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CHAMBERS OF JUDGE O'MALLEY

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June 16, 2003

Via Certified US Mail and Fax (216)357-7246

Judge Kathleen M. O'Malley
United States District Court – Northern District of Ohio
201 Superior Avenue
Cleveland, OH 44114-1201

Re: Sulzer Hip Prosthesis and Knee Prosthesis Liability Litigation
Case No. 1:01 CV 9000

Dear Judge O'Malley:

I am writing in response to the Court's request for a formal explanation concerning my application for common benefit fees and continued representation of eleven individuals who are not part of the Class settlement but were implanted with a Centerpulse/Sulzer product. Initially, let me point out to the Court that Fleming & Associates, L.L.P., nor I have any lawsuits pending against Centerpulse/Sulzer on behalf of these eleven individuals or anyone else for that matter. The simple reason I am continuing to attempt to resolve these claims is because these individuals were initially included in the group of implanted individuals whose shells were part of the voluntary recall by Sulzer, but ultimately, were left off of the Class settlement's specific list of lot numbers included in the Class.

Attached, the Court will find a print out from the Sulzer web site dated January 11, 2001. (Exhibit 1). The significance of this is that it includes a listing of products in the initial recall. As the Court will note from Exhibit 1, the listing of lot numbers is inclusive and does not exclude specific lot numbers as the final settlement agreement did. Therefore, when these clients contacted us for representation, they were signed as clients because their implants were part of the initially recalled group of implants.

Also attached is a letter I sent to Centerpulse/Sulzer on March 7, 2003. (Exhibit 2) Each of these eleven individuals has a Lot Number that was included in the initial recall, but under the final settlement, these individuals' shells were excluded from the Class.

The Court should also note from my March 7, 2003, correspondence two additional points. One, my demand to Centerpulse/Sulzer on behalf of these individuals is for the same amount they could have recovered under the Class settlement. This is because my position is and has been that the amended settlement provides fair compensation. And two, I have not filed a lawsuit against Centerpulse/Sulzer on behalf of these individuals but have attempted to resolve

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their claims directly with Centerpulse/Sulzer. If I am unable to resolve these claims in this manner, I will be recommending to these individuals that they contact another attorney to continue the pursuit of their claims, and will not be filing lawsuits on their behalf.

I hope this explanation of my continued representation of individuals with Sulzer implants outside of the Class adequately answers the Court's concerns. I believe that for the reasons stated in my common benefit fee application, I provided a valuable benefit to the Class that should be compensated. Because I have not filed any lawsuits against Centerpulse/Sulzer and because I am asking for the same benefit for these eleven individuals that they would have received through the Class, I do not think my continued representation of these individuals is a conflict of interest with the Class. I therefore request that the Court release my award of common benefit fees.

Very truly yours,



Andres C. Pereira

Enclosure