

**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>Daniel Yaggie</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Daniel Yaggie, by and through his attorney Alan M. Darnell, Esq. of the Law Firm Wilentz, Goldman & Spitzer (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated June 6, 2003 on Appellant’s claim for benefits from the Sulzer Settlement Trust.

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

The factual findings of this matter are as follows:

1. Appellant submitted an Orange Form seeking APRS benefits on October 17, 2002. The medical record included with that submission identifies the Sulzer acetabular shell that was implanted in Appellant as bearing Lot Number 1354662.
2. Lot Number 1354662 is not included in Annex I of the Settlement Agreement (the listing of Affected Product Lot Numbers).
3. On March 3, 2003 Appellee did issue a Preliminary Determination that Appellant was not eligible for APRS benefits because he had failed to prove implantation of an Affected Product.
4. In a letter dated March 17, 2003 Appellant contested the Preliminary Determination.
5. On June 6, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because he failed to prove implantation of an Affected Product.

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AND KNEE PROSTHESIS PRODUCT
LIABILITY LITIGATION**

Notice of Special Master Determination

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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 request for Affected Product Revision Surgery benefits.

While Appellant timely submitted the required Orange Form, he failed to provide the Lot Number of an Affected Product.

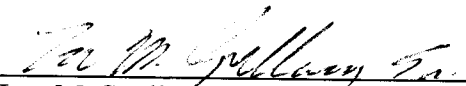
The Settlement Agreement requires Claimants to prove that they were implanted with an Affected Product.

The Lot Number of the acetabular shell implanted in Appellant is not an Affected Product pursuant to the Settlement Agreement, and Appellee is not authorized to approve Appellant's claim for Settlement benefits.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) is hereby AFFIRMED.

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 September 3, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

August 19, 2003
Date


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