

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

IN RE: BOSTON SCIENTIFIC CORP. PELVIC
REPAIR SYSTEM PRODUCTS LIABILITY
LITIGATION

MDL NO. 2326

PRETRIAL ORDER # 198
QUALIFIED SETTLEMENT FUND

Seeger Weiss LLP (hereinafter, “Plaintiffs’ Counsel”), as counsel for certain plaintiffs in *In Re: Boston Scientific Corp. Pelvic Repair Systems Products Liability Litigation, MDL 2326 (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 Boston Scientific Corp. (“BSC”) and Plaintiffs' Counsel to resolve the claims of certain claimants against BSC relating to BSC Pelvic 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 Motion [ECF No. 6910] is **GRANTED**.
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, the Unopposed Motion to Establish 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 attorneys' 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. 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.

9. 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.

10. 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 2:12-md-02326 and it shall apply to each member related case. 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.wvwd.uscourts.gov.

ENTER: November 1, 2018



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE