

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

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IN RE: DEPUY ORTHOPAEDICS,)	MDL Docket No. 1:10-md-2197-DAK
INC. ASR HIP IMPLANT)	
PRODUCTS LIABILITY)	
LITIGATION)	JUDGE DAVID A. KATZ
)	
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)	
This Document Relates to:)	
ALL CASES)	
_____)	

**CASE MANAGEMENT ORDER NO. 19
ORDER IN AID OF SETTLEMENT**

(APPROVING ASR SETTLEMENT ESCROW AGREEMENT, FINDING THAT THE ESCROW ACCOUNTS AND SUB-ACCOUNTS ESTABLISHED WITHIN SAID ESCROW AGREEMENT ARE QUALIFIED SETTLEMENT FUNDS WITHIN THE MEANING OF TREASURY REGULATION SECTION 1.486B-1, AND FINDING THAT COMPLIANCE WITH THIS ORDER BY CASES ENROLLED IN AND SETTLED PURSUANT TO THE ASR MASTER SETTLEMENT AGREEMENT ARE IN COMPLIANCE WITH CMO-13, AS AMENDED.)

I. SCOPE OF ORDER

This Order is entered to aid in the efficient processing and administration of the private settlement agreement entitled the ASR Settlement Agreement Between DePuy Orthopedics, Inc. and The Counsel Listed On The Signature Page Thereto dated as of November 19, 2013 (“ASR Master Settlement Agreement”). This Order is entered to (1) approve the ASR Settlement Escrow Agreement dated as of April 30, 2014 (“ASR Escrow Agreement”), which has been filed under seal, (2) determine that the Escrow Accounts and Sub-Accounts Established pursuant to the ASR Escrow Agreement are Qualified Settlement Funds within the meaning of Treasury Regulation Section 1.486B-1, and (3) clarify that for cases enrolled in and settled pursuant to the ASR Master Settlement Agreement compliance with the provisions of this Order constitutes

compliance with the provisions of CMO No.13, as amended, notwithstanding any contrary or inconsistent provisions in CMO No. 13, as amended. Consequently, no additional hold-backs or assessments than those that will occur pursuant to the ASR Master Settlement Agreement, the ASR Escrow Agreement and the terms of this Order are required of settlements occurring pursuant to the ASR Master Settlement Agreement.

II. APPROVING THE ASR SETTLEMENT ESCROW AGREEMENT AND FINDING THAT ITS RELATED ACCOUNTS ARE QUALIFIED SETTLEMENT FUNDS

The Court, having reviewed the ASR Escrow Agreement filed under seal, hereby approves the ASR Escrow Agreement and its terms and determines that the Escrow Account and the Sub-Accounts established pursuant to the ASR Master Settlement Agreement and related ASR Escrow Agreement are Qualified Settlement Funds within the meaning of Treasury Regulation Section 1.486B-1.

There are additional escrow accounts established as set out in the ASR Escrow Agreement. One of these Sub-Accounts is entitled “The Common Benefit Fees and Expenses Fund”, and funds in that account shall be invested in an interest-bearing account at JP Morgan Chase Bank, N.A. similar to the other Sub-Accounts created pursuant to the ASR Escrow Agreement.

JP Morgan Chase Bank, NA. (“Escrow Agent”) is hereby appointed as escrow agent of the Common Benefit Fees and Expenses Fund. These funds will be held as funds subject to the direction and further order of the Court, and shall only be disbursed pursuant to an Order issued by this Court (ASR Escrow Agreement Section 6(o)).

In accordance with the ASR Escrow Agreement and ASR Master Settlement Agreement, an assessment will be paid from all amounts paid in Settlement pursuant to the ASR Master Settlement Agreement as follows:

1. To cover common benefit attorney awards, five percent (5%) of all amounts paid in Settlements pursuant to the ASR Master Settlement Agreement will be deposited into the Common Benefit Fees and Expenses Fund established pursuant to the ASR Escrow Agreement.
2. To cover the administrative expenses of the ASR Master Settlement Agreement, one percent (1%) of all amounts paid in Settlements pursuant to the ASR Master Settlement Agreement also will be deposited into the Common Benefit Fees and Expenses Fund established pursuant to the ASR Escrow Agreement, as agreed to by the parties and those enrolled in the settlement program established by the ASR Master Settlement Agreement.
3. The Settlement Oversight Committee and DePuy are to jointly authorize the disbursement of funds from the ASR Hip Administrative Expenses Fund in order to pay the reasonable and necessary expenses incurred in connection with the processing and administration of the ASR Master Settlement Agreement pursuant to the terms of that agreement. The Settlement Oversight Committee periodically will make a motion to this Court to authorize the transfer of funds from the Common Benefit Fees and Expenses Fund to the ASR Hip Administrative Expenses Fund when and if additional funds are necessary to pay the reasonable and necessary expenses incurred in connection with the processing and administration of the ASR Master Settlement Agreement.

No party or attorney has any individual right to any of the funds in the Common Benefit Fees and Expenses Fund except to the extent of amounts directed to be disbursed to such person

by order of the Court. These funds do not constitute the separate property of any party or attorney and are not subject to garnishment or attachment for the debts of any party or attorney except when and as directed to be disbursed to a specific person as provided by order of the Court. Similarly, the funds in the other accounts established pursuant to the ASR Escrow Agreement shall only be disbursed pursuant to the terms of the ASR Master Settlement Agreement and ASR Escrow Agreement.

III. COMPLIANCE WITH THIS ORDER CONSTITUTES COMPLIANCE WITH CMO-13, AS AMENDED FOR CASES ENROLLED IN AND SETTLED PURSUANT TO THE ASR MASTER SETTLEMENT AGREEMENT

With respect to cases enrolled in and settled pursuant to the ASR Master Settlement Agreement, compliance with this Order constitutes substantive compliance with the provisions of CMO No.13, as amended, regardless of any different or inconsistent provisions in CMO No.13, as amended. No additional hold-backs, assessments or deposits into the funds created by CMO No. 13, as amended, are required of settlements occurring pursuant to the ASR Master Settlement Agreement beyond those deposits into the Common Benefit Fees and Expenses Fund that will occur pursuant to the ASR Master Settlement Agreement, the ASR Escrow Agreement and the terms of this Order.

IT IS SO ORDERED.

Dated: May 21, 2014

s/ David A. Katz
Honorable David A. Katz
United States District Judge