

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2003 JUL -8 AM 10:47
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN RE: SULZER HIP PROSTHESIS)
AND KNEE PROSTHESIS PRODUCT)
LIABILITY LITIGATION)
)
This document relates to:)
Miles R. Call)
Claim Number:)
Civil Action No.: 01-CV-9018)
ALL CASES)
(MDL No. 1401))
Judge Kathleen M. O'Malley)

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Miles Call ("Appellant") appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated April 10, 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 a net benefit amount of One Thousand Six Hundred Dollars (\$1,600.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant timely submitted a Yellow Form seeking Derivative Claimant benefits on August 21, 2002.
2. On November 20, 2002 Appellee did issue a Preliminary Determination awarding Appellant \$1,600.00 in Derivative Claimant benefits from the APRS Fund.
3. Appellant did submit a letter to Appellee requesting additional Settlement benefits.
4. On April 10, 2003 Appellee issued a Final Determination that Appellant was entitled to the full Derivative Claimant benefits allowed under the Settlement Agreement.

851

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

Notice of Special Master Determination

Miles R. Call

Claim Number:

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:

Appellee did not abuse his discretion in denying Appellant's request for \$50,000, an amount that exceeds the amount provided by the Settlement Agreement.

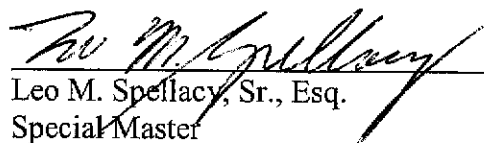
Appellant was a successful Derivative Claimant for the maximum amount of \$1,600.

The Settlement Agreement does not provide for benefits in excess of this amount. The Appellee, in following the terms of the Settlement Agreement, is not empowered to exceed the allowed amount of \$1,600.

By order of the Special Master, Appellee's Final Determination of One Thousand Six Hundred Dollars (\$1,600.00) 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 July 23, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 8, 2003
Date


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