

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

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

MDL NO. 2325

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER No. 289

(Qualified Settlement Fund – Napoli Shkolnik)

Napoli Shkolnik, PLLC (“*Napoli*”), as counsel for certain Plaintiffs (collectively, the “*Settling Plaintiffs*”), has moved the Court for entry of an Order to aid in the ongoing administration of the Napoli Shkolnik Astora Settlement Trust (“*Settlement Trust*”), which was established pursuant to an order of, and subject to the continuing jurisdiction of, this Court. The Settlement Trust was established for the purpose of processing and administering a confidential settlement agreement between Napoli and Astora Women’s Health, LLC (as successor in interest to American Medical Systems, Inc.’s women’s health business, Astora Holdings, LLC, Astora Women’s Health Holdings, LLC, and Astora Women’s Health Holdings, Inc.) (“*Astora*”).

In particular, this Motion seeks an order: (1) approving an amendment and restatement of the Trust Agreement previously approved by this Court, in the form of the Amended and Restated Napoli Shkolnik Astora Settlement Trust Agreement (“*Amended Trust Agreement*”), attached hereto as Exhibit A, which amends and

restates the Settlement Trust (“*Amended Settlement Trust*”) for the purpose of facilitating the settlement of certain tort claims against Astora relating to certain alleged injuries and losses relating to AMS Pelvic Repair Systems Products; (2) determining that the Amended Settlement Trust continues to constitute 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.* (“Regulations”); (3) approving the continued service of Matthew L. Garretson as Trustee for the Amended Settlement Trust (“*Trustee*”); (4) designating the Trustee as the “administrator” of the Amended Settlement Trust within the meaning of section 1.468B-2(k)(3) of the Regulations (“*Administrator*”); and (5) approving the continued service of Deutsche Bank as Custodian for the Amended Settlement Trust (“*Custodian*”).

The Court, having reviewed the Motion and the Napoli Shkolnik Astora Amended and Restated Trust Agreement, and finding good and sufficient cause therefor, hereby **FINDS** and **ORDERS** as follows:

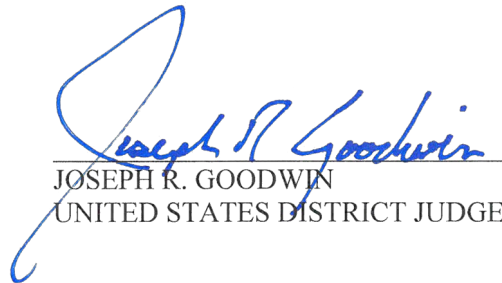
- 1) The Unopposed Motion [ECF No. 7594] is **GRANTED**;
- 2) The Amended and Restated Napoli Shkolnik Astora Settlement Trust (“*Amended Settlement Trust*”) is approved, as are the terms of the Amended and Restated Napoli Shkolnik Astora Trust Agreement (“*Amended Trust Agreement*”);
- 3) The Amended Settlement Trust continues to constitute a qualified settlement fund within the meaning of section 468B of the Internal Revenue Code of 1986, as amended and Treasury Regulation sections 1.468B-1, *et seq.* The Court

further continues to retain continuing jurisdiction and supervision over the Settlement Trust;

- 4) Matthew L. Garretson is the Trustee for the Settlement Trust;
- 5) The Trustee is the Administrator of the Settlement Trust; and,
- 6) Deutsche Bank shall serve as the Custodian of the Settlement Trust.

The Court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2325.

ENTER: March 31, 2021



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE