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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
CLEVELAND

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

*This document relates to:  
Carol R. Curtis*

) **Civil Action No.: 01-CV-9000**

) **ALL CASES**

) **(MDL No. 1401)**

) **Judge Kathleen M. O'Malley**

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Carol R. Curtis, by and through her attorney Gary L. Wilkins, Esq. of the Law Firm Wilkins, Frohlich, Jones, Hevia, Russell, Hanaoka & Mizell ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated November 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 IX 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 IX benefits.
2. Appellant seeks EIF benefits for loss of income and the derivative claim of her husband.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level IX benefits.

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Notice of Special Master Determination

Carol R. Curtis

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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.

Appellant seeks EIF Matrix Level IX benefits for out of pocket expenses totaling less than \$20,000.

CAP 27 § 13(b)(1) provides that "a loss of income is "catastrophic" if, in the judgment of the Claims Administrator, it results in direct economic loss, provable by objective evidence, of \$20,000 or more." Since Appellant's alleged economic loss is less than \$20,000, Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's EIF Matrix Level IX claim for out of pocket expenses.

Appellant also seeks EIF Matrix Level IX benefits for a stroke suffered by her husband.

Annex IV-1 of the Settlement Agreement, which describes compensation benefits payable from the Extraordinary Injury Fund, states "For purposes of providing Extraordinary Injury Fund Benefits to those Class Members eligible to receive such payments, the following two Matrices are established, *one relating to Hip Beneficiaries and the other relating to Knee Beneficiaries.*" This language clearly precludes compensation for an injury suffered by a Derivative Claimant. Therefore, Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's EIF claim for a stroke suffered by her Derivative Claimant.

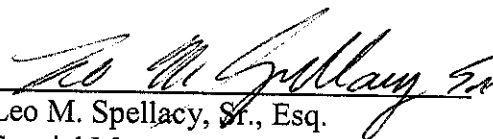
By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's Matrix Level IX claims is hereby AFFIRMED.

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 February 9, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 23, 2004

Date

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