

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**IN RE: AMERICAN MEDICAL SYSTEMS, INC.
PELVIC REPAIR SYSTEMS PRODUCT
LIABILITY LITIGATION**

MDL NO. 2325

**PRETRIAL ORDER # 183
(Order Re: Qualified Settlement Fund -
AMS, Inc. & Blasingame, Burch, Garrard & Ashley P.C.)**

Pending is a Joint Motion for Approval of Qualified Settlement Fund, filed June 19, 2014. [Docket # 1278.] Blasingame, Burch, Garrard & Ashley P.C. (“BBGA”), as counsel for certain plaintiffs in this MDL 2325, and Defendant American Medical Systems, Inc. (“AMS”) (BBGA and AMS, together, the “Parties”) have jointly moved the Court for entry of an Order to aid in the efficient processing and administration of a confidential settlement agreement (the “Settlement Agreement”) between AMS and BBGA to resolve the claims of certain claimants against AMS relating to the implant of AMS pelvic mesh products. In particular, the Parties’ Motion seeks an Order (1) approving an Escrow Agreement (the “Escrow Agreement”) which forms a settlement escrow account (the “Settlement Escrow”), (2) retaining continuing jurisdiction and supervision over the Settlement Escrow, and (3) determining that the Settlement Escrow constitutes a “qualified settlement fund” within the meaning of section 468B of the Internal Revenue Code of 1986, as amended (the “Code”) and Treasury Regulation sections 1.468B-1, *et seq.*

The Court, having reviewed the Motion and the Escrow Agreement, and finding good and sufficient cause, **FINDS** and **ORDERS** as follows:

1) The terms of the Escrow Agreement are hereby approved;

2) The Settlement Escrow constitutes a qualified settlement fund within the meaning of section 468B of the Internal Revenue Code of 1986, as amended (the “Code”) and Treasury Regulation sections 1.468B-1, *et seq.* The Court further retains continuing jurisdiction and supervision over the Settlement Escrow, in accordance with the terms of the Escrow Agreement; and

3) The appointment of Wells Fargo National Bank to serve as the escrow agent (“Escrow Agent”) pursuant to the Escrow Agreement is approved. The Escrow Agent shall administer the Settlement Escrow in accordance with the terms of the Escrow Agreement. Further, the funds held by the Escrow Agent in the Settlement Escrow shall be disbursed by the Escrow Agent only pursuant to and in conformance with the terms of the Escrow Agreement and Settlement Agreement, which include provisions for payments into the MDL 2325 Fund.

The court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-02325 and it shall apply to each member related case previously transferred to, removed to, or filed in this district *where applicable*, which includes counsel in all member cases up to and including civil action number 2:14-cv-18774. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide

by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsc.uscourts.gov.

ENTER: June 19, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE