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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PAMELA COLEMAN, et al.,

Plaintiffs,

v.

BOSTON SCIENTIFIC CORPORATION,

Defendant.

Case No. 1:10-cv-01968-AWI-SAB

ORDER DIRECTING CLERK OF COURT
TO ADJUST DOCKET TO REFLECT
VOLUNTARY DISMISSAL BY
PLAINTIFFS MARY BOWER AND
KATHLEEN PAISON

(ECF Nos. 30, 82, 83, 84)

This action was initially filed on October 20, 2010. (ECF No. 1.) On February 22, 2012, the action was transferred under 28 U.S.C. § 1407 into the Southern District of West Virginia as part of Multidistrict Litigation Case No. 2326 (“MDL 2326”). (ECF No. 73.) On May 8, 2020, the action was remanded back to the Eastern District of California. (ECF No. 74.)

On May 19, 2020, a notice of voluntary dismissal was filed by Plaintiffs Mary Bower and Kathleen Paison pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. (ECF No. 82.) Upon review of the docket, the Court found Plaintiffs Mary Bower and Kathleen Paison had already filed a notice of dismissal on June 14, 2011. (ECF No. 30.) On May 21, 2020, the Court ordered counsel for Plaintiffs to file a statement notifying the Court as to whether the notice of dismissal was thus moot or whether subsequent events in the action necessitated such filing. (ECF No. 83.) On May 21, 2020, counsel filed a notice of errata indicating that the May 19, 2020 notice was moot as these Plaintiffs have already dismissed their

1 action against Defendant pursuant to the notice of dismissal filed on June 14, 2011. (ECF No.
2 84.)

3 “[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his
4 action prior to service by the defendant of an answer or a motion for summary judgment.’ ”
5 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)
6 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has
7 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet
8 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th
9 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,
10 the parties are left as though no action had been brought, the defendant can’t complain, and the
11 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
12 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

13 Accordingly, the Clerk of the Court is HEREBY ORDERED to adjust the docket and
14 terminate Mary Bower and Kathleen Paison as Plaintiffs in this action pursuant to the voluntary
15 dismissal filed on June 14, 2011 (ECF No. 30), pursuant to Rule 41(a).

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17 IT IS SO ORDERED.

18 Dated: May 22, 2020


UNITED STATES MAGISTRATE JUDGE

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