

**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>Helena Martin</i>)	
)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Helena Martin, by and through her attorney Angel M. Reyes, Esq. of the Law Firm Reyes & O'Shea ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated October 20, 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 III 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 III benefits for her June 24, 2002 surgery.
2. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for Matrix Level III benefits because that surgery occurred more than 360 days after her APRS.

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LIABILITY LITIGATION**

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 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 underwent an APRS on June 11, 2001 and was implanted with a Non-Affected Product. On June 24, 2002, 378 days after her APRS, the Non-Affected Product was removed.

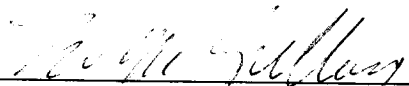
CAP 27 and Annex IV of the Settlement Agreement require Class Members to undergo a Non-Affected Product Revision Surgery (NAPRS) on or before the date that is 180 days after the date of an APRS in order to be eligible for EIF Matrix Level III benefits. The Settlement Agreement permits the Claims Administrator, at his discretion, to extend that compensable time period by 180 days.

Even if Appellee granted the maximum extension of 180 days, Appellant's EIF Matrix Level III claim relates to a surgery that was performed after the deadline imposed by the Settlement Agreement. The Settlement Agreement does not give the Claims Administrator the authority to extend the deadline beyond 360 days after her APRS. Therefore, Appellee did not abuse his discretion in denying this claim.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level III 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 January 29, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 14, 2004
Date



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