

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2003 JUL 24 PM 2:55
DISTRICT OF OHIO
CLEVELAND

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

Civil Action No.: 01-CV-9000

ALL CASES

This document relates to:)
Raymond Aufdenkampe)
Claim Number:)
Dorothy Aufdenkampe)
Claim Number:)

(MDL No. 1401)

Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Members Raymond Aufdenkampe and his spouse Dorothy Aufdenkampe, by and through their attorney, Chafica A. Singha, Esq. of the Law Firm Alley & Ingram ("Appellants"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated May 19, 2003 on Appellants' claims for benefits from the Sulzer Settlement Trust.

Appellants appealed the decision of the Appellee, and contend that Appellee erred in his decision to award Settlement benefits in the amount of Zero Dollars (\$0.00) to Appellants.

The factual findings of this matter are as follows:

1. Appellants submitted an untimely Blue Form seeking Unrevised APR benefits and an untimely Yellow Form seeking Derivative Claimant benefits on January 3, 2003.
2. On February 20, 2003 Appellee issued Preliminary Determinations that Appellants were not eligible for Settlement benefits because their claims had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. Appellants submitted a letter dated April 3, 2003 contesting the Preliminary Determinations.
4. On May 19, 2003 Appellee issued Final Determinations that Appellants were not eligible for Settlement benefits because their claims were not filed before the deadline.
5. Appellants have not submitted any evidence demonstrating that their failure to submit timely claim forms was caused by circumstances giving rise to a permissible extension of time under CAP 29.

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Notice of Special Master Determination

Raymond Aufdenkampe

Claim Number:

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

The Appellee, Claims Administrator, did not abuse his discretion in denying Appellants' request for Unrevised APR benefits and Derivative Claimant benefits.

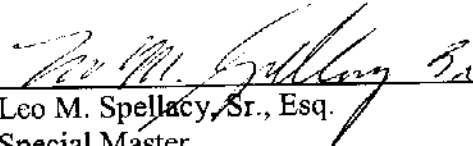
In order to qualify for benefits, Claimants must submit the appropriate claim forms within the times prescribed in the Settlement Agreement. Appellants were required to submit their claim forms on or before September 5, 2002. Their submission on January 3, 2003 was untimely.

Appellants' untimely submission is barred by the plain language of the Settlement Agreement. Their attorney's failure to properly calendar Appellants' file does not rise to the level of excusable neglect, and is an insufficient basis for an extension of time.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) is hereby AFFIRMED.

Appellants and Appellee have fifteen days from the date of this decision to file with the Court, for the Special Master's review, a fact or principle they believe the Special Master did not consider in rendering a decision. If no response is received by August 8, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 24, 2003
Date


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