

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>IN RE: SULZER HIP PROSTHESIS</b>	)	<b>Civil Action No.: 01-CV-9000</b>
<b>AND KNEE PROSTHESIS PRODUCT</b>	)	
<b>LIABILITY LITIGATION</b>	)	<b>ALL CASES</b>
	)	
<i>This document relates to:</i>	)	<b>(MDL No. 1401)</b>
<i>Richard Blakey</i>	)	
	)	<b>Judge Kathleen M. O'Malley</b>

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Richard Blakely, by and through his attorney Heather A. Foster, Esq. of the Law Firm Loeff, Cabraser, Heimann & Bernstein (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated February 18, 2004 on Appellant’s claim for Extraordinary Injury Fund (“EIF”) benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contends that Appellee erred in his decision to deny Appellant’s claim for EIF Matrix Level IX benefits.

The factual findings of this matter are as follows:

1. Appellant submitted a claim for EIF Matrix Level IX benefits.
2. Appellant seeks Matrix Level IX benefits for lost wages, pain and discomfort.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level IX benefits.

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

Notice of Special Master Determination

Richard Blakey

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Appellant has not appealed the Final Determination regarding his EIF Matrix Level IX claim for pain and discomfort. Therefore, Appellee's Final Determination of ineligibility regarding that claim is final and may not be further contested or appealed.

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

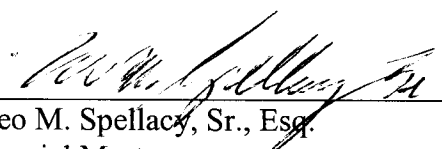
CAP 30 §3 requires that a Class member who desires to note an appeal must submit a document that identifies the provision of the Settlement Agreement or CAP that supports his or her claim, attach a narrative explanation in support of his or her position, and submit copies of any documents previously supplied to the Claims Administrator as proof of his or her eligibility for benefits.

Appellant has not submitted an appeal that conforms to the requirements of CAP 30. His appeal does not include any documents proving his eligibility for benefits. Appellant states in his Declaration that he has lost a total of \$35,000; however there was no evidence submitted with his appeal to support that claim.

Because there was no evidence for the Special Master to consider, Appellant's appeal is hereby DISMISSED, and Appellee's February 18, 2004 Final Determination of ineligibility for Appellant's claim for EIF Matrix Level IX benefits for lost wages is final and may not be further contested or appealed.

**MAY 14 2004**

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Date

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