

**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 # 189

(Order re: Qualified Settlement Fund – AMS, Inc. & Audet & Partners LLP)

Pending is a Joint Motion for Approval of Qualified Settlement Fund, filed October 8, 2014. [Docket # 1350.] Audet & Partners LLP (“Audet”), as counsel for certain plaintiffs in this MDL 2325, and Defendant American Medical Systems, Inc. (“AMS”) (Audet 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 Audet 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 a Settlement Account and Administration Agreement (the “Settlement Account Agreement”), which forms a settlement account (the “Settlement Account”), (2) retaining continuing jurisdiction and supervision over the Settlement Account, and (3) determining that the Settlement Account 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 Settlement Account Agreement, and finding good and sufficient cause therefor, **FINDS** and **ORDERS** as follows:

- 1) The terms of the Settlement Account Agreement are hereby approved;
- 2) The Settlement Account constitutes a qualified settlement fund within the meaning of

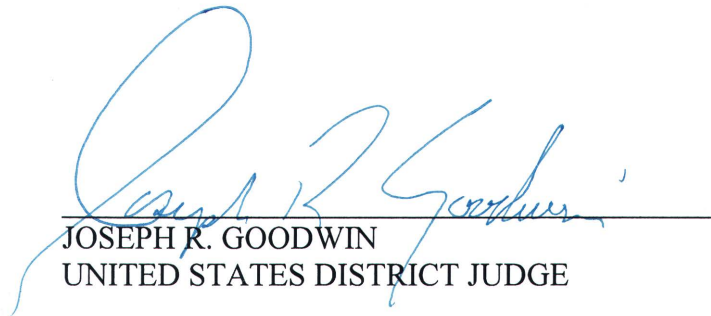
section 468B of the Internal Revenue Code of 1986, as amended (the “Code”) and Treasury Regulation sections 1.468B-1, *et seq.* The Court further retains continuing jurisdiction and supervision over the Settlement Account, in accordance with the terms of the Settlement Account Agreement; and

3) The appointment of Western Alliance Bank, an Arizona corporation, doing business as Torrey Pines Bank as the custodian of the funds deposited or caused to be deposited by AMS pursuant to the Settlement Agreement (the “Custodian”) and ARX Management, LLC to administer the Settlement Account pursuant to the terms of the Settlement Account Agreement (the “Administrator”) is approved. The Administrator shall administer the Settlement Account in accordance with the terms of the Settlement Account Agreement. Further, the funds held by the Custodian in the Settlement Account shall be disbursed by the Custodian only pursuant to and in conformance with the terms of the Settlement Account 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-2325 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:14-cv-26271. 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.wvsd.uscourts.gov.

ENTER: October 14, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE