

**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>Conchita Mendoza</i>)	
<i>Claim Number</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Conchita Mendoza, by and through her attorney Steven L. Saldo, Esq. (“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 a timely Orange Form seeking APRS benefits.
2. On February 25, 2003 Appellee issued a Preliminary Determination denying Appellant’s request for Settlement benefits because Appellant had not proven that her revision surgery was not indicated as a result of trauma.
3. On July 2, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because she had not proven that her 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

Conchita Mendoza

Claim Number: :

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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 her request for Settlement benefits, and demonstrated that she had been implanted with an Affected Product and that she had undergone an APRS.

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

Appellant submitted medical records indicating that the pre-operative and post-operative diagnoses to her revision surgery were "Total revision surgery secondary to fall."

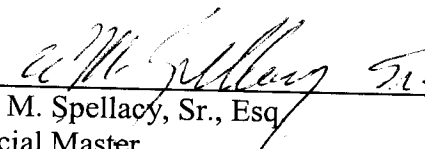
The Special Master reviews Appellee's determination only for an abuse of discretion.

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 APRS 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 November 5, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

October 21, 2003
Date



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