

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

2005 JUN -0 10 9: 01

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

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Civil Action No.: 01-CV-9000

ALL CASES

*This document relates to:
Jack Young*

(MDL No. 1401)

Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Jack Young, by and through his attorney Philip S. Lott, Esq. of the Law Firm G. Eric Nielson & Associates ("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 benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted a claim for EIF Matrix Level III benefits.
2. Appellant seeks EIF benefits as a result of a Non-Affected Product Revision Surgery ("NAPRS") performed on November 25, 2002.
3. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF Matrix Level III benefits because the NAPRS was performed outside the time limits prescribed by the Settlement Agreement.

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Notice of Special Master Determination

Jack Young

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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 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 7(c) of CAP 27 and Annex IV of the Settlement Agreement state "Class Members who have undergone a Non-Affected Product Revision Surgery on or before the date that is one hundred and eighty (180) days after the date of an APRS" may be eligible for benefits under Matrix Level III, and "the Claims Administrator may, at his discretion, extend this compensable time period by 180 days where a Class Member's treating orthopedic surgeon causally relates (to a medical probability) the NAPRS to the APRS and/or to the original implantation of the Affected Product."

Appellant's APRS was performed on August 17, 2001. In accordance with the terms of the Settlement Agreement and CAP 27, in order to be eligible for EIF Matrix Level III benefits, the latest possible date for Appellant to have undergone an NAPRS would have been 360 days after his APRS, or August 12, 2002. It is not disputed that Appellant's NAPRS was performed on November 25, 2002, well after that deadline.

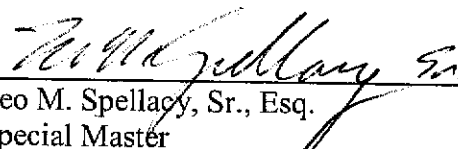
Appellee, Claims Administrator, does not have the authority to extend the EIF Matrix Level III deadline for undergoing an NAPRS past the 360 days prescribed by the Settlement Agreement and, therefore, did not abuse his discretion in denying Appellant's claim.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF Matrix Level III claim 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 January 23, 2004, then the Special Master's Decision is final and may not be further contested or appealed.

January 8, 2004
Date

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