

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

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

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Dianne Brandt, by and through her attorney Mark E. Liabo, Esq. (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated October 10, 2003 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 award EIF Matrix Level V benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted a claim for EIF Matrix Level V benefits on May 13, 2003.
2. Appellant seeks EIF benefits as a result of permanent bone loss in both hips.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level V benefits because she did not prove that her injury was moderate or severe as defined in the Settlement Agreement and CAP 27.

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

Notice of Special Master Determination

Dianne Brandt

Page 2 of 2

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

The Special Master shall review Final Determinations only for an abuse of discretion by the Appellee, Claims Administrator.

By Order of the United States District Court, the Claims Administrator shall evaluate claims for EIF benefits according to the policies and procedures set out in Claims Administrator Procedure ("CAP") 27.

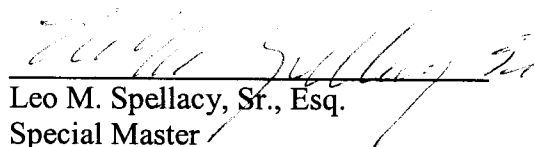
Section 9(e) of CAP 27 states, in pertinent part, "To prove a Moderate injury, a Class Member must prove that he or she experienced pain, sensory loss or gait alteration that required narcotics and/or use of a cane or walker." That definition is reiterated in Annex IV-1 of the Settlement Agreement.

Appellant has provided a letter from her orthopedist in which he characterizes her bone loss as "moderate in nature". Appellant has not, however, proven that she experienced pain, sensory loss or gait alteration that required narcotics and/or use of a cane or walker, as required by CAP 27. Therefore, Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's request for EIF Matrix Level V 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 December 23, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

December 8, 2003
Date


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