

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: INTER-OP HIP PROSTHESIS
PRODUCT LIABILITY LITIGATION

: Case No. 1:01-CV-9000
:
: (MDL Docket No. 1401)
:
: JUDGE O'MALLEY
:
: MEMORANDUM AND ORDER
:

On March 13, 2002, this Court granted preliminary approval to a proposed Settlement Agreement in this national class action lawsuit. The Court then scheduled a “final fairness hearing” to begin on May 6, 2002, to take evidence regarding the proposed Settlement Agreement negotiated between counsel for the Plaintiff Class and counsel for the Sulzer Defendants (collectively, the “Settling Parties”).

Subsequently, the Settling Parties agreed to amend the proposed Settlement Agreement, primarily for the purpose of correcting minor drafting mistakes, clarifying ambiguous language, and to more perfectly and fully reflect the agreement between the parties.¹ Accordingly, the Settling Parties have filed four motions to amend the Settlement Agreement (docket nos. 314, 322, 329, & 338). The Court has reviewed the agreed-upon amendments and finds they are appropriate. Accordingly, these four motions to amend are all **GRANTED**.

Before and during the final fairness hearing, a number of interested parties filed objections and/or

¹ Because none of these four amendments materially alter the Settlement Agreement as preliminarily approved by the Court on March 13, 2002, the Court’s preliminary approval analysis remains valid and unchanged.

motions to intervene for the purpose of asserting objections and/or preserving their appellate rights. The Court granted a number of the motions to intervene. Apparently, however, many of the putative intervenors and objectors had an incomplete or incorrect understanding of the Settlement Agreement. After speaking with Plaintiffs' Class counsel, and reviewing the Settlement Agreement and the four amendments, the vast majority of the objectors withdrew their objections.² Similarly, virtually all of those putative intervenors who still had pending intervention motions withdrew them.

The Court now rules that all those persons whom it allowed to intervene to file objections, but who later withdrew their objections, no longer have (or need) the status of intervenors in this action. Accordingly, all persons who filed motions to intervene to file objections but later withdrew their objections are **STRICKEN** as parties-intervenors.³ Furthermore, the following motions to intervene, filed by persons who have since notified the Court they have withdrawn their objections, are **DENIED AS MOOT**: docket nos. 245, 277, and 330.

IT IS SO ORDERED.

s/Kathleen M. O'Malley _____
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

² The evidence was uncontroverted, and the Court finds, that none of the objectors received anything in exchange for withdrawing their objections.

³ These intervenors include, but are not limited to, persons who filed the following motions to intervene: docket nos. 122, 278, 279, 280, 281, 282, 283, and 284. If any of these parties believe they should retain the status of intervenors, and can show good cause therefor, they may move the Court for an Order restoring them as intervenors.