

SULZER SETTLEMENT TRUST CLAIMS ADMINISTRATOR PROCEDURE			
CAP No.	29	EFFECTIVE DATE	MARCH 14, 2003
SUBJECT	Extensions from Claim Processing and Submission Deadlines for Class Members		

1. **Purpose.** Articles 3 and 4 of the Settlement Agreement prescribe certain deadlines by which Class Members must submit Claims for Settlement benefits. Some Class Members may, by reason of inadvertence, excusable neglect, newly discovered evidence, or fraud, be unable to meet a deadline. This Claims Administrator Procedure ("CAP") clarifies the circumstances and procedure under which the Claims Administrator may grant an extension of time for the submission of a Claim or other document required by the Settlement Agreement. Capitalized terms not otherwise defined in this Claims Administrator Procedure ("CAP") shall have the meaning given them in the Settlement Agreement.

2. **CAP Does Not Affect Deadlines for Accrual of Qualifying Injury.** This CAP shall not be construed to permit the Claims Administrator to extend the date by which any injury, otherwise compensable by the terms of the Settlement Agreement, may occur. By way of example, Section 3.4(b) of the Settlement Agreement permits certain Class Members implanted with an Inter-Op Shell to make a Claim for APRS Fund benefits if they undergo a revision surgery by June 5, 2003. This CAP shall not be construed to permit the Claims Administrator to modify the date of injury accrual prescribed by the Settlement Agreement, except insofar as the Settlement Agreement specifically vests the Claims Administrator with such discretion. See e.g., Settlement Agreement Annex IV, footnote 1 ("The Claims Administrator may, [under certain circumstances] at his/her discretion, extend this compensable time period by 180 days.")

3. **Claims Administrator May Extend Deadline for Submission of a Claim or Other Required Document.** Subject to the limitations of this CAP, the Claims Administrator may grant a Class Member an extension of time in which to submit a Claim or other document required by the Settlement Agreement or applicable CAP. Such extension may be granted *nunc pro tunc* even if the date by which the submission was originally required has passed.

4. **Circumstances Giving Rise to a Permissible Extension of Time.** If a Class Member is unable, or was unable, to submit a Claim for Settlement benefits in the amount of time permitted by the Settlement Agreement or applicable CAP, the Claims Administrator may grant an extension of time if the failure to timely submit was related to:

- a. mistake, inadvertence, surprise, or excusable neglect;
- b. newly discovered evidence which by due diligence could not have been discovered in time to make a timely submission; or
- c. fraud, misrepresentation, or other misconduct of some party other than the Class Member or his or her counsel.

5. *Certain Circumstances Not Permissible Basis for Extension of Time.* The Claims Administrator shall not grant an extension of time for the submission of a Claim or other required document where the Class Member's reason for requesting an extension is:

- a. the Class Member and/or his or her attorney were unaware of a deadline that was clearly articulated in the Settlement Agreement or CAP promulgated 30 days or more before the date by which the Class Member was required to make the submission for which he or she seeks an extension of time;
- b. the Class Member and/or his or her attorney was aware of how the Settlement Agreement or CAP in question prescribes a deadline should be calculated, but miscalculated by arithmetic or other error what the deadline was;
- c. the Class Member and/or his or her attorney allege that he or she did not receive adequate notice of the Settlement Agreement at or before the time the Settlement Agreement received Trial Court Approval or Final Judicial Approval;
- d. the Class Member alleges that he or she was relying on the advice and/or conduct of his or her chosen attorney to make a timely submission, and such attorney did not, and such omission or late submission by the attorney is not otherwise excused pursuant to this CAP.

6. *Certain Circumstances May Be Permissible Basis for Extension of Time.* The Claims Administrator may, in the exercise of his discretion, grant an extension of time, pursuant to Paragraphs 3 and 4 of this CAP, if a Class Member can satisfactorily allege and prove, by affidavit, or other extrinsic evidence, one or more of the following circumstances:

- a. The Class Member and/or his or her attorney were physically incapable, by reason of disease or physical condition, of performing the tasks necessary to timely make a submission and the Class Member and/or his or her attorney made the required submission as soon as physical circumstances permitted;
- b. The Class Member is a person protected by the Soldiers and Sailors Relief Act, 50 U.S.C. §§ 501 *et seq.*, from the prejudicial operation of deadlines during a qualifying time of service and makes a submission in a timely manner provided by that Act;
- c. The Class Member and/or his attorney were materially misled by some person in a position of authority upon whom he or she reasonably relied in believing that a submission was timely when in fact it was not.

7. *Claims Administrator's Considerations When Considering Extension of Time for Excusable Neglect.* When considering whether to grant an extension of time pursuant to this CAP, the Claims Administrator shall consider:

- a. the danger of prejudice to any Party or to the Sulzer Settlement Trust in granting the extension;
- b. the length of the delay caused by the untimely submission and its effect on Claims administration and/or the Sulzer Settlement Trust;
- c. the reason for the neglect, if any, including whether such neglects was in the reasonable control of the Class Member requesting an extension of time; and
- d. whether the Class Member acted in good faith.

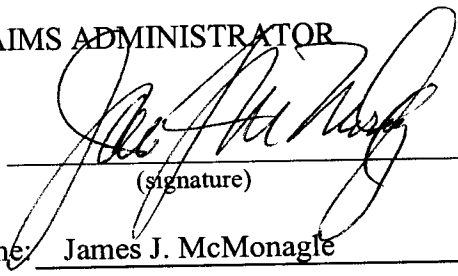
8. *Claims Administrator's Discretion.* The reasons listed in Paragraphs 5 and 6 of this CAP for denial and consideration of a request for an extension of time are not exhaustive and the Claims Administrator may refuse or grant a request for extension of time for reasons not enumerated in those Paragraphs. The decision to grant or deny an extension of time, pursuant to this CAP, rests in the discretion of the Claims Administrator.

9. *Procedure for Requesting Extension of Time Pursuant to this CAP.* A Class Member who seeks an extension of time pursuant to this CAP shall submit a written request for such extension to the Claims Administrator at P.O. Box 94558, Cleveland, Ohio 44101-4558 by the later of 60 days of the Effective Date this CAP or 60 days from the day the Class Member learns that he or she has, or will, failed to meet a deadline prescribed by the Settlement Agreement or applicable CAP. The request shall include a statement explaining the lateness of the submission and the date on which the Class Member discovered the submission was, or would be, late.

10. *Duration of this CAP.* This CAP shall be effective from the Effective Date stated above and shall terminate upon the earlier of: (i) cancellation or modification of this CAP by the Claims Administrator, or (ii) an order of the Court canceling or modifying the terms of this CAP.

APPROVED:

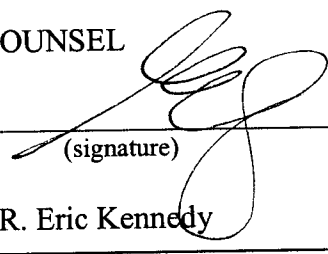
CLAIMS ADMINISTRATOR

By: 
(signature)

Name: James J. McMonagle

Date: 3-14-03

CLASS COUNSEL

By: 
(signature)

Name: R. Eric Kennedy

Date: 3-13-03