

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

NOTICE OF SPECIAL MASTER DETERMINATION

Patricia Stockman, by and through her attorney James G. O'Callahan, Esq. of the Law Firm Girardi and Keese ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated June 18, 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 timely submitted an Orange Form seeking APRS benefits on August 27, 2002.
2. On September 23, 2002 Appellee issued a Claim Status Notification letter advising Appellant that in order to complete her claim she needed to provide proof that she was implanted with an Affected Product as required by Question 7 of the Orange Form.
3. On January 29, 2003 Appellee issued a Preliminary Determination denying Appellant's request for APRS benefits because she had not proven implantation of an Affected Product.
4. On April 17, 2003 Appellant submitted a document, dated February 22, 2000 that included different lot numbers than those that had been handwritten on the operative report originally submitted.
5. On June 18, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because she had not proven implantation of an Affected Product.

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AND KNEE PROSTHESIS PRODUCT
LIABILITY LITIGATION**

Notice of Special Master Determination

Patricia Stockman

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 did not abuse his discretion in denying Appellant's claim for APRS benefits.

To be eligible for APRS benefits, a Claimant must prove that he or she was implanted with an Affected Product, that the Affected Product was the subject of a revision surgery, and that the revision surgery was not as a result of trauma.

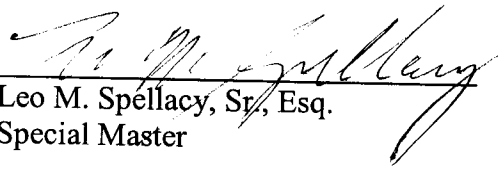
There is no proof that the lot number that is handwritten on the operative report is the lot number of the acetabular shell implanted in Appellant. In addition, the Settlement Agreement requires that the lot number of an Affected Product be provided, therefore a doctor's notation of "Sulzer recall" does not meet the burden of proof as required by the Settlement Agreement.

Appellant's April 17, 2003 submission of a document that contains a different date and different lot number than those contained in the operative report originally submitted as proof of implantation reinforces the correctness of Appellee's decision that implantation of an Affected Product has not been proven.

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 26, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 11, 2003
Date


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