

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

) CAUSE NO. 3:12-MD-02391-RLM-CAN
In re: BIOMET M2A MANGUM)
HIP IMPLANT PRODUCTS LIABILITY)
LITIGATION (MDL-2391)) THIS DOCUMENT RELATES TO:
) ALL CASES

**MOTION TO SUBSTITUTE JUSTIN PRESNAL AS A MEMBER OF THE
PLAINTIFFS STEERING COMMITTEE IN LIEU OF WAYNE FISHER**

Justin Presnal (motion for admission *pro hac vice* pending), respectfully moves and requests that the Court appoint him as a member of the Plaintiffs' Steering Committee in place of Wayne Fisher.

Larry Boyd, Wayne Fisher, and Justin Presnal all practice with the firm Fisher, Boyd, Johnson & Huguenard in Houston, Texas. On December 5, 2012, this Court entered an Order Concerning Plaintiffs' Counsel Organizational Structure, appointing Larry Boyd as a member of the PSC. On December 22, 2014 an Order Reappointing Plaintiffs' Organizational Structure was entered, in which the Court appointed Wayne Fisher to the PSC in place of Larry Boyd, due to medical reasons.

Pursuant to the Master Settlement Agreement (MSA) approved by the Court, most of Fisher Boyd's cases in this MDL were settled. However, one client opted out of the settlement, and since that time Mr. Presnal has been asked, and has agreed, to substitute in as counsel for several more "opt out" plaintiffs. For this reason, Presnal

hereby requests that the Court terminate the appointment of Wayne Fisher to the PSC¹ and appoint Justin Presnal in his place.²

Justin Presnal is licensed in the State of Texas, and is also admitted to practice in the United States District Courts for the Northern, Southern, and Eastern Districts of Texas, as well as the Fifth Circuit Court of Appeals. He has been licensed to practice law since 1993, and he is Board Certified in Civil Appellate Law by the Texas Board of Legal Specialization. Presnal has submitted an application for admission *pro hac vice* before this Court.

Presnal has been extensively involved in MDL 2244, *In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Product Liability Litigation*, currently pending in the United States District Court for the Northern District of Texas, Judge Ed Kinkeade presiding. Presnal has been actively involved in the Pinnacle litigation on a daily basis since the plaintiffs' leadership was organized, when Larry Boyd was appointed initially as Lead Counsel (later as Co-Lead Counsel with Mark Lanier). Presnal participated in all phases of the pretrial and discovery phases of that MDL, as well as the first bellwether trial in the fall of 2014. He remains actively involved in the Pinnacle litigation.

Presnal has also been involved in the Biomet MDL, although on a less active basis up to this point. He represents clients who have settled their claims under the

¹ Fisher's termination as a member of the PSC was also requested in the Joint Motion to Terminate Plaintiffs Steering Committee, filed on May 14, 2015. That motion also mentioned Presnal's substitution on Fisher's behalf.

² For clarity, Presnal is requesting to be appointed to the "new" PSC, which will replace the current PSC, the members of which have requested termination of their appointments.

Master Settlement Agreement, and continues to represent others whose claims have not settled.

For these reasons, Justin Presnal respectfully requests that the Court terminate the appointment of Wayne Fisher to the Plaintiffs' Steering Committee, and appoint Justin Presnal to replace him.

Dated: May 14, 2015

Respectfully submitted,

**FISHER, BOYD, JOHNSON
& HUGUENARD, LLP**

/s/ Justin Presnal
Justin Presnal
Wayne Fisher
2777 Allen Parkway, 14th Floor
Houston, Texas 77019
Telephone: (713) 400-4000
Facsimile: (713) 400-4027
Email: justinp@fisherboyd.com

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2015, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which provided electronic service upon all counsel of record.

/s/ Justin Presnal
Justin Presnal

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ORDER

After consideration of the Motion to Substitute Justin Presnal as a Member of the Plaintiffs' Steering Committee in lieu of Wayne Fisher, and good cause appearing, it is hereby ordered that the Motion is GRANTED. Wayne Fisher's appointment as a member of the Plaintiffs' Steering Committee is hereby terminated, and Justin Presnal is hereby appointed as a member of the Plaintiffs' Steering Committee in his place.

SO ORDERED.

ENTERED: _____, 2015

Robert L. Miller, Jr., Judge,
United States District Court