

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

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

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Richard Horvath, by and through his attorney Andres C. Pereira, Esq. of the Law Firm Fleming & Associates (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated July 14, 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 September 3, 2002.
2. On February 13, 2003 Appellee issued a Preliminary Determination denying Appellant’s request for APRS benefits because Appellant had not proven that his revision surgery was not indicated as a result of trauma.
3. Appellant submitted a letter contesting the Preliminary Determination on March 21, 2003.
4. On July 14, 2003 Appellee issued a Final Determination that Appellant is not eligible for APRS benefits because he had not proven that his revision surgery was not indicated as a result of trauma as required by the Settlement Agreement.

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

Notice of Special Master Determination

Richard Horvath

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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:

Appellant timely filed his request for Settlement benefits, and demonstrated that he had been implanted with an Affected Product and that he had undergone a revision surgery.

According to the terms of the Settlement Agreement, Appellant must also prove that his revision surgery was not as a result of trauma by submitting appropriate operative reports, histories, and physician statements.

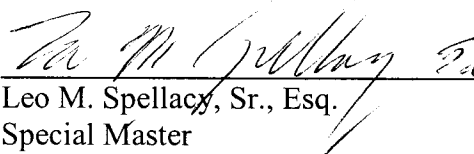
Appellant submitted a Physician Declaration Form that indicated his APRS was indicated as a result of trauma. Appellant also submitted an office note dictated by his physician that stated "The patient at that time had fallen and had sustained a fracture in the acetabulum, which had caused the acetabular component to get loose and causing [sic] a hip dislocation."

There is sufficient evidence that the revision surgery was due to trauma and Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's request for Settlement benefits.

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 October 22, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

October 7, 2003
Date


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