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

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

) **Civil Action No.: 01-CV-9000**
) **(MDL NO. 1401)**
) **JUDGE O'MALLEY**
) **THIS DOCUMENT PERTAINS**
) **TO ALL CASES**
)

ORDER

On motion of the Claims Administrator and for good and satisfactory reasons, and for the reasons described in the Claims Administrator's motion, and without objection, the Court hereby orders that the Claims Administrator disburse to Class Members a *pro rata* distribution as described herein:

1. Pursuant to this Court's Order of October 20, 2006, ("Wind Up Order") the Claims Administrator previously awarded certain Class Members additional *pro rata* benefits from the portion of the Sulzer Settlement Trust that was not required

to satisfy claims for Settlement benefits or claims for Settlement benefits that the Claims Administrator reasonably anticipated might be necessary in the future.

2. The Claims Administrator has reasonably estimated that of the approximately \$11.6 million dollars remaining in the Sulzer Settlement Trust, approximately \$5.6 million dollars are required to satisfy current and anticipated obligations of the Trust.
3. Accordingly, approximately \$6.0 million dollars of the Sulzer Settlement Trust may, without jeopardizing the Trust's ability to satisfy claims against it, be disbursed to Class Members in another *pro rata* distribution.
4. The Court ORDERS that the Claims Administrator disburse \$6.0 million dollars to Class Members in the manner prescribed by Paragraph 90 of the Wind Up Order, provided that:
 - a. The Claims Administrator shall have the authority to increase the total amount distributed to \$8.0 million without further approval of the Court if the Claims Administrator determines a distribution up to that amount may be reasonably made without impairing the ability of the Trust to pay current and future claims;
 - b. The Claims Administrator shall direct disbursement of *pro rata* payments to Class Members pursuant to this order only if those Class Members, or their authorized representatives, have cashed any previous *pro rata* payment from the Trust;
 - c. The Claims Administrator shall include in any payment sent pursuant to this order a notice to the recipient advising all recipients of a *pro rata* payment

pursuant to this Order of the following limitations on such payment which the Court hereby ORDERS:

- i. The Claims Administrator anticipates that this will be the last *pro rata* payment made from the Sulzer Settlement Trust;
 - ii. The enclosed *pro rata* payment check or checks must be cashed within 90 days of the check being issued unless, before that date, the recipient requests that a new check be issued for reasons satisfactory to the Claims Administrator;
 - iii. If the enclosed *pro rata* check, or a timely re-issued check, is not cashed within 90 days of its issuance, the check shall be void and the *pro rata* payment amount shall revert to the Sulzer Settlement Trust and the intended recipient of the *pro rata* payment shall not be entitled to payment of the *pro rata* amount from the Sulzer Settlement Trust.
- d. If the Claims Administrator mails a check to a Class Member or a Class Member's attorney, and the check is returned to the Claims Administrator as undeliverable, the Claims Administrator shall not reissue or re-mail that check unless notified within 90 days of the check's issuance of a valid address to which to send a reissued check.
- e. The Claims Administrator shall not undertake efforts to find Class Members or their attorneys whose mail is returned as undeliverable by the U.S. Postal Service except to confirm that the check was sent to the last known address contained in the Claims Administrator's records.

SO ORDERED

/s Kathleen McDonald O'Malley
Judge of the United States District Court
for the Northern District of Ohio

DATED: 12/3/07