

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2003 JUL 24 PM 2:55

IN RE: SULZER HIP PROSTHESIS)
AND KNEE PROSTHESIS PRODUCT)
LIABILITY LITIGATION)

CIVIL ACTION NO.: 01-CV-9000
CLEVELAND

ALL CASES

This document relates to:
David Anderson
Claim Number:

(MDL No. 1401)

Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member David Anderson, by and through his attorney, Alan F. Wagner, Esq. of the Law Firm Wagner, Vaughan & McLaughlin ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated May 8, 2003 on Appellant's claim for benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contends that Appellee erred in his decision to award Settlement benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an Orange Form seeking APRS benefits on August 29, 2002.
2. On October 3, 2002 Appellee issued Appellant a letter that informed Appellant that more information was required to complete his Claim. Specifically, the letter stated that Appellant had not proven that his revision surgery was indicated for reasons other than trauma.
3. On January 16, 2003 Appellant submitted a letter from Dr. Mead dated January 10, 2003.
4. On January 31, 2003 Appellee issued a Preliminary Determination denying Appellant's request for APRS benefits because Appellant had not proven that his revision surgery was not indicated as a result of trauma.
5. Appellant submitted a letter contesting the Preliminary Determination on February 4, 2003.
6. On May 8, 2003 Appellee issued a Final Determination that Appellant is not eligible for APRS benefits because he had not proven that his revision surgery was not indicated as a result of trauma as required by the Settlement Agreement.

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Notice of Special Master Determination

David Anderson

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After a thorough review of the appeal submitted by the Appellant and the response submitted by the Appellee, the Special Master finds as follows:

Appellant timely filed his request for Settlement benefits, and demonstrated that he had revision surgery.

According to the terms of the Settlement Agreement, Appellant must also prove that his revision surgery was not as a result of trauma.

The Class Members are required to submit appropriate operative reports, histories, and physician statements.

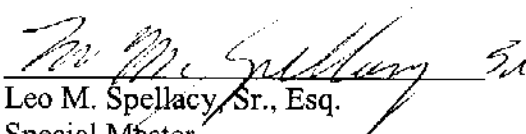
Appellant presented medical records indicating he suffered a fall resulting in a dislocated prosthesis and a pelvic fracture. His surgeon, Dr. Leon Mead, later wrote that the acetabular component "was therefore revised due to trauma".

There is sufficient evidence that the revision surgery was due to trauma and Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's request for APRS benefits and Attorney Fee benefits.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) is hereby AFFIRMED.

Appellant and Appellee have fifteen days from the date of this decision to file with the Court, for the Special Master's review, a fact or principle they believe the Special Master did not consider in rendering a decision. If no response is received by August 8, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 24, 2003
Date


Leo M. Spellacy, Sr., Esq.
Special Master