

approval by the Court, Mrs. Larbes' and GRG's bills shall be paid from the Biomet Hip Common Benefit Cost Fund.

IT IS FURTHER ORDERED, that Thomas Anapol and Mark Lanier, Plaintiffs' Co-Lead Counsel, and Sylvius von Saucken, GRG's Chief Compliance Officer and Fiduciary, are appointed as the members of the Fee Committee. Mr. Anapol and Mr. Lanier shall be compensated for their work on the Fee Committee as part of their overall common benefit fee, to be approved by the Court in a separate order. GRG shall be compensated for Mr. von Saucken's work on the Fee Committee at the hourly rate set forth above. Upon request, the Fee Committee members shall provide detailed quarterly bills to the Court reflecting the work that they performed with respect to the Fund. Upon approval by the Court, Mr. Anapol's and Mr. Lanier's fees shall be paid from the Biomet Hip Common Benefit Attorney's Fee Fund, and Mr. von Saucken's fees shall be paid from the Biomet Hip Common Benefit Cost Fund.

IT IS SO ORDERED.

Dated: _____

/s/
Honorable Robert L. Miller, Jr.
Judge, United States District Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

In re: BIOMET M2A MANGUM)	CAUSE NO. 3:12-MD-02391-RLM-CAN
HIP IMPLANT PRODUCTS LIABILITY)	
LITIGATION (MDL-2391))	THIS DOCUMENT RELATES TO:
)	ALL CASES

PLAINTIFFS STEERING COMMITTEE'S MOTION
TO APPOINT ESCROW AGENT AND FEE COMMITTEE

In accordance with the Court's Case Management Order Establishing Common Benefit Fee and Expense Funds (Doc. 1317-2; filed 2/03/2014) (the "Common Benefit Order"), the Plaintiffs Steering Committee, Executive Committee and Co-Lead Counsel (collectively hereinafter "PSC"), on behalf of all Participating Counsel and Plaintiffs in the *Biomet M2A Mangum Hip Implant Products Liability Litigation*, respectfully move the Court (1) to appoint Jessica Larbes, C.P.A., a qualified certified public accountant and employee of Garretson Resolution Group ("GRG"), to establish and serve as the Escrow Agent for the Biomet Common Benefit MDL Assessment Fund (which will include two subaccounts, the Biomet Hip Common Benefit Attorney's Fee Fund and the Biomet Hip Common Benefit Cost Fund) (the "Fund"), using the support structure of GRG to provide administrative services, to receive and disburse funds, to keep detailed records of all deposits and withdrawals, and to prepare tax returns and other tax filings, as required, and (2) to appoint Thomas Anapol and Mark Lanier, Plaintiffs' Co-Lead Counsel, and Sylvius von Saucken, GRG's Chief Compliance Officer and Fiduciary, to the Fee Committee, whose purpose is to make recommendations to the Court about how any money in the Fund should be distributed among Participating Counsel.¹

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Common Benefit Order.

On February 3, 2014, this Court entered the Common Benefit Order, which, *inter alia*, contemplated the creation of the Fund.² The Court reserved the right to appoint a qualified certified public accountant to act as the Escrow Agent for the Fund at a later date.³ The PSC now seeks to have Jessica Larbes, C.P.A., of GRG appointed to serve as the Escrow Agent and to oversee the Fund pursuant to the Common Benefit Order. A copy of Mrs. Larbes' resume and a list of GRG's representative appointments and engagements are collectively attached hereto as Exhibit A. The PSC has advised Biomet of its proposed selection, and Biomet has voiced no objection.

Upon approval by the Court, Ms. Larbes will serve as the Escrow Agent for the Fund and will establish an interest-bearing account with two subaccounts at The PrivateBank and Trust, a financial institution doing business in Chicago, Illinois. The fund shall be designated the "Biomet Common Benefit MDL Assessment Fund," the first subaccount shall be designated the "Biomet Hip Common Benefit Attorney's Fee Fund," and the second subaccount shall be designated the "Biomet Hip Common Benefit Cost Fund." Mrs. Larbes will deposit funds received in accordance with the Common Benefit Order into these subaccounts, and subject to the direction of the Court. GRG will charge an hourly rate of \$390 for Mrs. Larbes' services and an hourly rate of \$250 for each of the other fund administration professionals within GRG who will support Mrs. Larbes. In addition, Mrs. Larbes may receive assistance from Sylvius von Saucken, GRG's Chief Compliance Officer and Fiduciary, on an as-needed basis. GRG will

² Although the Common Benefit Order contemplated the creation of two separate funds, the Biomet Hip Common Benefit Attorney's Fee Fund and the Biomet Hip Common Benefit Cost Fund, it is preferable from an administrative perspective to establish a single fund with separate subaccounts, which, among other things, will require the use of only one tax identification number and will simplify the tax filing process.

³ It is common practice for MDL courts to appoint escrow agents to oversee common benefit funds, once established. *See, e.g., In re Bextra & Celebrex Marketing Sales Practices & Prod. Liab. Litig.*, No. M:05-CV-01699-CRB, 2006 WL 471782 (N.D. Cal. Feb. 28, 2006) (establishing common benefit fund, appointing bank as escrow agent, and ordering escrow agent to provide liaison counsel and court with monthly statements showing aggregate monthly deposits, disbursements, interest earned, charges, and balance); *In re Guidant Defibrillators Prods. Liab. Litig.*, No. MDL 05-1708 DWFAJB, 2006 WL 409229 (D. Minn. Feb. 15, 2006) (same).

charge \$405 per hour for Mr. von Saucken's services. All of GRG's fees are to be considered a shared cost in accordance with the Common Benefit Order and paid from the Biomet Hip Common Benefit Cost Fund. Mrs. Larbes will submit detailed quarterly bills to the Court and to Plaintiffs' Co-Lead Counsel, Thomas Anapol, reflecting the services that she and the other members of GRG have performed with respect to the Fund.

In the Common Benefit Order, the Court also indicated that it would appoint a Fee Committee to make recommendations to the Court about how the money in the Fund should be distributed among Participating Counsel. The PSC now seeks to have Thomas Anapol and Mark Lanier, Plaintiffs' Co-Lead Counsel, and Sylvius von Saucken, GRG's Chief Compliance Officer and Fiduciary, appointed as the members of the Fee Committee. Mr. Anapol and Mr. Lanier will be compensated for their work on the Fee Committee as part of their overall common benefit fee, to be approved by the Court in a separate order. GRG will be compensated for Mr. von Saucken's work on the Fee Committee at the hourly rate set forth above. Mr. Anapol's and Mr. Lanier's fees will be paid from the Biomet Hip Common Benefit Attorney's Fee Fund. Mr. von Saucken's fees will be considered a shared cost in accordance with the Common Benefit Order and paid from the Biomet Hip Common Benefit Cost Fund. Upon request, the Fee Committee members will submit detailed quarterly bills to the Court reflecting the services they performed with respect to the Fund.

For the foregoing reasons, the PSC respectfully requests that the Court, in accordance with the Common Benefit Order, grant this motion and (1) appoint Jessica Larbes, C.P.A., of GRG as the Escrow Agent to oversee the Fund, with support provided by the GRG to ensure best practices for fund administration, including, but not limited to, principal preservation and the segregation of duties, and (2) appoint Thomas Anapol, Mark Lanier, and Sylvius von Saucken as

the members of the Fee Committee. A proposed order granting this motion will be submitted to the Court via email in accordance with the Court's CM/ECF Civil and Criminal User Manual.

Dated: May 4, 2015

Respectfully submitted,

/s/ Thomas R. Anapol

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Plaintiffs' Co-Lead Counsel

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2015, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which provided electronic service upon all counsel of record.

Exhibit A



Accountancy Board of Ohio

Be it known that

Jessica Lynn Froshaug Larbes

Having complied with all requirements prescribed by statute, is granted the certificate of

Certified Public Accountant

And is registered as such by the Accountancy Board of Ohio and is empowered to assume such title, by and under the authority of the State of Ohio.

In Witness Whereof, this certificate, Number 47246 is granted under the seal of said Board at Columbus, this 15th day of March, 2010.



Mark B. LaPlace
Mark B. LaPlace, Chair

Ronald J. Rotaru
Ronald J. Rotaru, Executive Director

Cellular: (260) 705-5508 • 4184 Alsace Lane, Hamilton, Ohio 45011 • Jessica.Larbes@gmail.com

JESSICA LARBES

EXPERIENCE

- | | | |
|---|----------------------------|-------------------------------|
| BUSINESS UNIT CONTROLLER | GARRETSON RESOLUTION GROUP | MARCH '14 – PRESENT |
| <ul style="list-style-type: none"> • Prepares and reviews ten revenue recognition models each month. Books monthly revenue journal entries • Compiles monthly reporting package for the business unit. Provides analysis to department leaders, finance team, CFO and President • Drives revenue for the business unit by monitoring and reporting on revenue generating milestones throughout the month • Responsible for driving A/R collections within the business unit and projecting cash collections • Prepares annual budget for the entire business unit • Presides over daily quality review and approval sessions for outgoing QSF payments prepared by operations team • Performs reconciliations on QSF accounts as requested | | |
| SETTLEMENT RECONCILIATION MANAGER | | NOVEMBER '12 – FEBRUARY '14 |
| <ul style="list-style-type: none"> • Oversaw the monthly reconciliation of 60 Qualified Settlement Funds with gross settlement awards totaling \$2B • Oversaw department A/R and performed fee reconciliations to identify unbilled A/R. Generated an increase in A/R of \$4.4M from June 2013 - December 2013 • Drove collection of department A/R. Produced collections of \$4.0M in A/R during 2013 and developed an A/R tracking tool • Attended daily quality review and approval sessions for outgoing QSF payments • Reviewed monthly revenue recognition inputs to ensure accuracy • Assisted with backlog and pipeline budgeting | | |
| AUDIT MANAGER | ERNST & YOUNG LLP | OCTOBER '12 – NOVEMBER '12 |
| <ul style="list-style-type: none"> • Planned and executed a training session for upcoming new audit seniors on mutual fund engagements • Reviewed the planning procedures performed for four upcoming year-end mutual fund audits • Selected to serve as a target experience mentor for three seniors over the next year | | |
| AUDIT SENIOR | | OCTOBER '09 – SEPTEMBER '12 |
| <ul style="list-style-type: none"> • Planned and executed the audits of nine clients per year in the asset management industry • Drafted and submitted the necessary documents for the N-1a and N-14 filings for mutual fund clients • Served as the lead senior on the audits of a service provider SSAE 16, a Rule 17 Ad-13, an international manufacturing company, an aviation consulting company and a managed care provider • Supervised and instructed at least two staff members on each audit • Participated in recruiting efforts and succeeded in retaining a prospective new hire • Participated in the Greater Cincinnati Mutual Fund Association, E&Y Professional Woman's Network and numerous E&Y community office events | | |
| AUDIT STAFF I – AUDIT STAFF II | | SEPTEMBER '07 – SEPTEMBER '09 |
| <ul style="list-style-type: none"> • Executed audits of large public manufacturing corporations, mutual funds, a Fortune 500 company and a commercial real estate company • Audited cash, debt, AP, payroll, accruals and inventory. Performed independence procedures, various walkthroughs and SOX 404 testing • Performed employee benefit plan audits for two manufacturing clients acting in the senior capacity • Assisted with the planning and execution an opening balance sheet audit of a GAAP to Tax audit • Successfully completed eleven limited scope audits of an entity's subsidiaries in one week • Conducted numerous physical inventory counts for audit clients • Coordinated audits with the tax, transaction, and risk services lines within the firm • Attended a recruiting event to promote the firm and identify candidates for employment | | |

EDUCATION

- | | | |
|------------------------------------|-------------------|-------------------------|
| MASTERS IN PROFESSIONAL ACCOUNTING | BUTLER UNIVERSITY | SEPTEMBER '06 – MAY '07 |
| BACHELOR OF SCIENCE IN ACCOUNTING | BUTLER UNIVERSITY | SEPTEMBER '02 – MAY '06 |

QUALIFICATIONS, SKILLS, AND INTERESTS

- Passed the CPA exam in September 2007
- Strong knowledge of GAAP and proficient in Excel, Word, Access and Powerpoint
- Former financial adviser for the Alpha Omicron chapter of the Delta Gamma Fraternity

GRG Experience

- In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010, MDL Docket Number 2179 (Eastern District of Louisiana)
- In re: World Trade Center Disaster Site Litigation, MDL Docket Number MC100, and 103 (Southern District of New York)
- In re: Seroquel Products Liability Litigation, MDL Docket Number 1769
- In re: Vioxx Products Liability Litigation, MDL Docket Number 1657 (United States District Court, Eastern District of Louisiana)
- In re: Guidant Corp. Implantable Defibrillators Products Liability Litigation, MDL Docket Number 1708 (United States District Court, District of Minnesota)
- In re: Medtronic, Inc. Implantable Defibrillators Products Liability Litigation, MDL Docket Number 1726, (United States District Court, District of Minnesota)
- Zyprexa Products Liability Litigation, MDL Docket Number 1596 (United States District Court, Eastern District of New York)
- In re: Cincinnati Policing, Case No. C-1-99-3170 (United States District Court, Southern District of Ohio)
- In re: Roman Catholic Bishop of Louisville, Inc., (Jefferson Circuit Court, Louisville, Kentucky)
- In re: OxyContin Litigation, Civil Action Number 02-CP-18-1756, (Court of Common Pleas, County of Dorchester, State of South Carolina)
- Archdiocese of Cincinnati Claim Resolution Fund, Administrator of a voluntarily established settlement fund
- In re: Atlanta Housing Authority, Civil File Action Number 2004VS 071617Y, (State Court of Fulton County, State of Georgia)
- Diet Drug Settlements – privately retained Special Master / Administrator in 10 separate settlement groups that opted out of the nationwide class action settlement
- In re: Rezulin Products Liability Litigation, MDL Docket Number 1348 (United States District Court, Southern District of New York)
- Rhode Island "Station Night Club" Fire (Rhode Island Superior Court)
- In re: Gadolinium Based Contrast Agents Products Liability Litigation, MDL Docket Number 1909 (United States District Court, Northern District of Ohio, Eastern Division)
- In re: Bextra and Celebrex Products Liability Litigation, MDL Docket Number 1699 (United States District Court, Northern District of California)
- In re: Bausch & Lomb, Inc, Contact Lens Solution Products Liability Litigation, MDL Docket Number 1785 (United States District Court, District of South Carolina)
- In re: Ortho Evra Products Liability Litigation, MDL Docket Number 1742 (United States District Court, Northern District of Ohio, Eastern Division)
- In re: ConAgra Peanut Butter Products Liability Litigation, MDL Docket Number 1845 (United States District Court, North District Georgia)
- In re: Wilmington Housing Authority, Civil File Action Number 08 CVS 00117, (Superior Court Division New Hanover County, State of North Carolina)
- In re: Panter v. Tackett (Living Trust Class Action), Civil File Action Number 01C1-02109, (Jefferson Circuit Court, State of Kentucky)