

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

2008 JUL 11 PM 1:44

NORTHERN DISTRICT OF OHIO  
CLEVELAND

<b>IN RE: SULZER HIP PROSTHESIS</b>	)	<b>Civil Action No.: 01-CV-9000</b>
<b>AND KNEE PROSTHESIS PRODUCT</b>	)	
<b>LIABILITY LITIGATION</b>	)	<b>ALL CASES</b>
	)	
<i>This document relates to:</i>	)	<b>(MDL No. 1401)</b>
<i>Mary E. Bell</i>	)	
<i>Claim Number:</i>	)	<b>Judge Kathleen M. O'Malley</b>

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Mary E. Bell, by and through her attorney Heather A. Foster, Esq. of the Law Firm Lieff, Cabraser, Heimann & Bernstein ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated April 10, 2003 on Appellant's claim for Attorney Fee benefits from the Sulzer Settlement Trust.

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

The factual findings of this matter are as follows:

1. Appellant submitted a Yellow Form seeking Derivative Claimant benefits on July 26, 2002. Her claim did not include a copy of a contingency fee contract with her counsel.
2. On November 6, 2002 Appellee issued a Preliminary Determination denying claimant Attorney Fee benefits because she had not submitted a valid contingency fee contract.
3. The timeframe for contesting Appellant's Preliminary Determination expired on December 21, 2002.
4. Appellee did receive, after the deadline for contesting her Preliminary Determination had passed, a sworn declaration which provided the date upon which Appellant entered into an attorney-client relationship with her attorney.
5. On April 10, 2003 Appellee issued a Final Determination that Appellant is not eligible for Attorney Fee benefits because she had not submitted a copy of a contingency fee contract before the deadline.

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

Notice of Special Master Determination

Mary E. Bell

Claim Number:

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

Appellee did not abuse his discretion in denying Appellant's request for Attorney Fee benefits.

The Settlement Agreement has specific provisions detailing what must be provided with Claim Forms, and when additional information is to be submitted contesting a Preliminary Determination by the Appellee.

In order to be eligible for Attorney Fee benefits, Appellant was required to submit a copy of a contingency fee contract with her Yellow Form. She failed to do so and on November 6, 2002 Appellee issued a Preliminary Determination denying her request for Attorney Fee benefits. Appellant had forty-five (45) days to contest this determination but did not provide the requisite information until January 1, 2003.

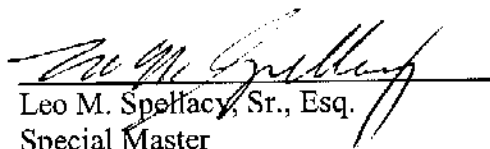
Appellee is required to follow the explicit terms of the Settlement Agreement and failure to file the information within the 45 days (by December 21, 2002) prohibits the awarding of the requested Attorney Fee benefits.

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

Appellant 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 July 28, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 11, 2003

Date

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