows:

- 1. Female Plaintiff:

- 2. Plaintiff Husband (if applicable):

- 3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

- 4. State of Residence:

- 5. District Court and Division in which venue would be proper absent direct filing:

- 6. Defendants (Check Defendants against whom Complaint is made):

- A. Boston Scientific Corporation
- B. American Medical Systems, Inc. (“AMS”)
- C. Johnson & Johnson
- D. Ethicon, Inc.
- E. Ethicon, LLC
- F. C. R. Bard, Inc. (“Bard”)
- G. Sofradim Production SAS (“Sofradim”)
- H. Tissue Science Laboratories Limited (“TSL”)
- I. Mentor Worldwide LLC
- J. Coloplast Corp.
- K. Cook Incorporated
- L. Cook Biotech, Inc.
- M. Cook Medical, Inc.

7. Basis of Jurisdiction:

- Diversity of Citizenship
- Other: _____

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

B. Other allegations of jurisdiction and venue:

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff):

- The Uphold Vaginal Support System;
 - The Pinnacle Pelvic Floor Repair Kit;
 - The Advantage Transvaginal Mid-Urethral Sling System;
 - The Advantage Fit System;
 - The Lynx Suprapubic Mid-Urethral Sling System;
 - The Obtryx Transobturator Mid-Urethral Sling System;
 - The Prefyx PPS System;
 - The Solyx SIS System; and/or
 - Other
-
-

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products):

- The Uphold Vaginal Support System;
- The Pinnacle Pelvic Floor Repair Kit;
- The Advantage Transvaginal Mid-Urethral Sling System;
- The Advantage Fit System;
- The Lynx Suprapubic Mid-Urethral Sling System;
- The Obtryx Transobturator Mid-Urethral Sling System;
- The Prefyx PPS System;
- The Solyx SIS System; and/or

Other

10. Date of Implantation as to Each Product:

11. Hospital(s) where Plaintiff was implanted (Including City and State):

12. Implanting Surgeon(s):

13. Counts in the Master Complaint brought by Plaintiff(s)

- Count I – Negligence
- Count II – Strict Liability – Design Defect
- Count III – Strict Liability – Manufacturing Defect
- Count IV – Strict Liability – Failure to Warn
- Count V - Breach of Express Warranty
- Count VI – Breach of Implied Warranty
- Count VII (by the Husband) – Loss of Consortium

- Count VIII – Discovery Rule, Tolling and Fraudulent Concealment
- Count IX – Punitive Damages
- Other Count _____ If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below:

- Other Count _____ If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below:

s/ _____
Attorney(s) for Plaintiff

Address, phone number, email address and bar information:

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

Civil Action No. _____

AMENDED SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The Master Complaint in MDL No. 2326 by reference. Plaintiff(s) further show the Court as follows:

- 1. Female Plaintiff:

- 2. Plaintiff Husband (if applicable):

- 3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

- 4. State of Residence:

- 5. District Court and Division in which venue would be proper absent direct filing:

- 6. Defendants (Check Defendants against whom Complaint is made):

- A. Boston Scientific Corporation
- B. American Medical Systems, Inc. (“AMS”)
- C. Johnson & Johnson
- D. Ethicon, Inc.
- E. Ethicon, LLC
- F. C. R. Bard, Inc. (“Bard”)
- G. Sofradim Production SAS (“Sofradim”)
- H. Tissue Science Laboratories Limited (“TSL”)
- I. Mentor Worldwide LLC
- J. Coloplast Corp.
- K. Cook Incorporated
- L. Cook Biotech, Inc.
- M. Cook Medical, Inc.

7. Basis of Jurisdiction:

- Diversity of Citizenship
- Other: _____

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

B. Other allegations of jurisdiction and venue:

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff):

- The Uphold Vaginal Support System;
 - The Pinnacle Pelvic Floor Repair Kit;
 - The Advantage Transvaginal Mid-Urethral Sling System;
 - The Advantage Fit System;
 - The Lynx Suprapubic Mid-Urethral Sling System;
 - The Obtryx Transobturator Mid-Urethral Sling System;
 - The Prefyx PPS System;
 - The Solyx SIS System; and/or
 - Other
-
-

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products):

- The Uphold Vaginal Support System;
- The Pinnacle Pelvic Floor Repair Kit;
- The Advantage Transvaginal Mid-Urethral Sling System;
- The Advantage Fit System;
- The Lynx Suprapubic Mid-Urethral Sling System;
- The Obtryx Transobturator Mid-Urethral Sling System;
- The Prefyx PPS System;
- The Solyx SIS System; and/or

Other

10. Date of Implantation as to Each Product:

11. Hospital(s) where Plaintiff was implanted (Including City and State):

12. Implanting Surgeon(s):

13. Counts in the Master Complaint brought by Plaintiff(s)

- Count I – Negligence
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- Count IX – Punitive Damages
- Other Count _____ If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below:

- Other Count _____ If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below:

s/ _____
Attorney(s) for Plaintiff

Address, phone number, email address and bar information:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

Exhibit C

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

MDL No. 2326
Honorable Joseph R. Goodwin

[Redacted]

Plaintiff(s),

v.

CASE NO.

[Redacted]

[Redacted]

Defendant(s).

MOTION TO TRANSFER MDL

COME NOW the plaintiff(s), by and through the undersigned counsel, and move the court to transfer this member case from MDL 2326, In re: Boston Scientific Corp. Pelvic Repair System Products Liability Litigation, to:

MDL Select One:

[Redacted]

Plaintiff(s) herein filed a Complaint or Short Form Complaint in MDL 2326 against Boston Scientific Corp. and others. Plaintiff(s) later filed an Amended Complaint that no longer included Boston Scientific Corp. in that litigation; included instead, among others, were the following parties from MDL [Redacted]:

[Redacted]

Because Boston Scientific Corp. is no longer a named defendant in this member case, Plaintiff(s) respectfully request that the Court: 1) **GRANT** the Plaintiff(s) motion to transfer this civil action from MDL 2326 to _____; and 2) direct the Clerk to disassociate this civil action as a member case in MDL 2326 and re-associate it with MDL _____ .



CERTIFICATE OF SERVICE

I hereby certify that on _____, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this member case.

