

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

IN RE: C. R. BARD, INC., PELVIC  
REPAIR SYSTEM PRODUCTS LIABILITY  
LITIGATION

MDL NO. 2187

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**PRELIMINARY ORDER NO. 286**  
**(ORDER RE: QUALIFIED SETTLEMENT FUND - ERIN COPELAND)**

Erin Copeland and Participating Law Firms (“Plaintiffs’ Counsel”), as counsel for certain plaintiffs in *In Re: C. R. Bard, Inc. Pelvic Repair Systems Products Liability Litigation*, MDL 2187 (S.D. W.Va.), have moved the Court for entry of an Order to aid in the efficient processing and administration of the Confidential Master Settlement Agreement (the “MSA”) between Defendant Covidien<sup>1</sup> and Plaintiffs’ Counsel to resolve the claims of certain claimants against Covidien relating to Covidien Pelvic Repair Products (as defined in the MSA). In particular, the Motion seeks an Order (1) to establish a Qualified Settlement Fund (the “Fund”) within the meaning of section 468B of the Internal Revenue Code of 1986, as amended (“Code”) and Treasury Regulation sections 1.468B-1, *et seq.* (“Regulations”); (2) to appoint Providio MediSolutions LLC (“Providio”), as the Qualified Settlement Fund Administrator (the “QSF Administrator”) pursuant to the terms, conditions, and restrictions of the MSA; and (3) to appoint Esquire Bank (“the Bank”) as the financial institution that will hold the Fund.

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

1. The Unopposed Amended Motion [ECF No. 5830] is **GRANTED**.

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<sup>1</sup> “Covidien” shall mean Covidien LP, Tyco Healthcare Group LP, Covidien Holding Inc., Covidien Inc., Covidien plc, United States Surgical Corporation, Sofradim Production, Tissue Science Laboratories, Limited, Medtronic Inc., and Medtronic plc, and their related and affiliated companies.

2. The Fund is established as a Qualified Settlement Fund within the meaning of Treas Reg. §1.468B-1 and pursuant to the jurisdiction conferred on this Court by Treas. Reg. § 1.468B-1(c)(1).
3. Providio, is hereby appointed as the QSF Administrator pursuant to the terms, conditions, and restrictions of the MSA, Unopposed Motion Establishing Qualified Settlement Fund, and the Escrow Agreement, and is hereby granted the authority to conduct any and all activities necessary to administer this QSF as described in the Motion filed with this Court by Plaintiffs' Counsel.
4. Providio as the QSF Administrator is authorized to segregate settlement funds if necessary, distribute all attorney fees and litigation expenses, and invest the funds as set forth within the accompanying Motion.
5. Providio as the QSF Administrator is authorized to make distributions of the Fund consistent with the MSA and the accompanying motion.
6. Providio as the QSF Administrator is authorized upon final distribution of all monies paid into the Fund, to take appropriate steps to wind down the Fund and thereafter discharging the Fund Administrator from any further responsibility with respect to the Fund.
7. The Fund shall be held at Esquire Bank, a financial institution with headquarters in New York, according to the terms, conditions and restrictions of this Order.
8. No bond is required for the QSF Administrator, provided that all monies received by the QSF from Covidien pursuant to the MSA, which include all principal and interest earned thereon (the "Settlement Monies"), shall be deposited by the QSF Administrator in an investment agency account held in custody at the Bank, for the benefit of and titled in the legal name of the QSF and invested in instruments/securities comprised of: (a) United States Agency, Government Sponsored Enterprises or Treasury securities or obligations (or a mutual fund invested solely in such instruments); (b) cash equivalent

securities including SEC registered money market funds and/or collateralized money market accounts; (c) deposit and similar interest-bearing, or non-interest bearing accounts subject to Federal Depository Insurance Corporation protections as available; and/or (d) Investment Grade Corporate Bonds (investments are restricted to senior debt only and a minimum credit rating of AA- by S&P or Aa3 by Moody's).

9. Following the instructions of the QSF Administrator and/or its investment advisor pursuant to these terms and conditions, the Bank shall invest the Fund such that the following investment policy is implemented: (1) safety of principal; (2) zero bank liability exposure; and/or (3) the use of zero sweep disbursement accounts. Notwithstanding the foregoing, the Bank shall not be allowed to distribute any income or principal from the QSF except upon instructions of the QSF Administrator, or, if requested, upon the order of this Court upon the motion of Counsel or the QSF Administrator. The QSF Administrator retains the right to remove the Bank, and may designate a replacement bank, upon the written consent of Counsel. In the event of such replacement, the terms and conditions of this Order, including, without limitation, those addressing bond requirements, investments, and distributions from the QSF, shall apply to any such replacement bank.

10. The QSF Administrator is authorized to effect qualified assignments of any resulting structured settlement liability or similar vehicle within the meaning of Section 130(c) of the Internal Revenue Code to the qualified assignee, and to take all actions as provided in the Motion filed with this Court by Counsel, following the terms of the Settlement Agreement entered by this Court.

11. Upon final distribution of all monies paid into the QSF, the QSF Administrator shall take appropriate steps to wind down the QSF and thereafter shall be discharged from any further responsibility with respect to the QSF.

The court **DIRECTS** the Clerk to file a copy of this order in 2:10-md-2187 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 2:18-cv-01059. 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](http://www.wvsc.uscourts.gov).

**ENTER:** July 13, 2018

  
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JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE