



was not accepted as an affected implant recipient. With no response forthcoming, Claimant again sent a letter to the Claims Administrator seeking clarification. Finally, the Claims Administrator issued a Notice of Final Determination dated May 19, 2003, rejecting the Claimant's application for benefits as an affected revision Claimant. [See attached exhibits A, B and C].

1. On July 11, 2001, Mrs. Bryant was required, pursuant to the strong recommendation of her orthopaedic surgeon, to undergo the revision of the Sulzer Interop Prosthetic implant that had been placed in her on November 10, 1999. Review of record reveal that Mrs. Bryant had suffered the classic symptoms now clearly associated with the loosening of the implant shell. Her surgeon, Dr. David Griffin, is a long time physician who is under contract with Sulzer for the use and implantation of its hip and knee implants.

2. Dr. David Griffin recently supplied a report to the undersigned counsel setting forth the reasons why he decided to perform a second surgery upon Mrs. Bryant. Dr. Griffin stated that he had received the notification for Sulzer that expressly identified her hip implant as one of the defective implants affected with the oil contaminants. As a direct result, Dr. Griffin called the Claimant and advised her that her implant was defective and that she needed surgery again. [See attached exhibit D].

3. Mrs. Bryant is of an advanced age and is medically frail. Accordingly, the recommendation for another major surgery caused great alarm and consternation, but she proceeded on the advice of her treating surgeon, believing that her surgery was medically necessary because of the surgeon's statements and because of the letter sent by Sulzer notifying that her implant was defective.

4. Dr. Griffin discovered, only after opening Mrs. Bryant back up again and exposing her hip implant that the shell did not indicate looseness, despite the fact that her complaints were

consistent with the same. Dr. Griffin then decided to replace the ball segment of her implant mechanism and closed the surgical site. Mrs. Bryant has endured an arduous, slow and painful recovery due to her advanced age. The multiple traumatic insults to her body have taken a sever toll.

5. Claimant appeals the Final Determination of the Claims Administrator as being unfairly restrictive, inequitable and an unrealistic interpretation of the Settlement Agreement that adversely impacts the interests of Mrs. Bryant.

6. Mrs. Bryant at all times was under the justifiable belief that she suffered a defective implant that was causing her intractable pain and life altering limitations. As indicated in the report authored by Dr. Griffin, **but for the fact** that Sulzer sent him its Notice alerting him to the fact that Mrs. Bryant had one of the defective implants, he would not have made the decision to have her undergo a second traumatic major surgery. Mrs. Bryant is not a medical doctor and has no medical knowledge or training. Mrs. Bryant trusted and believed in her surgeon and entrusted her life and safety into his hands and had the second surgery recommended.

7. Long after that event, this settlement agreement was created. It drafted a definition of an affected revision that deprives Mrs. Bryant of just compensation for her injury, her pain, her suffering and the incredibly adverse impact this surgery and poor recovery has had upon the remaining few years of her life.

8. Mrs. Bryant went through a revision surgery. The surgery removed a portion of the defective implant. As indicated in her operative report, the doctor would have removed all of the implant but for the unacceptable risk it posed to his patient in tearing her hip socket and potentially worsening her physical condition.

9. At all times until the notice of denial sent by the Claims Administrator, the Claimant had believed that she had undergone a complete removal of the defective hip implant. The medical

records themselves are captioned as a revision surgery. The surgeon signed a affidavit indicating that it was a revision surgery not necessitated by a traumatic event. To “split hairs” in her case because the implant was not completely removed undermines the very reason that this settlement was enacted; as a means of compensating those who has been injured by the tortious conduct of the manufacturer. A thousand dollar benefit - when compared to what this poor woman has gone through - is a slap in the face.

10. It is clear by the records of this case that Mrs. Bryant was not attempting to maximize her potential recovery in this case by getting a surgery that she did not need. The settlement was not in existence at the time she had surgery. She is too old to risk the adverse risks of a major surgery to take such odds lightly. Her complaints were consistent and chronic and medically warranted the surgery - when taken in context of the Sulzer Notice of Defective Implants and the known Symptomology of the failures. To retroactively penalize her now is simply grossly unfair.

**CERTIFICATE OF SERVICE**

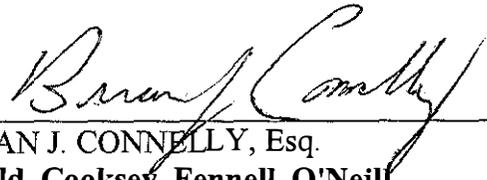
I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via First Class U.S. Mail to liaison counsel named below, as well as to Claims Administrator, Sulzer Settlement Trust, P.O. Box 94558, Cleveland, Ohio 44101- 4558, this 19 day of June, 2002

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