

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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U.S. DISTRICT COURT
CLEVELAND

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

) Civil Action No.: 01-CV-9000

) ALL CASES

*This document relates to:
Rod Dooley*

) (MDL No. 1401)

) Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Rod Dooley, by and through his attorney Zeev Friedman, Esq. ("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 Matrix Level IX benefits for a nerve injury that occurred prior to his Affected Product Revision Surgery (APRS).
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

Rod Dooley

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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 forth in Claims Administrator Procedure ("CAP") 27.

Appellant seeks EIF Matrix Level IX benefits for a nerve injury (sciatic neuropathy) that was diagnosed after he was implanted with an Affected Product but prior to his February 26, 2001 APRS.

CAP 27 § 13(a)(1) specifically bars nerve damage from being compensable under Matrix Level IX and provides that nerve injuries are "properly classified as Permanent Injuries and/or Major Complications which must be Claimed under Matrix Level IV or V, and to be compensable must meet the criteria of Matrix Levels IV or V to qualify for EIF benefits."

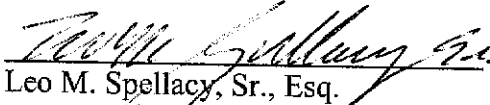
Appellant is not eligible for Matrix Level IX benefits because his injury is contemplated under Matrix Level V. He is not eligible for Matrix Level V benefits because he does not meet the criteria required to be eligible for EIF Matrix Level V benefits under the terms of the Settlement Agreement.

Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's EIF Matrix Level IX claim for a pre-revision nerve injury.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level IX claim 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 5, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 21, 2004
Date


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