

**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>Dennis Jackson</i>)	
)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Dennis Jackson, by and through his attorney Evan Sacks, Esq. of the Sacks and Sacks law firm ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated July 2, 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 November 1, 2002.
2. On December 20, 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 March 24, 2003 Appellee issued a Preliminary Determination denying Appellant's request for APRS benefits because he had not proven implantation of an Affected Product.
4. On April 11, 2003 Appellant submitted a letter contesting the Preliminary Determination. In support of his claim, Appellant submitted a letter from his physician that provided the lot number of a prosthetic device implanted in Appellant's hip.
5. On July 2, 2003 Appellee issued a Final Determination that Appellant is not eligible for APRS benefits because he had not proven implantation of an Affected Product as required by the Settlement Agreement.

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Notice of Special Master Determination

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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:

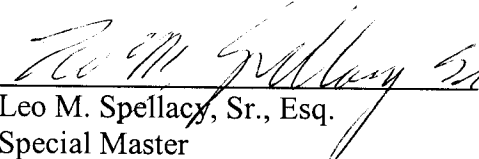
The Orange Form, used to seek APRS benefits, is explicit in its requirements. Question 7.b. of the Orange Form specifically states that "An affirmative statement from the implanting physician attesting that the APR was implanted with an Affected Product and identifying its lot number and articulating the basis for this conclusion" is acceptable proof of implantation "only if the records outlined in Question 7.a. are not available and must include a description of the efforts that were made to secure the requested documentation." The medical records provided by Appellant included no reference to the lot number of the product he received.

Since the letter from Dr. Morgan does not satisfy the requirements of Question 7.b. of the Orange Form, the Appellee did not abuse his discretion in denying Appellant's claim.

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