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2 UNITED STATES DISTRICT COURT
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA
4 OAKLAND DIVISION
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6 BLAIR KILAND and ST. JUDE MEDICAL
7 S.C., INC.,

8 Plaintiffs,

9 vs.

10 BOSTON SCIENTIFIC CORPORATION and
GUIDANT SALES CORPORATION,

11 Defendants.

Case No: C 10-4105 SBA

**ORDER DENYING PLAINTIFFS'
MOTION FOR AN ORDER
SHORTENING TIME OR
SPECIALLY SETTING HEARING
FOR PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Dkt. 26

12
13 Presently before the Court is Plaintiffs' Motion for an Order Shortening Time or
14 Specially Setting Hearing for Plaintiffs' Motion for Preliminary Injunction ("Motion to Shorten
15 Time"). Dkt. 26.

16 On September 13, 2010, Plaintiffs filed (but did not serve) their complaint in this action,
17 which arises from a contractual dispute between Plaintiff Blair Kiland ("Kiland") and his
18 former employer, Defendant Boston Scientific Corporation ("Boston Scientific").¹ On
19 September 24, 2010, Boston Scientific filed an action against the instant Plaintiffs Kiland and
20 St. Jude Medical S.C., Inc. ("St. Jude") in the United States District Court for the District of
21 Minnesota, seeking damages arising from the same or similar dispute. That action is captioned
22 Boston Scientific Corp. v. Blair Kiland and St. Jude Medical S.C., Inc., 10-CV-4053 (the
23 "Minnesota Action").

24 On September 27, 2010, Boston Scientific filed a motion for a temporary restraining
25 order in the Minnesota Action, seeking to enjoin Kiland and St. Jude from proceeding with this
26 action. That motion was scheduled for hearing before Judge Doty on September 30, 2010. On
27 September 30, 2010, Kiland and St. Jude filed in the Minnesota Action a motion to dismiss,

28 ¹ Plaintiffs filed a First Amended Complaint ("FAC") in this action on September 29,
2010, and served Defendants with the FAC on October 1, 2010. Dkts. 9, 12.

1 stay, or transfer the Minnesota Action, in view of the instant lawsuit. Judge Doty continued the
2 September 30, 2010 hearing to November 19, 2010, so that both pending motions could be
3 heard together.

4 On October 4, 2010, Defendants filed with this Court a motion to stay this action
5 pending resolution of the Minnesota Action. Dkt. 13. A hearing on that motion is scheduled
6 for December 7, 2010. On October 12, 2010, Plaintiffs filed with this Court a Motion for
7 Preliminary Injunction, seeking to enjoin Defendants from proceeding with the Minnesota
8 Action. Dkt. 21. That motion is noticed for hearing on December 14, 2010, which is the first
9 available hearing date. On October 13, 2010, Plaintiffs filed the instant Motion to Shorten
10 Time, asking that the Court hear their preliminary injunction motion on or before November
11 16, 2010, so that it can be heard before the November 19, 2010 hearing date scheduled in the
12 Minnesota Action. Dkt. 26.

13 Pursuant to Civil Local Rule 6-3(a)(3), a motion to shorten time must identify “the
14 substantial harm or prejudice that would occur if the Court did not change the time.” In their
15 Motion to Shorten Time, Plaintiffs assert that “unless the hearing date on [the] Motion for
16 Preliminary Injunction is reset to an earlier date, *in no event after Tuesday, November 16,*
17 *2010*, it would become compromised, or otherwise unduly impacted, by the November 19,
18 2010 [hearing] in the [Minnesota] action.” Dkt. 26 at 4 (emphasis in original). Plaintiffs also
19 contend, without elaboration, that “substantial harm would result if the requested time change
20 were not granted.” *Id.* at 5. However, other than these general assertions of harm and undue
21 impact, Plaintiffs have not identified any “substantial harm or prejudice” that they would
22 specifically incur. Indeed, Plaintiffs indicate in their Motion to Shorten Time that “[i]f this
23 Court is unable to accelerate the hearing of the [preliminary injunction] motion, St. Jude and
24 Kiland will ask the Minnesota Court to continue the November 19th hearing until after a
25 hearing on the [preliminary injunction] motion.” *Id.* at 4 n. 1.

26 Notwithstanding the above, the Court will set an expedited briefing schedule and may,
27 in its discretion, decide the matter on the pleadings or accelerate the hearing at a later date
28

1 should an opening in the Court's currently full calendar become available. See Fed.R.Civ.P.
2 78(b).

3 Accordingly,

4 IT IS HEREBY ORDERED THAT:

- 5 1. Plaintiffs' Motion for an Order Shortening Time or Specially Setting Hearing for
6 Plaintiffs' Motion for Preliminary Injunction (Dkt. 26) is DENIED. The December 14,
7 2010 hearing date on Plaintiff's preliminary injunction motion remains unchanged.
- 8 2. Defendants' opposition to Plaintiffs' motion for a preliminary injunction shall be filed
9 by November 16, 2010.
- 10 3. Plaintiffs' reply in support of their motion for preliminary injunction shall be filed by
11 November 23, 2010.
- 12 4. This Order terminates Docket No. 26.

13 IT IS SO ORDERED.

14 Dated: October 26, 2010


SAUNDRA BROWN ARMSTRONG
United States District Judge