SULZER SETTLEMENT TRUST CLAIMS ADMINISTRATOR PROCEDURE			
CAP NO.	**30**	**EFFECTIVE DATE** **REVISED**	**MARCH 14, 2003** **MAY 13 , 2003**
SUBJECT	**Procedures for Appealing a Final Determination**		

1. ***Purpose.*** Section 4.6(f) of the Settlement Agreement in *In re: Sulzer Hip Prosthesis and Knee Prosthesis Product Liability Litigation,* MDL No. 1401 ("Settlement Agreement") provides that Class Members may appeal a Final Determination issued by the Claims Administrator. This Claims Administrator Procedure ("CAP") clarifies the procedures for conducting such an appeal. Capitalized terms not otherwise defined in this Claims Administrator Procedure ("CAP") shall have the meaning given them in the Settlement Agreement.

2. ***Time and Method for Noting an Appeal.*** The Settlement Agreement prescribes that Class Members must give Notice of an Appeal, by filing a Notice with the Court and delivering a copy to the Claims Administrator, within 30 days of the issuance of an adverse Final Determination ("Appealed Final Determination"). Class Members shall serve the Notice of Appeal upon the Claims Administrator by letter to the Claims Administrator at P.O. Box 94558, Cleveland, Ohio 44101-4558.

3. ***Content of Notice of Appeal.*** Each Class Member's Notice of Appeal shall contain the following information:

(a) The date of the Final Determination that is the subject of the appeal;

(b) The provision of the Settlement Agreement and/or the Claims Administrator Procedure that is the subject of the appeal;

(c) A narrative explanation of why the Class Member's denial of benefits in a Final Determination is inconsistent with the identified provision of the Settlement Agreement and/or Claims Administrator Procedure;

(d) Copies of any documents prepared by the Claims Administrator or submitted to the Claims Administrator within 45 days of the Preliminary Determination, the contest of which gave rise to the Appealed Final Determination. Such documents must be sequentially numbered and prefaced by an index describing each document and the page at which it may be found;

(e) A certificate that the Notice of Appeal is true and accurate to the best of the Class Member's and Plaintiff's Counsel's information

and belief and was delivered to the Court and Claims Administrator in accordance with the terms of Paragraph 2 of this CAP.

Items (a), (b), and (c) may be no more than 10 pages long in the aggregate. The appeal must be predicated on the documents described in item (d). No evidence, documentary or testimonial, real or illustrative, may be introduced during the course of the appeal if it was not first submitted to the Claims Administrator within 45 days of the issuance of the Preliminary Determination, the contest of which gave rise to the Appealed Final Determination. Provided, however, that the Special Master may receive such evidence if the Class Member can show that through the exercise of due diligence the evidence in question could not have been adduced within 45 days of the issuance of the Class Member's Preliminary Determination, the contest of which gave rise to the Appealed Final Determination.

4. ***Claims Administrator's Response to Notice of Appeal.*** Consistent with the Settlement Agreement, the Claims Administrator shall respond to a Notice of Appeal within 30 days of receipt of the Class Member's Notice of Appeal. The Claims Administrator's response shall contain:

(a) The date of the Final Determination that is the subject of the appeal;

(b) The provision of the Settlement Agreement and/or Claims Administrator Procedure that is the subject of the appeal;

(c) The factual findings the Claims Administrator made regarding the subject of the appeal;

(d) A narrative explanation of why the Class Member's denial of benefits in a Final Determination is consistent with the identified provision of the Settlement Agreement and/or Claims Administrator Procedure;

(e) Copies of any documents compiled prior to the Final Determination, and previously submitted to, or prepared by, the Claims Administrator upon which the Claims Administrator relies in defending the appeal. Such documents must be sequentially numbered and prefaced by an index describing each document and the page at which it may be found; and

(f) A certificate that the Claims Administrator's Response is true and accurate to the best of the Claim's Administrator's information and belief.

5. ***Special Master's Questions.*** After reviewing the submissions of the Class Member and the Claims Administrator, the Special Master may propound written questions to the Class Member and the Claims Administrator regarding the appeal. The Special Master shall specify in propounding written questions when responses are due and in what form. No additional evidence may be adduced during the pendency of an appeal. No oral argument shall be heard by the Special Master regarding an appeal.

6. ***Standard of Review.*** The Special Master shall review Final Determinations issued by the Claims Administrator for an abuse of discretion by the Claims Administrator in determining facts related to a Claim and Settlement Agreement interpretation.

7. ***Special Master's Decision.*** The Special Master shall, by the later of (i) 60 days after receiving the Claims Administrator's Response, or (ii) 60 days after receiving any timely response to any Special Master's Questions, communicate the Special Master's Decision to the parties to the appeal by letter. The Special Master's Decision shall state (a) that the Final Determination is affirmed or reversed as to each question raised in the Notice of Appeal; and (b) the dollar amount of any Settlement benefit which was the subject of the Notice of Appeal.

8. ***Finality of Special Master's Decision.*** A Party may respond to the Special Master's Decision to note for the Special Master's consideration a fact or principle the Party believes the Special Master did not consider in rendering a decision. Such response may be no more than 3 pages and must be submitted by the Party within 15 days of the Special Master's decision. The Special Master shall advise the Parties within 15 days if the Special Master's Decision previously rendered is stayed or vacated. If no stay is issued, then the Special Master's Decision is final and may not be further contested or appealed. If the Special Master's Decision is stayed or vacated, the Special Master shall expeditiously lift the stay or issue a new Special Master's Decision.

9. ***Duration of this CAP.*** This CAP shall be effective from the Effective Date stated above and shall terminate upon the earlier of: (i) cancellation or modification of this CAP by the Claims Administrator, or (ii) an order of the Court canceling or modifying the terms of this CAP.

APPROVED:

CLAIMS ADMINISTRATOR

By: _____
(signature)

Name: James J. McMonagle

Date: 5-13-03

CLASS COUNSEL

By: _____
(signature)

Name: R. Eric Kennedy

Date: 5-13-03