

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

<b>IN RE: SULZER HIP PROSTHESIS</b>	)	<b>Civil Action No.: 01-CV-9000</b>
<b>AND KNEE PROSTHESIS PRODUCT</b>	)	
<b>LIABILITY LITIGATION</b>	)	<b>ALL CASES</b>
	)	
<i>This document relates to:</i>	)	<b>(MDL No. 1401)</b>
<i>Scott E. Duerr</i>	)	
<i>Claim Number:</i>	)	<b>Judge Kathleen M. O'Malley</b>

**NOTICE OF SPECIAL MASTER DETERMINATION**

Scott E. Duerr, by and through his attorney Andres C. Pereira, Esq. of the Fleming & Assoc. Law Firm ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated June 27, 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 Settlement benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an Orange Form seeking APRS benefits on August 24, 2002.
2. On October 17, 2002 Appellee issued Appellant a letter entitled "Claims Status Notification" which informed Appellant that in order to complete his Claim he was required to furnish proof of implantation of an Affected Product as required by Question 7 of the Orange Form.
3. On February 25, 2003 Appellee issued a Preliminary Determination denying Appellant's request for Settlement benefits because he had not proven implantation of an Affected Product as required by Question 7 of the Orange Form.
4. Appellant submitted a letter contesting the Preliminary Determination on April 1, 2003.
5. On October 3, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because he had not proven implantation of an Affected Product as required by the Settlement Agreement.

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

Notice of Special Master Determination

Scott E. Duerr

Claim Number:

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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:

Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's request for APRS benefits.

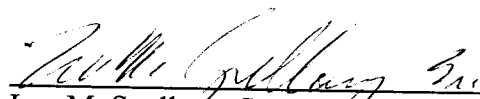
The Orange Form used to seek APRS benefits is explicit in its requirements. Despite being notified twice of his failure to provide evidence of implantation as required by Question 7 of the Orange Form, the evidence Appellant has submitted is not sufficient to prove implantation of an Affected Product under the terms of the Settlement Agreement.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) 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 September 26, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 11, 2003

Date

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