

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

IN RE: BOSTON SCIENTIFIC CORP.) MDL Docket No. 2326
PELVIC REPAIR SYSTEM PRODUCTS) HONORABLE JUDGE JOSEPH R.
LIABILITY LITIGATION) GOODWIN

PRETRIAL ORDER # 167
(ORDER RE: QUALIFIED SETTLEMENT FUND – LEVIN PAPANTONIO)

Pending is an Unopposed Motion for Approval of Qualified Settlement Fund, filed June 7, 2017. [ECF No. 3283]. Levin, Papantonio, Thomas, Mitchell, Rafferty, & Proctor, P.A. (“Levin Papantonio”), as counsel for certain plaintiffs in MDL No. 2326, has 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 Defendant Boston Scientific Corporation (“BSC”) and Levin Papantonio to resolve the claims of certain claimants against BSC relating to the implant of BSC Pelvic Mesh Products (as defined in the Settlement Agreement). The Court, having reviewed the Motion, and finding good and sufficient cause, FINDS and ORDERS the following:

1. The Unopposed Motion is **GRANTED**.
2. In order to assist in the administration of the settlement of claims brought by the clients of Levin Papantonio, the LEVIN PAPANTONIO-BSC Qualified Settlement Fund shall be established as a Qualified Settlement Fund within the meaning of Treasury Regulation Section 1.468B-1, pursuant to this court's continuing subject matter jurisdiction over the underlying matter and consistent with Treas. Reg. Section 1.468B-1(c)(1). All settlements reached by and between BSC and Plaintiffs

in state or federal litigation or Claimants who are represented by Levin Papantonio pursuant to the Master Settlement Agreement dated April 12, 2017, shall be paid into the LEVIN PAPANTONIO-BSC Qualified Settlement Fund.

3. Wells Fargo National Bank is appointed as Escrow Agent and shall also serve as “administrator” of the fund as defined by Treas. Reg. Sec. 1.468B-2(K)(3). The Escrow Agent shall serve pursuant to the terms, conditions and restrictions of the Unopposed Motion, the parties’ Master Settlement Agreement, and the parties’ Escrow Agreement. Levin Papantonio and said Escrow Agent are given the authority to conduct any and all activities necessary to administer this Fund as described in the Motion.
4. The LEVIN PAPANTONIO-BSC Qualified Settlement Fund, which includes all principal and interest earned thereon, shall be deposited in an account held in custody by the Escrow Agent pursuant to the terms of the Parties’ Escrow Agreement. Investment related decisions shall be made pursuant to the terms and conditions set forth in the parties Master Settlement Agreement and Escrow Agreement, and disbursements from the LEVIN PAPANTONIO-BSC Qualified Settlement Fund shall be made pursuant to the terms of the Master Settlement Agreement and Escrow Agreement, which include provisions for payments into the MDL No. 2326 Fund.
5. The Escrow Agent is authorized to effect qualified assignments of any resulting structured settlement liability within the meaning of Section 130(c) of the Internal Revenue Code to the qualified assignee.

6. The Escrow Agent is authorized, upon final distribution of all monies paid into the Fund, to take appropriate steps to wind down the fund, and thereafter the Escrow Agent is discharged from any further responsibility with respect to the Fund.

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 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 2:17-cv-3305. 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.

ENTER: July 6, 2017



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE