

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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

NOTICE OF SPECIAL MASTER DETERMINATION

Class Members Evelyn Bradley and her spouse Jack Bradley, by and through their attorney Bradley R. Bowles, Esq. of the Law Firm Bowles & Verna ("Appellants), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated May 19, 2003 on Appellants' claim for benefits from the Sulzer Settlement Trust.

Appellants appealed the decision of the Appellee, and contend that Appellee erred in his decision to award a net benefit 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 October 3, 2002.
2. On January 10, 2003 Appellee did issue 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. On January 17, 2003 Appellants submitted a letter contesting the Preliminary Determinations.
4. On May 19, 2003 Appellee issued Final Determinations that Appellants were not eligible for Settlement benefits because they did not file their claims before the deadline.

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

Notice of Special Master Determination

Evelyn Bradley / Claim Number: 5001001001

Jack Bradley / Claim Number: :

Page 2 of 2

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

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

Because Appellant Jack Bradley seeks Derivative Claimant benefits based upon the claim for Settlement benefits of his associated APR, Evelyn Bradley, their appeals have been consolidated for purposes of the Special Master's Determination.

Settlement Agreement §4.1(a) provides that Class Members seeking Unrevised APR benefits must file a Blue Form within 120 days of the Trial Court Approval, i.e., September 5, 2002.

Appellants concede that they did not file their claim forms until October 3, 2002. Their assertion that they thought Evelyn Bradley was to undergo an Affected Product Revision Surgery and that they would then have 180 days from that surgery to file their Claim Forms does not excuse the late filing.

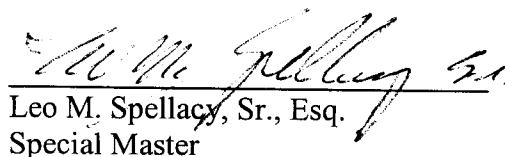
Settlement Agreement §3.6(a) provides that an Unrevised APR award does not bar a subsequent APRS award. The Settlement Agreement specifically provides for the filing of an Unrevised APR claim and an opportunity to later file for APRS benefits. Appellant did not avail herself of this opportunity and her allegations do not form a basis for an extension of time.

The Derivative Claim is dependent on the determination of the associated APR and is also untimely.

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 ~~September 3, 2003~~, then the Special Master's Decision is final and may not be further contested or appealed.

~~August 19, 2003~~
Date


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