

**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>Bessie Woo</i>)	
<i>Claim Number</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Bessie Woo, by and through her attorneys, Paul V. Melodia, Esq. and Khaldoun A. Baghdadi, Esq. of the Law Firm Walkup, Melodia, Kelly, Wecht & Schoenberger (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated July 18, 2003 on Appellant’s claim for benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of Appellee, and contends that Appellee erred in his decision to award a net benefit amount of Zero Dollar (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant timely submitted an Orange Form seeking APRS benefits on November 4, 2002.
2. On October 16, 2001 Appellant underwent a non-removal surgery of her Affected Product.
3. On April 15, 2003 Appellee issued a Preliminary Determination that Appellant was not eligible for APRS benefits because she had not proven implantation of an Affected Product as required by the Settlement Agreement.
4. On May 28, 2003 Appellant submitted proof of implantation of an Affected Product.
5. On May 29, 2003 Appellee issued a Preliminary Determination that Appellant was ineligible for APRS benefits because she had not undergone an Affected Product Revision Surgery (APRS).
6. Appellant submitted a letter dated May 29, 2003 contesting her Preliminary Determination and requesting an extension of time pursuant to CAP 29 to file Unrevised APR and EIF claims.
7. On June 5, 2003 Appellee issued a Final Determination denying Appellant APRS benefits because she had not undergone a revision surgery of her Affected Product, and denying Appellant Unrevised APR benefits because her claim had not been filed prior to the deadline.

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

Notice of Special Master Determination

Bessie Woo

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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 claim for Affected Product Revision Surgery ("APRS") benefits as a result of her October 16, 2001 surgery.

In order to be eligible for APRS benefits, there must be a surgical removal and/or replacement of an Affected Product [see Settlement Agreement §1.1(g)].

The Operative Report indicates that the Hooded Insert of her hip prosthesis, which is not an Affected Product, was removed, but her surgeon left the Inter-Op Shell, which is an Affected Product, in place because it was well fixed.

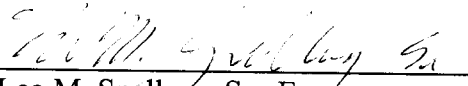
Since the Affected Product was neither removed or replaced, Appellant did not undergo an APRS and does not qualify for benefits as set forth in Settlement Agreement §3.4.

Although the Appellee, Claims Administrator, did not abuse his discretion in denying the Appellant's claim for APRS benefits, it is the finding of the Special Master that the Appellant has demonstrated sufficient evidence demonstrating "surprise, mistake, inadvertence, and excusable neglect", allowing for an extension of time to submit the requisite Blue Form requesting Unrevised APR benefits.

Appellant shall file the requisite Blue Form with the Claims Administrator within thirty (30) days of this decision. If said Blue Form is postmarked after November 20, 2003 then it will be considered untimely and ineligible for Settlement benefits.

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 November 5, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

October 21, 2003
Date


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