

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

<b>IN RE: SULZER HIP PROSTHESIS</b>	)	<b>Civil Action No.: 01-CV-9000</b>
<b>AND KNEE PROSTHESIS PRODUCT</b>	)	
<b>LIABILITY LITIGATION</b>	)	<b>ALL CASES</b>
	)	
<i>This document relates to:</i>	)	<b>(MDL No. 1401)</b>
<i>Sara Wuchina</i>	)	
	)	<b>Judge Kathleen M. O'Malley</b>

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Sara Wuchina, by and through her attorney Daniel L. Kaufman, Esq. of the Law Firm Sams, Martin, Lipsky, Lister & Kaufman (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated October 20, 2003 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 award EIF Matrix Level III, IV, V and IX benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted multiple claims for EIF benefits.
2. Appellee issued a Final Determination that Appellant is eligible for Matrix Level III benefits for her surgery of October 16, 2001.
3. Appellee will issue a revised Final Determination awarding Appellant Matrix Level V benefits.
4. Appellee issued Preliminary and Final Determinations that Appellant is not eligible for EIF Matrix Level III benefits for the December 3, 2001 procedure that she underwent, or Matrix Level IV and IX claims.

**IN RE: SULZER HIP PROSTHESIS  
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LIABILITY LITIGATION**

Notice of Special Master Determination

Sara Wuchina

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:

The Special Master shall review Final Determinations only for an abuse of discretion by the Appellee, Claims Administrator.

By Order of the United States District Court, the Claims Administrator shall evaluate claims for EIF benefits according to the policies and procedures set forth in Claims Administrator Procedure ("CAP") 27.

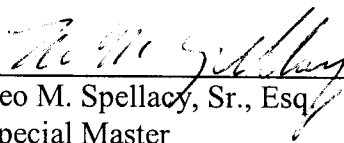
Section 1.1 (hhh) of the Settlement Agreement defines a Non-Affected Product Revision Surgery (NAPRS) as "a surgery (not indicated as a result of trauma) that was performed to remove and/or replace a product that is not an Affected Product...in respect of a hip or knee that previously underwent an Affected Product Revision Surgery." In accordance with the terms of the Settlement Agreement, the "manipulation of the knee under anesthesia" that occurred on December 3, 2001 does not qualify as a NAPRS and, therefore, Appellee did not abuse his discretion in denying that claim.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level III claim relating to the December 3, 2001 procedure is hereby AFFIRMED.

It is the Special Master's opinion that Appellant's Matrix Level IV, V and IX claims that formed the basis of this appeal will be resolved with Appellee's issuance of a revised Final Determination. In accordance with Section 4.6(f) of the Settlement Agreement, Appellant retains her right to appeal the revised Final Determination on those claims.

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 January 29, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 14, 2004  
Date

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