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90027

FILED
Superior Court Of California
County Of Los Angeles

OCT 14 2014

Sherri K. Carter, Executive Officer/Clerk
By Kristina Vargas Deputy
Kristina Vargas

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TED SIMPSON

FSC: 03/29/2016 TRIAL: 04/14/2016 OSC: 10/16/2017

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

TED SIMPSON, an individual,
Plaintiff,

vs.

BOSTON SCIENTIFIC CORPORATION,
a Delaware corporation; KAISER
FOUNDATION HEALTH PLAN, INC., a
California corporation; KAISER
FOUNDATION HOSPITALS, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **BC 560220**

COMPLAINT FOR DAMAGES FOR:

- (1) **STRICT PRODUCT LIABILITY**
- (2) **NEGLIGENCE**
- (3) **PROFESSIONAL NEGLIGENCE**

DEMAND FOR JURY TRIAL

D-92 Elia Weinbach

ROSEN ♦ SABA, LLP
9350 Wilshire Boulevard, Suite 250
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CIT/CASE: BC560220
LEA/DEF#:
RECEIPT #: CCH517486047
DATE PAID: 10/14/14 02:48 PM
PAYMENT: \$435.00 310
RECEIVED:
CHECK: \$435.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00

1 **TO THIS HONORABLE COURT AND ALL INTERESTED PARTIES:**

2 **COMES NOW**, Plaintiff TED SIMPSON, an individual, for causes of action against
3 Defendants BOSTON SCIENTIFIC, a Delaware corporation; KAISER FOUNDATION
4 HEALTH PLAN, INC., a California corporation; KAISER FOUNDATION HOSPITALS, a
5 California corporation; and DOES 1 through 50, inclusive, upon information and belief as
6 follows:

7
8 **THE PARTIES**

9 1. At all relevant times, Plaintiff TED SIMPSON (hereinafter referred to as
10 "Plaintiff" or "Mr. Simpson") was and is a resident of the City of Los Angeles, County of Los
11 Angeles, State of California. Mr. Simpson is 85 years old.

12 2. Plaintiff is informed and believes, and thereon alleges, that Defendant BOSTON
13 SCIENTIFIC (hereinafter referred to as "BOSTON-SCI") is, and at all relevant times was, a
14 Delaware corporation with its principal place of business located at One Boston Scientific
15 Place, in the City of Natick, County of Middlesex, State of Massachusetts. Plaintiff is
16 informed and believes that BOSTON -SCI is a medical device company which designs,
17 manufactures, sells and/or otherwise distributes medical devices, including the subject
18 defective Hurricane Rx Single Use Biliary Balloon Dilation Catheter (hereinafter the
19 "DILATION CATHETER") which injured Mr. Simpson, into the stream of commerce in every
20 state of the United States, including California. Plaintiff is further informed and believes that
21 Defendants KAISER FOUNDATION HEALTH PLAN, INC. and KAISER FOUNDATION
22 HOSPITALS use DILATION CATHETERs on patients in California, including on Mr.
23 Simpson.

24 3. Plaintiff is informed and believes, and thereon alleges, that Defendant KAISER
25 FOUNDATION HEALTH PLAN, INC. (hereinafter referred to as "KFHP") is, and at all
26 relevant times was, a California corporation, with its principal place of business located at One
27 Kaiser Plaza, in the City of Oakland, County of Alameda, State of California. Plaintiff is
28 informed and believes that KFHP is a health care company which provides medical services

1 and utilizes BOSTON-SCI products in their medical procedures, including the BOSTON-SCI
2 DILATION CATHETER which injured Mr. Simpson.

3 4. Plaintiff is informed and believes, and thereon alleges, that Defendant KAISER
4 FOUNDATION HOSPITALS (hereinafter referred to as "KFH") is, and at all relevant times
5 was, a California corporation, with its principal place of business located at One Kaiser Plaza,
6 in the City of Oakland, County of Alameda, State of California. Plaintiff is informed and
7 believes that KFH is a health care company which provides medical services and utilizes
8 BOSTON-SCI products in their medical procedures, including the BOSTON-SCI DILATION
9 CATHETER which injured Mr. Simpson.

10 5. KFHP and KFH are collectively referred to herein as "KAISER."

11 6. The full extent of the facts linking the fictitiously designated Defendants with
12 each cause of action alleged herein is unknown to Plaintiff, or the true names or capacities,
13 whether individual, plural, corporate, partnership, associate or otherwise, of Defendants DOES
14 1 through 50, inclusive, and each of them, are unknown to Plaintiff. Plaintiff therefore sues
15 said Defendants by such fictitious names. Plaintiff is informed and believes and thereon
16 alleges that each of the Defendants designated herein as a DOE is negligently, recklessly,
17 tortuously and unlawfully responsible in some manner for the events and happenings herein
18 referred to and negligently, tortiously, and unlawfully proximately caused the injuries and
19 damages thereby to Plaintiff as herein alleged. Plaintiff will hereinafter seek leave of Court
20 to amend this Complaint to show said Defendants' true names and capacities after the same
21 have been ascertained. Plaintiff is alleging causes of action against each DOE Defendant
22 under every theory of recovery set forth herein.

23 7. Defendants BOSTON-SCI and DOES 1 through 25 are hereinafter collectively
24 referred to herein as "Product Defendants."

25 8. Defendants KAISER and DOES 26 through 50 are hereinafter collectively
26 referred to herein as "Malpractice Defendants."

27 9. Product Defendants and Malpractice Defendants are hereinafter collectively
28 referred to herein as "Defendants."

1 10. Plaintiff is informed and believes and thereon alleges that at all times herein
2 mentioned, each of the Malpractice Defendants sued herein was the employee, director, officer,
3 partner, joint venturer, successor, predecessor and/or agent of the co-Malpractice Defendants,
4 and each of them. Plaintiff further is informed and believes and thereon alleges that in doing
5 the things herein alleged, each of the Malpractice Defendants sued herein acted within the
6 scope of such agency and with the permission and consent of the co-Malpractice Defendants
7 and each of them, and/or directly and/or indirectly assisted, aided, or conspired in the acts,
8 occurrences, practices, omissions, and/or misconduct herein alleged.

9 11. Plaintiff is further informed and believes and thereon alleges that the Product
10 Defendants, and each of them, owned, operated, designed, fabricated, manufactured,
11 assembled, operated, maintained, modified, recommended, serviced, repaired, certified,
12 advertised, promoted, distributed, supplied, warranted, compounded, funded, furnished,
13 analyzed, supplied, marketed, sold and placed into the stream of commerce the DILATION
14 CATHETER, and/or all other products that caused or contributed injuries to Plaintiff.

15 16 JURISDICTION AND VENUE

17 12. This Court has jurisdiction over this action pursuant to California *Code of Civil*
18 *Procedure* §410.10, *et seq.* The damages sought to be recovered are well in excess of the
19 jurisdictional minimum for this Court.

20 13. This Court has personal jurisdiction over the Defendants, and each of them,
21 because at least one Defendant is a resident and/or does substantial business in the State of
22 California. Venue is proper in the Los Angeles County Court, Central District, pursuant to
23 California *Code of Civil Procedure* §395, since at least one of the Defendants resides in this
24 jurisdiction and the injury to Mr. Simpson took place in this jurisdiction.

25 14. Plaintiff complied with all pre-filing requirements as required by California
26 *Government Code* §364.

27 ///

28 ///

GENERAL ALLEGATIONS

15. The DILATION CATHETER is a device used for stretching ducts in the human body which are too narrow. The DILATION CATHETER utilizes an endoscope for insertion and guidance of the DILATION CATHETER to the area in the body where the DILATION CATHETER is to be utilized.

16. On or about May 28, 2014, Plaintiff was admitted to the Kaiser Permanente hospital located at 4867 Sunset Boulevard located in the City of Los Angeles for an out-patient procedure which was to be performed by the Malpractice Defendants using the DILATION CATHETER.

17. Thomas Teller, M.D. and Joseph Lih Yeh, M.D. diagnosed Plaintiff with stones in his main pancreatic duct at the junction of the neck and body and determined that a endoscopic retrograde cholangiopancreatography ("ERCP") with stone extraction was necessary.

18. During the ERCP surgery, the Malpractice Defendants chose to use an 8.5mm DILATION CATHETER to perform a sphincterotomy on Plaintiff. Upon inflation of the 8mm DILATION CATHETER in the mid pancreatic duct, the balloon burst and could not be removed. Thereafter, the DILATION CATHETER broke with the frayed end remaining in Plaintiff's body causing extensive internal injuries. The procedure was abandoned, and Plaintiff remained intubated and sedated and was admitted to the Intensive Care Unit ("ICU").

19. Plaintiff remained intubated and sedated in the ICU while his family was informed of the disastrous procedure and failure of the defective DILATION CATHETER.

20. On May 29, 2014, the Malpractice Defendants performed a second procedure in an attempt to remove the broken mechanical thotripter and coiled remnant DILATION CATHETER. Using forceps, the proximal end of the DILATION CATHETER was grabbed and pulled out through Plaintiff's mouth. However, portions of the DILATION CATHETER remained in Plaintiff's pancreatic duct. Unable to remove the remaining portions of the DILATION CATHETER, the Malpractice Defendants terminated the procedure and kept Plaintiff intubated and sedated.

1 21. On May 30, 2014, a representative from BOSTON-SCI joined the KAISER
2 surgical team in further surgical efforts to remove the defective DILATION CATHETER. The
3 surgery was unsuccessful. Plaintiff remained intubated and sedated in the ICU.

4 22. On June 2, 2014, after three failed attempts to remove the defective DILATION
5 CATHETER, a KAISER employee, Dr. Akmal, performed an invasive surgery to remove the
6 defective DILATION CATHETER and its component parts.

7 23. Plaintiff remained hospitalized until June 12, 2014, when he was transferred to
8 a rehabilitation center. Plaintiff was hospitalized for a total of fifteen days and has required,
9 and continues to require, exhaustive physical therapy since the failure of the DILATION
10 CATHETER on May 28, 2014.

11 24. As a direct result of the incident, Plaintiff is now permanently bound to a
12 wheelchair and continues to suffer from severe permanent scarring, disfigurement, loss of
13 muscle use, dexterity, range of motion, pain and stiffness. Plaintiff also suffered, and
14 continues to suffer, from extreme and severe emotional distress, including nightmares, anxiety,
15 depression, stress and unstable emotions.

16
17 **FIRST CAUSE OF ACTION**

18 **STRICT PRODUCT LIABILITY-Defective Design, Manufacturing Defect,**
19 **and the Failure to Warn**
20 **(AGAINST PRODUCT DEFENDANTS)**

21 25. Plaintiff realleges and incorporates herein Paragraphs 1 through 24, inclusive,
22 and by this reference incorporates the same herein as though set forth in full.

23 26. Product Defendants, and each of them, owned, operated, designed, fabricated,
24 manufactured, assembled, maintained, modified, recommended, serviced, repaired, certified,
25 advertised, promoted, distributed, supplied, warranted, compounded, funded, furnished,
26 analyzed, supplied, marketed, sold and placed into the stream of commerce the DILATION
27 CATHETER and its component parts and/or other products that caused or contributed to the
28 injuries sustained by Plaintiff.

1 27. When Product Defendants, and each of them, placed the DILATION
2 CATHETER and other products into the stream of commerce, they knew that Plaintiff, and
3 other similar users of the DILATION CATHETER and other products would utilize the
4 DILATION CATHETER without inspection for defects and without reference to product
5 warnings or use instructions. Product Defendants knew that the DILATION CATHETER, if
6 defective, would be dangerous to the health, safety and property of people exposed to its use
7 and presented a substantial danger to users of the DILATION CATHETER.

8 28. The DILATION CATHETER, and its component parts, was in a defective and
9 dangerous condition when the DILATION CATHETER left the possession of the Product
10 Defendants and while the DILATION CATHETER was being used inside Plaintiff without
11 substantial change in the condition of the product.

12 29. Product Defendants, and each of them, knew that the DILATION CATHETER,
13 if defective, would be dangerous to the health and safety of the persons who used the product.

14 30. Product Defendants, and each of them, breached their duty of due care to
15 Plaintiff by their careless, reckless, willful, wanton, gross and indifferent acts, and failure to
16 act, including, but not limited to the following:

- 17 (a) The design, manufacturing, distribution and sale of the defective and
18 hazardous DILATION CATHETER;
19 (b) The failure to adequately and/or properly warn the consuming public of
20 the potential dangers of the operation of the DILATION CATHETER;
21 (c) The failure to adequately and/or properly inform potential and actual
22 users of the safe use and operation and/or malfunction risks of the
23 DILATION CATHETER;
24 (d) The failure to design, redesign, and/or recall the DILATION
25 CATHETER, having received actual or constructive knowledge that the
26 DILATION CATHETER was causing or creating a hazardous condition
27 known to pose an unreasonable risk of harm to the consuming public;
28 and/or

1 (e) The failure to adequately test, inspect, and warn of the risks and dangers
2 of the DILATION CATHETER, and further failing to alert Plaintiff and
3 other members of the general public of the increased risk of harm and
4 injury posed by the foreseeable use and/or misuse of the DILATION
5 CATHETER.

6 31. On May 28, 2014, the DILATION CATHETER was used by Plaintiff's doctors
7 in the manner for which it was intended and designed.

8 32. The DILATION CATHETER was defective and did not perform as safely as an
9 ordinary consumer would have expected at the time of use, in that among other things, it was
10 unsafe, lacked the appropriate safety features and protections for the user, had inadequate
11 warnings and was designed and manufactured in a fashion that was unsafe and dangerous.

12 33. The risk of harm of the use of the DILATION CATHETER was known to the
13 Product Defendants, and the Product Defendants elected not to manufacture or distribute an
14 alternative, safer design.

15 34. As a direct and legal result of the aforesaid acts and omissions, and defective
16 product, Plaintiff was hurt and injured in his health, strength, and activity, sustaining injuries,
17 all of which caused and continue to cause Plaintiff to endure great mental, physical, and
18 nervous pain and suffering. Plaintiff is informed and believes and thereby alleges that said
19 injuries have and will result in a permanent disability to Plaintiff, all to Plaintiff's general
20 damage in an amount in excess of the minimum jurisdictional limits of this Court.

21 35. As a direct and legal result of the aforesaid acts or omissions and defective
22 product of Product Defendants, and each of them, Plaintiff has been compelled to incur and
23 will continue to incur medical and related expenses, all to Plaintiff's monetary damage, the
24 exact nature and extent of which are unknown to Plaintiff at this time. Plaintiff will ask leave
25 of the Court to amend the Complaint in this regard when the same are ascertained.

26 36. Plaintiff is entitled to punitive damages as a result of Product Defendants'
27 conduct.
28

SECOND CAUSE OF ACTION

NEGLIGENCE

(AGAINST PRODUCT DEFENDANTS)

37. Plaintiff realleges and incorporates herein Paragraphs 1 through 24, inclusive, and by this reference incorporates the same herein as though set forth in full.

38. At all times, Product Defendants, and each of them, owed Plaintiff a duty of due care. The events that give rise to this Complaint were sufficiently likely and foreseeable since Product Defendants, and each of them, actually or constructively knew prior to May 28, 2014, that the DILATION CATHETER was dangerous and posed a harm to the consuming public, and in some cases, resulting in injuries.

39. Product Defendants, and each of them, breached their duty of due care to Plaintiff by their careless, reckless, willful, wanton, gross and indifferent acts, and failure to act, including, but not limited to the following:

- (a) The design, manufacturing, distribution and sale of the defective and hazardous DILATION CATHETER;
- (b) The failure to adequately and/or properly warn the consuming public of the potential dangers of the operation of the DILATION CATHETER;
- (c) The failure to adequately and/or properly inform potential and actual users of the safe use and operation and/or malfunction risks of the DILATION CATHETER;
- (d) The failure to design, redesign, and/or recall the DILATION CATHETER, having received actual or constructive knowledge that the DILATION CATHETER was causing or creating a hazardous condition known to pose an unreasonable risk of harm to the consuming public; and/or
- (e) The failure to adequately test, inspect, and warn of the risks and dangers of the DILATION CATHETER, and further failing to alert Plaintiff and other members of the general public of the increased risk of harm and

1 injury posed by the foreseeable use and/or misuse of the DILATION
2 CATHETER.

3 40. As a direct and legal result of Product Defendants' negligence, and each of them,
4 Plaintiff was hurt and injured in his health, strength, and activity, sustaining injuries, all of
5 which caused and continue to cause Plaintiff to endure great mental, physical, and nervous pain
6 and suffering. Plaintiff is informed and believes and thereby alleges that said injuries have and
7 will result in permanent disability to Plaintiff, all to Plaintiff's general damage in an amount
8 in excess of the minimum jurisdictional limits of this Court.

9 41. As a direct and legal result of each Product Defendant's negligence, Plaintiff has
10 been compelled to incur and will continue to incur medical and related expenses, all to
11 Plaintiff's monetary damage, the exact nature and extent of which are unknown to Plaintiff
12 at this time. Plaintiff will ask leave of the Court to amend the Complaint in this regard when
13 the same are ascertained.

14
15 **THIRD CAUSE OF ACTION**
16 **PROFESSIONAL NEGLIGENCE**
17 **(AGAINST MALPRACTICE DEFENDANTS)**

18 42. Plaintiff realleges and incorporates herein Paragraphs 1 through 24, inclusive,
19 and by this reference incorporates the same herein as though set forth in full.

20 43. Malpractice Defendants, and each of them, undertook the care and treatment of
21 Mr. Simpson and rendered professional services in the diagnosis, care, and treatment of him
22 during the time period of at least May 28, 2014, through June 12, 2014.

23 44. From May 28, 2014, through June 12, 2014, the Malpractice Defendants, and
24 each of them, failed to exercise the proper degree of knowledge and skill and negligently,
25 carelessly, recklessly, wantonly, and unlawfully treated, and failed to timely diagnose injuries
26 and/or provide care, monitoring, examination, and other professional services in that, among
27 other things, caused personal injury of Mr. Simpson.

28 ///

1 45. Additionally, Malpractice Defendants are also negligent for the following acts,
2 but not limited to the following acts and/or omissions:

- 3 (a) failing to properly perform a endoscopic retrograde
4 cholangiopancreatography;
5 (b) failing to properly utilize the DILATION CATHETER;
6 (c) failing to select the proper size DILATION CATHETER; and/or
7 (d) causing the failure of the DILATION CATHETER.

8 46. Additionally, KAISER is also negligent since its employees, including the
9 doctors and nurses, did not use reasonable care within industry standards towards Mr.
10 Simpson. Moreover, Defendant KAISER is negligent since it did not have adequate
11 procedures, policies, facilities, supplies and/or qualified personnel to provide treatment and
12 care to Mr. Simpson. Even if Defendant KAISER had adequate procedures, policies, facilities,
13 supplies and/or qualified personnel to provide emergency treatment and care to Mr. Simpson,
14 Defendant KAISER failed to follow such procedures and policies or use the facilities, supplies
15 and/or qualified personnel.

16 47. The negligence of Malpractice Defendants, and each one of them, was the
17 substantial cause of the injuries to Plaintiff.

18 48. As a direct and legal result of Malpractice Defendants' negligence, and each of
19 them, Plaintiff was hurt and injured in his health, strength, and activity, sustaining injuries, all
20 of which caused and continue to cause Plaintiff to endure great mental, physical, and nervous
21 pain and suffering. Plaintiff is informed and believes and thereby alleges that said injuries
22 have and will result in permanent disability to Plaintiff, all to Plaintiff's general damage in an
23 amount in excess of the minimum jurisdictional limits of this Court.

24 49. As a direct and legal result of each Malpractice Defendant negligence, Plaintiff
25 has been compelled to incur and will continue to incur medical and related expenses, all to
26 Plaintiff's monetary damage, the exact nature and extent of which are unknown to Plaintiff at
27 this time. Plaintiff will ask leave of the Court to amend the Complaint in this regard when the
28 same are ascertained.

ROSEN ♦ SABA, LLP
9350 Wilshire Boulevard, Suite 250
Beverly Hills, California 90212

FILED
OCT 14 2014

DEMAND FOR JURY TRIAL

50. Plaintiff herein demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Ted Simpson prays for judgment against Defendants, and each of them, as follows:

- (1) For general damages for physical injuries, pain and suffering, mental and emotional trauma, and for the loss of enjoyment of the activities of life, according to proof;
- (2) For special damages for past and future medical expenses, life care, and therapeutic and pharmaceutical costs, according to proof;
- (3) For punitive damages, wherein here alleged, according to proof;
- (4) For costs of suit, according to proof;
- (5) For prejudgment interest, according to proof; and
- (6) For such other and further relief as the Court deems just and proper.

DATED: October 13, 2014

ROSEN ♦ SABA, LLP

By:



RYAN D. SABA, ESQ.
JONATHAN S. DENNIS, ESQ.
Attorneys for Plaintiff,
TED SIMPSON

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): RYAN D. SABA, ESQ. (State Bar No. 192370) JONATHAN S. DENNIS, ESQ. (State Bar No. 249554) Rosen Saba, LLP 9350 Wilshire Boulevard, Suite 250, Beverly Hills, California 90212 TELEPHONE NO.: (310) 285-1727 FAX NO.: (310) 285-1728 ATTORNEY FOR (Name): Plaintiff Ted Simpson	FOR COURT USE ONLY FILED Superior Court Of California County Of Los Angeles OCT 14 2014 Sherris, County Executive Officer/Clerk By <u>Kristina Vargas</u> , Deputy Kristina Vargas			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: CITY AND ZIP CODE Los Angeles 90012 BRANCH NAME Central				
CASE NAME: Ted Simpson v. Boston Scientific Corporation, et al.				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; vertical-align: top;"> CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) </td> <td style="width: 33%; vertical-align: top;"> <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) </td> <td style="width: 34%; vertical-align: top;"> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) </td> </tr> </table>		CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		
CASE NUMBER: BC 560220				
JUDGE: DEPT:				

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input checked="" type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 3; product liability; negligence; and professional negligence.
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: **October 13, 2014**

Ryan D. Saba, Esq.

(TYPE OR PRINT NAME)

[Signature]
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SHORT TITLE:

TED SIMPSON v. BOSTON SCIENTIFIC CORPORATION, et al.

CASE NUMBER

BC 560220

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 10 ☐ HOURS/ ☒ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – if you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

Step 3: In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- Class actions must be filed in the Stanley Mosk Courthouse, central district.
- May be filed in central (other county, or no bodily injury/property damage).
- Location where cause of action arose.
- Location where bodily injury, death or damage occurred.
- Location where performance required or defendant resides.
- Location of property or permanently garaged vehicle.
- Location where petitioner resides.
- Location wherein defendant/respondent functions wholly.
- Location where one or more of the parties reside.
- Location of Labor Commissioner Office

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input checked="" type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

SHORT TITLE: **TED SIMPSON v. BOSTON SCIENTIFIC CORPORATION, et al.**

CASE NUMBER

Non-Personal Injury/Property
Damage/Wrongful Death Tort

Employment

Contract

Real Property
Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2,3.
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach - Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE:

TED SIMPSON V. BOSTON SCIENTIFIC CORPORATION, et al.

CASE NUMBER

Judicial Review

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE:

TED SIMPSON v. BOSTON SCIENTIFIC CORPORATION, et al.

CASE NUMBER

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., **Step 3** on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case.

☐1. ☒2. ☐3. ☐4. ☐5. ☐6. ☐7. ☐8. ☐9. ☐10.

ADDRESS:

4867 W Sunset Boulevard

CITY:

Los Angeles

STATE:

CA

ZIP CODE:

90027

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles (Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)).

Dated: 10/13/14

 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.