

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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

*This document relates to:
Timothy Matlack*

) Civil Action No.: 01-CV-9000
)
) ALL CASES
)
) (MDL No. 1401)
)
) Judge Kathleen M. O'Malley

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U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Timothy Matlack, by and through his attorney Stephen C. Maxwell, Esq. of the Law Firm Maxwell, Littman & Knowles ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated November 10, 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 IV 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 IV benefits.
2. Appellant seeks EIF benefits for an alleged dislocation/subluxation of his prosthetic femoral head.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level IV benefits.

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Notice of Special Master Determination

Timothy Matlack

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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 out in Claims Administrator Procedure ("CAP") 27.

Appellant seeks Matrix Level IV benefits for an alleged dislocation/subluxation of his prosthetic femoral head.

In order to be eligible for Matrix Level IV benefits, CAP 27 § 8 (c) requires that "Class Members must submit documentation proving that the dislocation required a reduction under general anesthesia or intravenous sedation. Dislocations that occur more than ninety days from a CRS and dislocations that do not require a reduction under general anesthesia or intravenous sedation are not compensable under the EIF."

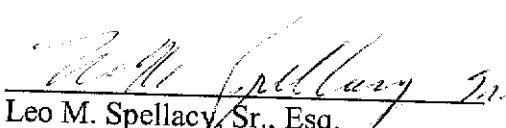
The records from Appellant's orthopedic surgeon reflect Dr. Mycoskie's belief that Appellant was experiencing interior subluxation symptoms in his left hip. However, there are no medical records evidencing that Appellant underwent a reduction under general anesthesia or intravenous sedation, as required by CAP 27. Therefore, Appellee, Claims Administrator, did not abuse his discretion in denying this claim.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's Matrix Level IV 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 February 16, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 30, 2004

Date


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