

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

2004 JAN 21 AM 11:28

IN RE: SULZER HIP PROSTHESIS  
AND KNEE PROSTHESIS PRODUCT  
LIABILITY LITIGATION

Civil Action No.: 01-CV-9000

ALL CASES

*This document relates to:  
Roseann K. Armstrong*

(MDL No. 1401)

Judge Kathleen M. O'Malley

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Roseann K. Armstrong, by and through her attorney Elizabeth P. Kagan, Esq. ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated August 14, 2003 on Appellant's claim for benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contends that Appellee erred in his decision to award a net benefit amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an untimely Orange Form seeking APRS benefits on March 12, 2003.
2. Appellee did issue a Preliminary Determination that Appellant was not eligible for APRS benefits because her claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. Appellant did contest the Preliminary Determination.
4. On August 14, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because she did not file her claim prior to the deadline.

**IN RE: SULZER HIP PROSTHESIS  
AND KNEE PROSTHESIS PRODUCT  
LIABILITY LITIGATION**

Notice of Special Master Determination

Roseann K. Armstrong

Page 2 of 2

After a thorough review of the appeal submitted by the Appellant and the response submitted by the Appellee, the Special Master finds as follows:

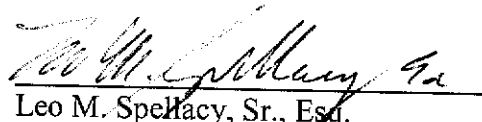
Appellant's appeal raises a serious question concerning the information claimant possessed regarding the filing deadlines.

Pursuant to CAP 29 § 4(a), the facts outlined by Appellant satisfy the excusable neglect standard. The deadline to apply for benefits had passed prior to Appellant's call to request a packet of informational material regarding the Settlement.

This matter is remanded back to Appellee for reconsideration of Appellant's request for APRS benefits.

January 21, 2004

Date

  
Leo M. Spellacy, Sr., Esq.  
Special Master