

**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>Jaelene A. Nelson</i>	)	
<i>Claim Number:</i>	)	<b>Judge Kathleen M. O'Malley</b>

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Jaelene A. Nelson, by and through her attorney, James M. Kenna, Esq. of the Law Firm Gancedo & Nieves ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated July 1, 2003 on Appellant's claim for benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of Appellee, and contends that Appellee erred in his decision to award a net benefit amount of Zero Dollar (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an Orange Form seeking APRS benefits on October 30, 2002.
2. On February 22, 2001 Appellant underwent a non-removal surgery of her Affected Product.
3. On March 7, 2003 Appellee issued a Preliminary Determination that Appellant was ineligible for APRS benefits because she had not undergone an Affected Product Revision Surgery (APRS).
4. On July 1, 2003 Appellee issued a Final Determination denying Appellant APRS benefits because she had not undergone an APRS.

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

Notice of Special Master Determination

Jaelene A. Nelson

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:

The Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's claim for Affected Product Revision Surgery ("APRS") benefits as a result of her February 22, 2001 surgery.

In order to be eligible for APRS benefits, there must be a surgical removal and/or replacement of an Affected Product [see Settlement Agreement §1.1(g)].

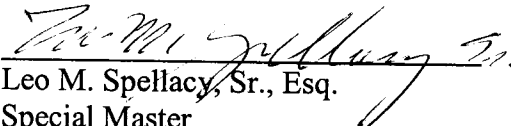
The operative report submitted by the Appellant indicates that only the polyethylene liner was removed. Appellant's acetabular component was left in her body.

Since the Affected Product was neither removed or replaced, Appellant did not undergo an APRS and does not qualify for benefits as set forth in Settlement Agreement §3.4.

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 1, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 16, 2003  
Date

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