

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

CHARLESTON DIVISION

IN RE: BONSTON SCIENTIFIC CORP.)	
PELVIC REPAIR SYSTEM PRODUCTS)	
LIABILITY LITIGATION)	MDL NO. 2326
)	
)	
<u>THIS DOCUMENT RELATES TO:</u>)	

**PRETRIAL ORDER # 211
(ORDER APPOINTING ARCHER SYSTEMS/MATTHEW W. FRAZIER AS
SETTLEMENT MASTER FOR PRIVATE SETTLEMENT AGREEMENTS BETWEEN
BOSTON SCIENTIFIC AND CERTAIN PLAINTIFFS' COUNSEL)**

Johnson Law Group (“Plaintiffs’ Counsel”) has entered into a separate Confidential Settlement Agreement (the “Settlement Agreement”) with Boston Scientific Corporation and related entities defined by agreement as “BSC” to resolve the claims related to the implantation of BSC Pelvic Mesh Products (as defined in the Settlement Agreement). Under the provisions of the Settlement Agreement, Plaintiffs’ Counsel has agreed to seek the approval of this Court to appoint a Settlement Master to perform certain defined functions related to the administration and implementation of the Settlement Agreement. Plaintiffs’ Counsel believes that Archer Systems/Matthew W. Frazier is well-qualified to perform these and other functions discussed below.

Accordingly, Plaintiffs’ Counsel request, pursuant to the Court’s inherent case management powers, the appointment of Archer Systems/Matthew W. Frazier to assist in the administration and implementation of their settlement with BSC, with the authority to:

- Determine that the calculation, allocation, division, and distribution of settlement payments among the claimants pursuant to the terms of the Settlement Agreement provides for fair

and reasonable compensation for each client based on the facts and circumstances of this litigation, including the risk to all parties of litigation, evidence of Plaintiffs' injuries and damages, the cost, the time delay, the medical evidence, the science, the compensation circumstances, and the inherent risk of litigation generally;

- Serve as an arbitrator in binding arbitration for any insurance companies or other third-parties who agree in writing with Plaintiffs' Counsel to submit any disputes regarding whether or not health care coverage and reimbursement claims fall within the scope of the litigation and therefore subject to insurance liens or subrogation rights and, if so, the amount of such liens under terms of the applicable agreements between counsel and the insurer;

- Serve as a mediator of claims if jointly requested by Plaintiffs' Counsel and BSC; and •

As agreed to by Plaintiffs' counsel and their clients, serve as the final and binding arbitrator on any and all Appeals asserted by claimants to the settlement allocation.

BSC does not oppose Plaintiffs' Counsel's request. The Court, pursuant to its inherent authority, and having considered the requests, and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order.

IT IS ORDERED THAT:

1. The Motion [ECF No. 8174] is **GRANTED**.
2. Archer Systems/Matthew W. Frazier, 1775 St. James Place, Suite 200, Houston, Texas 77056, is hereby appointed as the Settlement Master for the administration of the settlement reached between Plaintiffs' Counsel and BSC, related to the implantation of BSC Pelvic Mesh Products (as defined in the Settlement Agreement).
3. The duties of the Settlement Master shall be set forth in the confidential Settlement Agreement entered into between Plaintiffs' Counsel and BSC.
4. In furtherance of the fair and efficient administration and implantation of the settlements,

the Settlement Master may have ex parte communications with the parties to the Settlement Agreement, Plaintiffs' Counsel and their clients, or BSC and its counsel, and such ex parte communications shall not be deemed to have waived any attorney-client privileges.

4. The Settlement Master shall be compensated privately as specified respectively in the Settlement Agreement or by agreement with Plaintiffs' Counsel.
5. An affidavit by the Settlement Master has been submitted. [ECF No. 8174-1].
6. The curriculum vitae of the Settlement Master is attached as Exhibit B. [ECF No. 8174-2].
7. The Settlement Master shall report to the Court as requested by the Court.

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: June 12, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE