

**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>Eugene Brown</i>)	
)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Eugene Brown (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated October 20, 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 April 10, 2003.
2. Appellant seeks EIF benefits as a result of bone loss, nerve damage, leg length inequality and range of motion loss.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level V benefits because he did not prove that his injuries were moderate or severe as defined in the Settlement Agreement and CAP 27.

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AND KNEE PROSTHESIS PRODUCT
LIABILITY LITIGATION**

Notice of Special Master Determination

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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:

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.

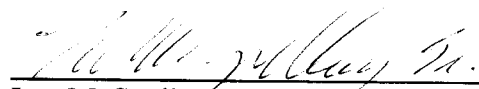
Section 9(e) of CAP 27 states, in pertinent part, “To prove a Moderate injury, a Class Member must prove that he or she experienced pain, sensory loss or gait alteration that required narcotics and/or use of a cane or walker. To prove a Severe injury a Class Member must prove that he or she required the use of a wheelchair or underwent an amputation”. Those definitions are reiterated in Annex IV-1 of the Settlement Agreement.

Appellant has not alleged either a moderate or severe injury, and has not proven that he experienced pain, sensory loss or gait alteration that required narcotics and/or use of a cane or walker; or that he required the use of a wheelchair or underwent an amputation, as required by CAP 27. Appellant’s medical reports indicate that Appellant’s knee is doing well, and make no reference to moderate or severe injuries. 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