

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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

*This document relates to:
Grace R. Williams*

) **Civil Action No.: 01-CV-9000**
)
) **ALL CASES**
)
) **(MDL No. 1401)**
)
) **Judge Kathleen M. O'Malley**

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Grace R. Williams, by and through her attorney H. Miffiin Williams III, Esq. ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated June 8, 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 I benefits.

The factual findings of this matter are as follows:

1. Appellant submitted a claim for EIF Matrix Level I benefits.
2. Appellant seeks Matrix Level I benefits for an alleged revision surgery indicated but for a medical condition.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level I benefits.

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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:

Annex IV of the Settlement Agreement provides that Class Members may apply for and receive benefits under Matrix Level I if "Affected Product Revision Surgery would be indicated but for a medical condition."

It is not disputed that Appellant is medically contraindicated from undergoing a revision surgery.

Dr. Bryan is Appellant's treating physician. His record of October 23, 2002 states "The acetabular cup has radiolucent lines circumferentially around the cup and is highly suggestive of continued loosening of that component" and "I think that the patient's main pain is coming from her acetabular cup with failure of bony ingrowth" and "All else equal the treatment would be to...do a revision of the cup with repeat reaming an insertion of a slightly larger cup."

Appellee argues that Dr. Calton's note of November 19, 2003 raises doubt as to whether revision surgery is indicated. However, Dr. Calton's note supports Dr. Bryan's findings with its statement that "The cup itself does have evidence of radiolucent lines" and his assessment that there is "possibly aseptically loose acetabular component."

There is sufficient evidence that an APRS would be indicated but for a medical condition. Therefore, by order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's Matrix Level I claim is hereby REVERSED, and that claim is remanded back to the Claims Administrator for further determination pursuant to the Settlement Agreement.

Appellant and Appellee have fifteen days from the date of this decision to submit a fact or principle they believe the Special Master did not consider in rendering a decision. **Such submissions may not be more than three pages in length. Exhibits are not to be attached to any such submission and will not be considered. Submissions are to be mailed to the following address:**

Leo M. Spellacy, Sr., Esq.
Special Master to the Sulzer Settlement Trust
c/o Liaison Counsel
1600 Midland Building
101 Prospect Avenue West
Cleveland, OH 44115

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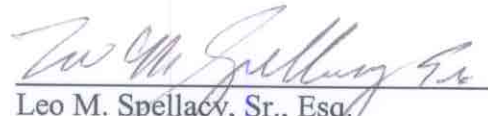
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If no response is received (postmarked) by SEP 28 2004, then the Special Master's
Decision is final and may not be further contested or appealed.

SEP 13 2004

Date



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