

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP)
IMPLANT PRODUCTS LIABILITY)
LITIGATION (MDL 2391)) CAUSE NO. 3:12-MD-2391
)
)
_____)
This Document Relates to the Cases)
Listed in Attached Exhibit A)
_____)

ORDER REGARDING ADMINISTRATION OF SETTLEMENTS
RESOLVING CASES AND CLAIMS OF BEASLEY ALLEN
PLAINTIFFS

Upon Motion of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. (“Beasley Allen”) and for good cause shown, the Court hereby Orders as follows:

1. In order to assist in the administration of the settlement of claims brought by the clients of Beasley, Allen, Crow, Methvin, Portis & Miles, P.C. (“Beasley Allen”) (“BA”) (which shall include all plaintiffs represented by BA in the private Biomet settlement agreements, as well as any clients of BA who enter into settlements with defendants in the future), the BA BIOMET 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 Plaintiffs in state or federal litigation or Claimants who are represented by BA and Defendants shall be paid into the BA Biomet Qualified Settlement Fund. The Defendants shall have no liability with regard to the conduct of the Fund Administrator or to the BA Biomet Qualified Settlement Fund itself. The Defendants' liability to the Claimants and Plaintiffs shall terminate with payments into the BA Biomet Qualified Settlement Fund.

2. ARX Management, LLC is appointed as Fund Administrator and Trustee, shall serve without bond, and shall serve pursuant to the terms, conditions and restrictions of the Motion to Establish Qualified Settlement Fund and Appoint Fund Administrator, and said Fund Administrator is given the authority to conduct any and all activities necessary to administer this Fund as described in the Motion.

3. No bond is required, provided that all monies received by the BA Biomet Qualified Settlement Fund, which includes all principal and interest earned thereon, shall be deposited in an account at Plaza Bank National Association, a national banking association doing business in Irvine, CA (“The Bank”), in the name of the Fund Administrator, as trustee of the fund and invested by the Fund in instruments/securities comprised of (i) United States Agency or Treasury issued securities or obligations (or a mutual fund invested solely in such instruments); (ii) cash equivalent securities including commercial paper or short term notes with a minimum rating of A-1/P-1/AA, SEC registered money market funds and collateralized money market accounts; (iii) interest bearing and non-interest bearing corporate accounts with domestic banks, subject to maximum Federal Depository Insurance Corporation guarantees; and/or (iv) certificates of deposit subject to maximum Federal Depository Insurance Corporation guarantees, either individually or through use of the Certificate of Deposit Account Registry Service (“CDAR”) pursuant to a CDARS Deposit Placement Agreement or the Insured Cash Sweep (ICS) pursuant to the Deposit Placement Agreement with the bank. The Fund Administrator shall be responsible for any and all investment related decisions pursuant to these terms and conditions, such that the following investment policy is implemented: (i) safety of principal; and (ii) zero bank balance sheet exposure. Any investment losses realized by investment of settlement funds or any portion thereof shall be charged to the Fund. To the extent the funds are invested in the manner provided for in this Order,

the Fund Administrator shall not be liable for any loss(es) which may be incurred by reason of any such investment (or reinvestment). The Fund Administrator retains the right to remove Plaza Bank, with or without cause, in its sole and absolute discretion. The Fund Administrator may designate a replacement bank upon the written consent of Claimants' Counsel. In the event of such replacement, the terms and conditions of this paragraph, including without limitation, those addressing bond requirements, investments, and distributions from the Fund, shall apply to any such replacement bank.

4. The Fund Administrator 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.

5. The Fund Administrator shall be authorized to distribute all attorneys' fees and litigation expenses to counsel for Plaintiffs, consistent with existing contingency fee contracts.

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

IT IS SO ORDERED.

ENTERED: July 18, 2017

/s/ Robert L. Miller, Jr.
Judge, United States District Court
Northern District of Indiana

Exhibit A

Doc. No.	Case Number	Plaintiff Name
48	3:16-cv-233	Sandra Simmers
45	3:16-cv-308	Nethel Moton
35	3:16-cv-484	Eva Rosenbach
22	3:16-cv-694	Joyce Theriault