

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION
01 AUG 15 2001

In re: INTER-OP HIP PROSTHESES AND MDL DOCKET NO. 01-CV-9000
LIABILITY LITIGATION : (ALL CASES)

JUDGE KATHLEEN O'MALLEY

This Document Relates To All Cases

**PLAINTIFFS' MOTION FOR ORDER CONDITIONALLY CERTIFYING
A RULE 23(b)(2) and (b)(3) CLASS ACTION, PRELIMINARILY APPROVING
SETTLEMENT AND ENJOINING ALL INTER-OP™
HIP PROSTHESES LITIGATION**

Plaintiffs' Interim Lead Counsel (and other proposed Class Counsel), on behalf of all citizens or residents of the United States in whom Inter-Op™ Acetabular shells ("Inter-Op™ Shells") identified in Sulzer Orthopedics Inc's Safety Alert dated December 5, 2000, ("Affected Inter-Op™ Shells") were implanted, hereby move the Court for the entry of an Order: (i) conditionally certifying a Rule 23(b)(2) and (b)(3) class action against Sulzer Medica Ltd., Sulzer Orthopedics Inc. and affiliated entities (collectively "Sulzer"); (ii) preliminarily approving settlement of this class action, and (iii) enjoining all Inter-Op™ Shell litigation. Defendants in their motion for conditional class certification and preliminary approval of the settlement will also be requesting approval of a form of individual notice and a summary notice for publication describing the terms of the settlement and the rights of class members and scheduling a fairness hearing for the Court to consider the settlement.

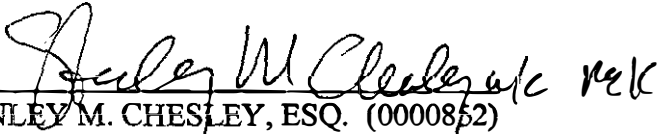
Plaintiffs in support of their motion submit the affidavit of Harvey Rosen, Ph.D. (the "Rosen

Affidavit”), who was retained to investigate the nature, extent and availability of financial resources of Sulzer, and his conclusion that the proposed settlement and equitable distribution of available funds to class members is a fair and superior alternative to the potential exhaustion of these assets in continued litigation, and to the risk that defense costs, individual settlements and/or a few potential judgments would exhaust available assets before other claimants have had an opportunity to be heard.

The Rosen affidavit and accompanying memorandum which are submitted in support of this motion demonstrate that based upon an analysis of the facts underlying the theories of liability asserted against Sulzer and affiliate companies, the law applicable to those theories of liability, judgment enforcement and jurisdictional issues, the results of discovery and related settlement negotiations in this litigation, that the proposed resolution of all claims made against Sulzer is the most likely means of providing a substantial benefit to class members, that is fair, reasonable, and adequate, and is in the best interest of the class members as a whole.

Dated: August 15, 2001

Respectfully submitted,


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CERTIFICATE OF SERVICE

A copy of the foregoing has been mailed via regular U.S. Mail on this 15th day of August, 2001; sent electronically via email and sent via facsimile on this 15th day of August, 2001, to all counsel identified and attached to "Plaintiffs' Amended and Consolidated Class Action Complaint."


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