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JUN 25 11:12:49
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND, OHIO

June 26, 2003

The Honorable Kathleen M. O'Malley
United States District Judge
Northern District of Ohio
Eastern Division
135 United States Courthouse
201 Superior Avenue, N.E.
Cleveland, Ohio 44114
Via Facsimile Filing & Federal Express

Re: In re: Inter-Op Hip Prosthesis Product Liability Litigation
MDL Docket N. 1401; Case No. 01:01-CV-9000

Dear Judge O'Malley:

I am in receipt of a copy of your Attorney Fee Awards Order and am filing this letter as requested by footnote 34 of your Order. As you are aware, our firm has been an active participant in the Sulzer State and Federal proceedings. In its June 12, 2003 order, this Court withheld an actual order of fees from this firm and requested a response as to whether any such firms were pursuing non-class cases that were in potential and/or actual conflict with the potential interests of the class members. This Court also stated that for any firm pursuing any such Non-affected cases, an explanation was required as to whether the theories of liability asserted in the pending non-affected cases were different from the defect claims identified in the global settlement.

Please be advised that this firm will no longer be pursuing any Non-affected product cases. This office has one remaining non-affected case (Hernandez) in which we have been given authority by the client to dismiss the action. We will be filing the dismissal with prejudice of the action with the venued court shortly. In all other non-recalled cases this firm initially handled, motions to withdraw as counsel have been granted, or the cases have been dismissed. As such, this firm will not be actively involved in the prosecution of any Non-affected cases, and therefore we do not believe that an actual or potential conflict exists. Further this firm has no intent to have any role in the future handling of any non-affected product cases, nor does this firm have any agreement or intent to share in any fees with respect to such cases.

With regard to the Hernandez case, we do not believe that we have done anything since the Fairness Hearing that is detrimental to the class. While this firm has informally attempted to resolve the one non-affected case via a settlement conference process that was to occur under the

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auspices of the California coordination court, Sulzer refused to offer any money on any of the California non-affected product cases. There has been no formal discovery or trial setting in this case which has recently been remanded to the home court. Further, at no time prior to this Court's June 12, 2003 order did anyone ever suggest that there may be an actual or potential conflict for our firm to handle the above single non-affected product case, and it is our belief that this firm's actions were consistent with it's obligations to the trust. Also, at no time has this firm or its members attempted to actively solicit for any additional non-affected products cases or any other case that might threaten the obligations of the trust to the current defined class.

In light of the fact that the Hernandez non-recalled case will be dismissed, it is respectfully requested that this Court issue an order withdrawing its previous order withholding the common benefit fees earned by this firm for the hours of approved common benefit work performed by this firm over the last several years. In summary, we believe that any potential conflicts of interest have been resolved, and hope that this letter fully addresses the concerns raised in your Order with regard to this firm. If Your Honor requires additional information, we will be happy to provide the further information to you.

Very truly yours,
ROBINSON, CALCAGNIE & ROBINSON

Mark P. Robinson, Jr.
Mark P. Robinson, Jr.

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