

**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>Jean Ledesma</i>                 | ) |                                     |
|                                     | ) | <b>Judge Kathleen M. O'Malley</b>   |

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Jean Ledesma, by and through her attorney Andres C. Pereira, Esq. of the Law Firm Fleming & Assoc. (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated November 5, 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 pain.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level IX benefits.

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LIABILITY LITIGATION**

Notice of Special Master Determination

Jean Ledesma

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After a thorough review of the appeal and reply 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 Matrix Level IX benefits for “the pain she has suffered in connection with her implantation and removal of an affected Sulzer Product.”

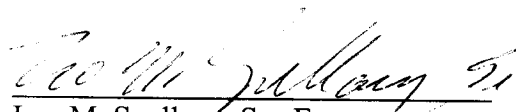
Section 13(a)(2) of CAP 27 states, in pertinent part, “Claims requesting compensation for pain or mental anguish associated with an APRS, CRS, or implantation surgery will not qualify for payment. Compensation for pain or mental anguish associated with these injuries is deemed to be included in the benefit award...from the Affected Product Revision Surgery Fund or the Unrevised Affected Product Recipient Fund.”

Appellant’s APRS award includes compensation for “the pain she suffered in connection with her implantation and removal of an affected Sulzer Product” and further compensation is specifically barred by the terms of CAP 27. Therefore, Appellee, Claims Administrator, did not abuse his discretion in denying this Matrix Level IX claim.

By order of the Special Master, Appellee’s Final Determination of ineligibility for Appellant’s 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 March 5, 2004, then the Special Master’s Decision is final and may not be further contested or appealed.

February 19, 2004  
Date

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