

**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>Ananias B. Palicte</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley
)	

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Ananias B. Palicte, by and through his attorney Eric V. Traut, Esq. ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated June 9, 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 a net benefit 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 September 5, 2002.
2. On October 15, 2002 Appellee sent Appellant a Claim Status Notification letter that advised Appellant of the information that he still needed to provide in order to complete his claim for Settlement benefits.
3. On February 11, 2003 Appellee issued a Preliminary Determination denying Appellant APRS benefits because he had not proven that he had been implanted with an Affected Product, or that he had undergone a revision surgery for reasons other than trauma.
4. On February 17, 2003 Appellant submitted a letter contesting his Preliminary Determination.
5. On June 9, 2003 Appellee issued a Final Determination denying Appellant's APRS claim because he had not proven that he had been implanted with an Affected Product, or that he had undergone a revision surgery for reasons other than trauma.

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

Notice of Special Master Determination

Ananias B. Palicte

Claim Number:

Page 2 of 2

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.

In order to qualify for APRS benefits, Appellant must prove implantation of an Affected Product and surgical removal and/or replacement of an Affected Product for reasons other than trauma.

Appellant did not submit any medical records proving he was implanted with an Affected Product or that he underwent an APRS prior to Appellee's Final Determination of June 9, 2003.

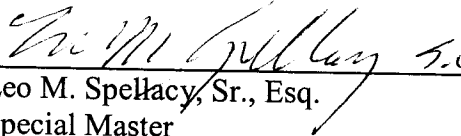
Appellant has submitted additional documents during the appeal. CAP 30 prevents the introduction of new evidence upon appeal if it was not first submitted to the Claims Administrator within 45 days of the issuance of the Preliminary Determination.

Even if the new documents were considered, Appellant has failed to include an operative report proving implantation of an Affected Product.

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 September 24, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 9, 2003
Date


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