

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

2004 JAN 27 PM 1:35

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

Civil Action No.: 01-CV-9000

ALL CASES

This document relates to:
Sandra Patriarca

(MDL No. 1401)

Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Sandra Patriarca, by and through her attorney Andres C. Pereira, Esq. of the Law Firm Fleming & Assoc. ("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 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 IX benefits.
2. Appellant seeks EIF Matrix Level IX benefits for fibromyalgia, high cholesterol, depression, arthritis, and lost income.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level IX benefits.

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AND KNEE PROSTHESIS PRODUCT
LIABILITY LITIGATION**

Notice of Special Master Determination

Sandra Patriarca

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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.

Appellant seeks Matrix Level IX benefits for fibromyalgia, high cholesterol, depression, arthritis, and lost income.

The only injury indicated on the Physician Declaration Form submitted by Appellant is that her "implanted hip fell under product recall", for which Appellant was awarded Unrevised Affected Product Recipient benefits.

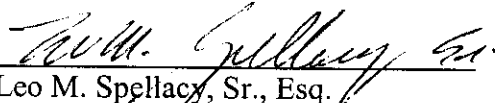
There were many medical records submitted in support of the fact that Appellant suffers from fibromyalgia, high cholesterol, depression, arthritis, and lost income. However, none of the medical records relate any of those injuries to her Affected Product. In fact, her records from Island Orthopaedics and Sports Medicine indicate "it is her knee that is slowing down her recuperation", "she is unable to return to her work. The knee is the bigger problem right now", "due to her multiple joint problems, she has been unable to work her job and is totally disabled from that work" and, on February 2, 2001, "She is here for follow-up of the hip and knees, carpal tunnel syndrome, fibromyalgia syndrome. She is still complaining of a lot of pain in the shoulder, achiness in the wrist, dropping objects frequently, achiness in the knees. The hip overall is doing well."

Appellee, Claims Administrator did not abuse his discretion in denying Appellant's unsupported claims for 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 February 11, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 27, 2004
Date


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