

**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>Darlene Van Cleave</i>)	Judge Kathleen M. O'Malley
<i>Claim Number:</i>)	

NOTICE OF SPECIAL MASTER DETERMINATION

Darlene Van Cleave, by and through her attorney Chris M. Limberopoulos, Esq. of the Law Firm Limberopoulos & Associates (“Appellants”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated June 10, 2003 on Appellants claim for benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contend 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 June 15, 2002.
2. On August 23, 2002 Appellee issued a “Claims Status Notification” letter informing Appellant that proof of implantation of an Affected Product as required by Question 7 of the Orange Form was necessary to complete her Orange Form claim.
3. On January 16, 2003 Appellee issued a Preliminary Determination denying Appellant Settlement benefits because implantation of an Affected Product had not been proven.
4. On February 20, 2003 Appellant contested her Preliminary Determination.
5. On June 10, 2003 Appellee issued a Final Determination denying Appellant’s claim for APRS benefits because implantation of an Affected Product had not been proven.

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

Notice of Special Master Determination

Darlene Van Cleave

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:

The Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's request for Affected Product Revision Surgery ("APRS") benefits.

In order to qualify for APRS benefits, Appellant must prove implantation of an Affected Product.

Appellant's records submitted prior to Appellee's Final Determination of June 10, 2003 do not prove that she was implanted with an Affected Product.

The Orange Form requires Appellant to submit "hospital or medical records of the implantation with the lot numbers of the implanted device that identifies Sulzer as the manufacturer."

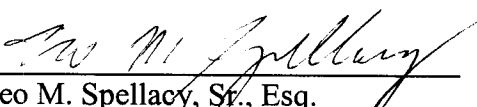
Appellant submitted a release of medical records. After notification by Appellee of the deficiency, Appellant failed to provide the proper information as required by the Orange Form.

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