

**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>Julia Nuckols</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Julia Nuckols, by and through her attorney Chad S. Roberts, Esq. of the Law Firm Spohrer Wilner Maxwell & Matthews (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated May 22, 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 Attorney Fee benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an Orange Form seeking APRS benefits on June 25, 2002. Her submission did not include a copy of a contingent attorney fee contract dated on or before February 2, 2002.
2. On August 27, 2002 Appellee issued a “Sulzer Settlement Claim Status Notification” that advised Appellant that she was required to provide a copy of her attorney-client fee agreement as required in Question 4 of the Orange Form.
3. On January 8, 2003 Appellee issued a Preliminary Determination awarding Appellant APRS benefits but \$0.00 in Attorney Fee benefits because she had not provided a copy of her contingent attorney fee contract dated prior to February 2, 2002.
4. On May 22, 2003 Appellee issued a Final Determination that provided no Attorney Fee benefits to Appellant because she had not proved that she had entered into a contingency fee contract by February 2, 2002.

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LIABILITY LITIGATION**

Notice of Special Master Determination

Julia Nuckols

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:

Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's claim for Attorney Fee benefits.

The Settlement Agreement provides for Attorney Fee benefits for those claimants who were represented by an attorney prior to February 2, 2002 [§3.4 (a) and §5.1 (a)].

Appellant timely submitted the required Orange Form requesting APRS benefits, but did not include a copy of a contingent fee contract with her attorney signed prior to February 2, 2002.

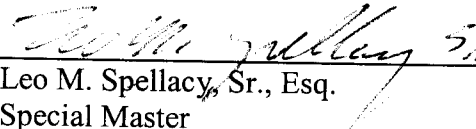
Appellant was notified of her failure to provide a copy of a contingent fee contract with her attorney, and failed to provide said contract prior to the January 8, 2003 Preliminary Determination. She then had an additional 45 days to submit a copy of a contingent fee contract entered into prior to February 2, 2002, but failed to do so within that time frame.

Appellee must comply with the terms of the Settlement Agreement and did not abuse his discretion in denying Appellant's claim for Attorney Fee benefits as untimely.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) in Attorney Fee benefits 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 September 3, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

August 19, 2003
Date


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