

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Case No. 2:26-ml-03181-JLS-PD

IN RE: BOSTON SCIENTIFIC
CORPORATION SPINAL CORD
STIMULATOR PRODUCTS
LIABILITY LITIGATION

**PRETRIAL ORDER NO. 5 RE:
CONSOLIDATED APA CLAIM
COMPLAINT**

This Document Relates to:
ALL ACTIONS

1 Having considered the Parties' Joint Submission Regarding APA Claims
2 Against the U.S. Food and Drug Administration (Doc. 64) regarding the procedure
3 for adjudicating the claims asserted against Defendant U.S. Food and Drug
4 Administration ("FDA") under the Administrative Procedure Act ("APA"), the
5 positions stated by the Parties at the August 5, 2026 status conference, and good cause
6 appearing, IT IS HEREBY ORDERED:

7 1. **Applicability.** This Order governs all actions in this MDL, including
8 actions transferred to this Court by the Judicial Panel on Multidistrict Litigation, any
9 tag-along actions subsequently transferred, and any related action that has been or will
10 be filed in or removed to this Court, and shall be deemed filed in each such action.

11 2. **Consolidated APA Complaint.** On or before October 23, 2026,
12 Plaintiffs' Co-Lead Counsel shall file on the master docket a single consolidated
13 complaint containing the claims asserted against FDA under the APA (the
14 "Consolidated APA Complaint"). The Consolidated APA Complaint shall identify
15 each current Plaintiff who has asserted and intends to continue pursuing an APA claim
16 against FDA, and shall set forth the allegations and claims on which those Plaintiffs
17 rely, including any Plaintiff-specific allegations necessary to support that Plaintiff's
18 APA claim. The Consolidated APA Complaint shall not include any product-liability
19 or other claim against Defendants Boston Scientific Corporation or Boston Scientific
20 Neuromodulation Corporation (collectively, "BSC").

21 Any existing APA claim that is not incorporated into the Consolidated APA
22 Complaint shall be deemed withdrawn, shall not remain operative in the member
23 action in which it was pleaded, and shall be dismissed without prejudice.

24 3. **Operative and Superseding Effect.** Upon filing, the Consolidated APA
25 Complaint shall supersede and replace the APA claims against FDA pleaded in the
26 individual complaints of each Plaintiff identified in the Consolidated APA Complaint.
27 Those APA claims shall thereafter be litigated exclusively through the Consolidated
28 APA Complaint. The Consolidated APA Complaint shall not be merely an

1 administrative device; it shall constitute the legally operative pleading and the
2 operative unit for purposes of motion practice, adjudication, entry of judgment, and
3 appeal. No separate response to the superseded APA claims in any individual
4 complaint shall be required.

5 4. **Separate Procedural Track.** The claims asserted in the Consolidated
6 APA Complaint shall proceed on a separate procedural track from the product-liability
7 claims against BSC. Any orders governing the claims against BSC shall have no
8 applicability to the APA claims track, and any orders governing the APA claims shall
9 have no applicability to the BSC claims unless otherwise ordered by the Court.

10 5. **BSC's Intervention.** BSC shall be treated as an intervenor-defendant
11 with respect to all claims asserted in the Consolidated APA Complaint for purposes
12 of filing a motion to dismiss and any related appeal, without the need to file separate
13 motions to intervene in this MDL or in any member action. By agreement of the
14 parties and/or with leave of Court, BSC may participate in other proceedings
15 concerning the Consolidated APA Complaint, including but not limited to summary
16 judgment, and this Order is without prejudice to any later such requests or
17 determinations.

18 6. **Motion Practice.** FDA and BSC may each file a separate motion to
19 dismiss the Consolidated APA Complaint. Any such motion shall be filed on or before
20 November 20, 2026, and the motions shall be briefed on the same schedule:

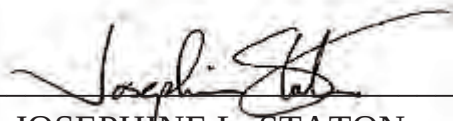
- 21 a. Plaintiffs' oppositions: December 18, 2026;
22 b. Replies: January 15, 2027.
23 c. Upon filing the motions to dismiss, FDA and BSC shall set the hearing
24 on the motions for an available date on the Court's calendar. The motions
25 shall be heard promptly, but no earlier than February 5, 2027.

26 7. **Effect of Rulings.** All rulings concerning the Consolidated APA
27 Complaint shall apply to and bind each Plaintiff identified in that complaint and all
28 individual plaintiffs who later adopt the Consolidated APA Complaint against the

1 FDA by means of individual complaints directly filed or transferred to this Court or
2 by the filing of short form complaints in this Court.

3 8. **Short-Form Complaints and Later-Added Plaintiffs.** The form of
4 short-form complaints shall be addressed in the Parties' submission due September
5 25, 2026. The proposed Short-Form Complaints shall permit a Plaintiff to indicate
6 whether that Plaintiff asserts an APA claim against the FDA, and to expressly adopt
7 the Consolidated APA Complaint. Upon such adoption, that Plaintiff shall be treated
8 as a Plaintiff in the Consolidated APA Complaint and shall be bound by all applicable
9 rulings concerning that complaint.

10
11
12 Dated: September 23, 2026



HON. JOSEPHINE L. STATON
UNITED STATES DISTRICT JUDGE