

**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:
Sara Wuchina*

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Civil Action No.: 01-CV-9000

ALL CASES

(MDL No. 1401)

Judge Kathleen M. O'Malley

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 December 23, 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 deny Appellant's claim for EIF Matrix Level III, IV and IX benefits.

The factual findings of this matter are as follows:

1. Appellant submitted multiple claims for EIF benefits.
2. Appellee issued a revised Final Determination that Appellant is eligible for Matrix Level III benefits for her surgery of October 16, 2001 and Matrix Level V benefits for a Permanent Nerve injury and scarring resulting in limited range of motion and a limp requiring the use of a cane.
3. Appellee issued Preliminary and Final Determinations that Appellant is not eligible for EIF Matrix Level III benefits for the December 3, 2001 procedure, or for Matrix Level IV and IX benefits.
4. The Special Master's Determination dated January 14, 2004 addresses Appellant's Matrix Level III claim for the December 3, 2001 procedure.

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Notice of Special Master Determination

Sara Wuchina

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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 Special Master Determination dated January 14, 2004 addresses Appellant's claim for EIF Matrix Level III benefits for the procedure that she underwent on December 3, 2001. In accordance with CAP 30 § 8, the Special Master's decision in regards to that claim is final, it may not be further contested or appealed, and it will not be addressed in this Determination

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.

Appellant seeks Matrix Level IV and IX benefits for injuries that resulted in a Permanent Injury for which she has been deemed eligible for EIF Matrix Level V benefits. Pursuant to the terms of the Settlement Agreement, she is not eligible for additional compensation for the injuries that form the basis of her Matrix Level V claim. Therefore, Appellee, Claims Administrator, did not abuse his discretion in denying her Matrix Level IV and IX claims.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level IV and IX claim is hereby AFFIRMED.

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:**

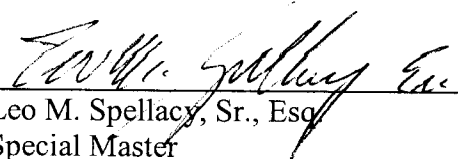
Leo M. Spellacy, Sr., Esq.
Special Master to the Sulzer Settlement Trust
c/o Liaison Counsel
1600 Midland Building
101 Prospect Avenue West
Cleveland, OH 44115

If no response is received (postmarked) by MAR 25 2004, then the Special Master's Decision is final and may not be further contested or appealed.

MAR 10 2004

Date

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