

**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>Janice D. Viska</i>)	
)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Janice D. Viska, by and through her attorney Tommy Jacks, Esq. of the Law Firm Mithoff & Jacks (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated February 20, 2004 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 deny Appellant’s claim for EIF Matrix Level IX benefits.

The factual findings of this matter are as follows:

1. Appellant submitted a claim for EIF Matrix Level V and IX benefits.
2. Appellant has been deemed eligible for Matrix Level V benefits.
3. Appellant seeks Matrix Level IX benefits for a shoulder injury.
4. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level IX benefits.

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

Notice of Special Master Determination

Janice D. Viska

Page 2 of 2

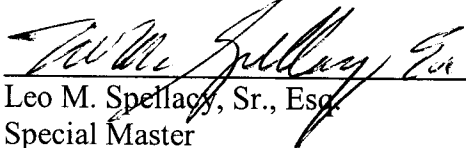
After a thorough review of the appeal submitted by the Appellant and the response submitted by the Appellee, the Special Master finds as follows:

Pursuant to CAP 29 § 4(a) Appellant is hereby granted an extension of time *nunc pro tunc* thereby rendering her claim for EIF Matrix Level IX benefits timely.

The Special Master agrees that Appellant did not prove that her shoulder injury was caused by her Affected Product or CRS, or that the injury was catastrophic and extraordinary.

However, the Preliminary and Final Determination regarding this claim did not address the merits of the claim. Therefore, Appellant has forty-five days from the date of this Determination to submit additional evidence in support of her claim to the Claims Administrator. The Claims Administrator shall then review any additional information submitted and issue a revised Final Determination. Appellant retains her right to appeal the revised Final Determination in accordance with CAP 30.

JUN 10 2004
Date


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