

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

CHARLESTON DIVISION

TERESA L. STEVENS,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-00265

BOSTON SCIENTIFIC CORPORATION, et al.,

Defendants.

ORDER

On January 12, 2016, the plaintiff filed a Class Action Complaint [ECF No. 1] and exhibits in support. The exhibits were filed under seal. On January 13, 2016, the plaintiff filed a Motion [ECF No. 11] wherein she sought to have certain Boston Scientific Corporation (“Boston Scientific”) documents that were attached to the Complaint (and the Motion) re-designated as not being “confidential” or “highly confidential.”¹ On January 19, 2016, the plaintiff filed an Amended Motion [ECF No. 28] and Memorandum of Law [ECF No. 29] related to the sealed exhibits. On January 19, 2016, the court entered an Order [ECF No. 27] sealing the Amended Motion and accompanying exhibits and Memorandum of Law until 5:00 p.m. on January 20, 2016. In response to my Order, Boston Scientific filed a Motion to Seal [ECF No. 32] before the 5:00 p.m. deadline on January 20, 2016. In the Motion, Boston Scientific asks the court to seal the plaintiff’s Amended Motion and accompanying exhibits and Memorandum of Law moving

¹ The exhibits to this motion were filed under seal without a motion to seal or an Order from the court. The motion and the accompanying memorandum of law [ECF No. 12], however, were not sealed.

forward. For the reasons discussed below, the court **GRANTS in part** and **DENIES in part** Boston Scientific's Motion.

The court **FINDS** that the documents included as exhibits in this case designated as "confidential" or "highly confidential" by Boston Scientific are improperly filed because their use violates the edicts of a Stipulated Protective Order entered in a multidistrict litigation ("MDL") case over which this court presides. *In Re: Boston Scientific Corp.*, No. 2:12-md-02326, PTO #11 ("Protective Order").

The Protective Order provides a procedure by which parties may designate documents as "confidential" or "highly confidential" based upon certain standards. Protective Order 2–3. The Protective Order clearly states that the use of any document designated as "confidential" or "highly confidential" may be used only for the purpose of the MDL action. *Id.* at 3–4. The Protective Order establishes a procedure for any party, at any time, to challenge the confidentiality designations. *Id.* at 3. If after a meet-and-confer process the parties cannot reach an agreement as to certain document designations, the challenging party may apply for an appropriate ruling from this court. *Id.*

The plaintiff has not initiated the challenge procedure outlined in the Protective Order. Instead, the plaintiff initiated this present case and began filing exhibits under seal that are otherwise protected by the Protective Order. Accordingly, the court **GRANTS in part** and **DENIES in part** Boston Scientific's Motion [ECF No. 32]. The court **ORDERS** the exhibits attached to the plaintiff's Amended Motion [ECF No. 28] **SEALED** until such time as the plaintiff successfully avails herself of the procedure delineated in the MDL Protective Order. The court further **ORDERS** the Amended Motion and Memorandum of Law [ECF No. 29] **UNSEALED**.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 20, 2016



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE