

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHELE SPENCE, et al.,

Plaintiffs,

No. C 11-04961 JSW

v.

BOSTON SCIENTIFIC CORPORATION,

Defendant.

**SECOND ORDER TO SHOW  
CAUSE AND INSTRUCTIONS TO  
CLERK TO SERVE PLAINTIFFS'  
COUNSEL BY MAIL**

On November 16, 2011, Defendant filed a motion to dismiss, which was noticed for hearing on January 6, 2012. Under the Northern District Local Rules, Plaintiffs' opposition brief was due on November 30, 2011, and Defendant's reply was due on December 7, 2011. Plaintiffs did not file an opposition brief, and they did not file a statement of non-opposition. The Court is aware that there is a motion to transfer pending before the Judicial Panel on Multidistrict Litigation, which is scheduled for oral argument in late January. The parties, however, did not take any action before this Court to stay this action pending resolution of that motion.

Accordingly, on December 14, 2011, the Court issued an Order directing Plaintiffs to show cause why the Defendant's motion should not be granted as unopposed. Plaintiffs' response to this Order to Show Cause was due by December 21, 2011. The Court also stated that if Plaintiffs sought leave to file a belated opposition to Defendant's motion, or if they sought leave to have the Court defer ruling on the motion, they also needed to file a request demonstrating good cause for their failure to comply with the deadlines set by the Northern

1 District Civil Local Rules. The Court also required Plaintiffs to include a proposed opposition  
2 brief with any such request, and that any such request also must be filed with the Court by no  
3 later than December 21, 2011.

4 The Court also stated that if the parties were able to reach a stipulation regarding the  
5 pending motion to dismiss prior to December 21, 2011, the Court would discharge this Order to  
6 Show Cause without further action. The Court has not received a response from Plaintiffs, and  
7 it has not received any communications from Defendant.

8 Accordingly, the Court issues this SECOND ORDER TO SHOW CAUSE directing  
9 Plaintiffs to show cause why this case should not be dismissed for failure to prosecute or, in the  
10 alternative, why Defendant's motion should not be granted as unopposed, or why monetary  
11 sanctions should not be imposed for failure to comply with the Court's deadlines and orders.  
12 Plaintiffs' response to this Order to Show Cause shall be due on January 6, 2012. Again, if  
13 Plaintiffs seek leave to file a belated opposition to Defendant's motion, or if they seek leave to  
14 have the Court defer ruling on the motion, they must file a request demonstrating good cause for  
15 their failure to comply with the deadlines set by the Northern District Civil Local Rules and the  
16 first order to show cause. Plaintiffs also must include a proposed opposition brief or a proposed  
17 motion to stay pending transfer with any such request. That request also must be filed with the  
18 Court by no later than January 6, 2012.

19 It is FURTHER ORDERED that the Clerk shall serve a copy of this Order on Plaintiffs'  
20 counsel by U.S. Mail.

21 **IT IS SO ORDERED.**

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23 Dated: December 22, 2011

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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE

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1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA  
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5 MICHELE SPENCE et al,  
6 Plaintiff,

Case Number: CV11-04961 JSW

7 **CERTIFICATE OF SERVICE**

8 v.

9 BOSTON SCIENTIFIC CORPORATION  
et al,  
10 Defendant.

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12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
District Court, Northern District of California.

13 That on December 22, 2011, I SERVED a true and correct copy(ies) of the attached, by  
14 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter  
15 listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an  
inter-office delivery receptacle located in the Clerk's office.

16  
17 Casey A. Kaufman  
The Brandi Law Firm  
18 354 Pine Street, Third Floor  
San Francisco, CA 94104

19 Thomas J. Brandi  
20 The Brandi Law Firm  
354 Pine Street  
21 Third Floor  
San Francisco, CA 94104

22 Dated: December 22, 2011



23 Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk  
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