

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

FILED  
2003 JUL 24 PM 2:55  
CLLEVELAND OHIO

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

Civil Action No.: 01-CV-9600

ALL CASES

*This document relates to:  
Matthew Phillips  
Claim Number: .*

(MDL No. 1401)

Judge Kathleen M. O'Malley

**NOTICE OF SPECIAL MASTER DETERMINATION**

Matthew Phillips, by and through his attorney, Carl A. McMahan, Esq. ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated May 2, 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 Settlement 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 July 12, 2002.
2. On August 31, 2002 Appellee issued Appellant a letter entitled "Claims Status Notification" which informed Appellant that in order to complete his Claim he was required to furnish proof of implantation of an Affected Product as required by Question 7 of the Orange Form.
3. On January 16, 2003 Appellee issued a Preliminary Determination denying Appellant's request for APRS benefits because he had not proven implantation of an Affected Product.
4. Appellant submitted a letter contesting the Preliminary Determination on January 22, 2003.
5. On May 2, 2003 Appellee issued a Final Determination that Appellant is not eligible for APRS benefits because he had not proven implantation of an Affected Product as required by the Settlement Agreement.

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Notice of Special Master Determination

Matthew Phillips

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 request for APRS benefits.

In seeking benefits for the implantation of an Affected Product, Appellant is required to provide the lot number of the acetabular implant. Question 7 of the Orange Form requires Claimant to produce medical records evidencing the implantation with the lot number of the implanted device.

Despite being notified twice of the failure to follow the requirements of Question 7, Appellant neglected to include the lot number with the medical records within 45 days of the Appellee's Preliminary Determination.

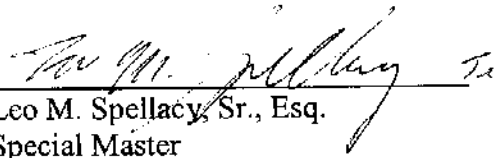
Appellee was required to follow the plain language of the Settlement Agreement and deny the claim.

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 August 8, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 24, 2003

Date

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