

**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>Raymond Parra</i>	)	
	)	<b>Judge Kathleen M. O'Malley</b>

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Raymond Parra, by and through his attorney Chafica A. Singha, Esq. of the Law Firm Alley & Ingram (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated November 5, 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 V and IX 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 V and IX benefits.
2. Appellant seeks EIF benefits as a result of the development of arthrofibrosis.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level V and IX benefits.

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LIABILITY LITIGATION**

Notice of Special Master Determination

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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.

Section 9(e) of CAP 27 states, in pertinent part, “To prove a Moderate injury, a Class Member must prove that he or she experienced pain, sensory loss or gait alteration that required narcotics and/or use of a cane or walker.” That definition is reiterated in Annex IV of the Settlement Agreement.

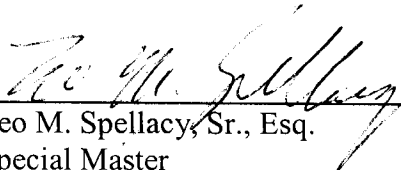
Appellant has provided an affidavit from a physician which characterizes Appellant’s permanent injury as “moderate in nature”. However, the affidavit was typed to read “requires Mr. Parra to take narcotics” and the physician crossed out the word narcotics and wrote in “...Arthritis Medicine”. Appellant has not proven that his injury rises to the level of “moderate” as required by CAP 27. Therefore, Appellee, Claims Administrator, did not abuse his discretion in denying Appellant’s request for EIF Matrix Level V benefits.

Appellant then claims the same injury under Matrix Level IX. Annex IV of the Settlement Agreement states that eligibility for Matrix Level IX benefits is reserved for “...a complication that was neither anticipated, nor provided for under Matrix Levels I-VIII.” Appellant’s injury was anticipated and provided for under Matrix Level V and, therefore, Appellee did not abuse his discretion in denying Appellant’s request for EIF Matrix Level IX benefits.

By order of the Special Master, Appellee’s Final Determination of ineligibility for Appellant’s Matrix Level IX 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 January 29, 2004, then the Special Master’s Decision is final and may not be further contested or appealed.

January 14, 2004  
Date

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