

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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

Civil Action No.: 01-CV-9000

ALL CASES

This document relates to:
Sylvia A. Cleghorn
Claim Number:

(MDL No. 1401)

Judge Kathleen M. O'Malley

FILED
2003 JUL -8 AM 10:47
NORTHERN DISTRICT OF OHIO
CLEVELAND

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Sylvia A. Cleghorn ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated April 30, 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 Settlement benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an untimely Yellow Form seeking Derivative Claimant benefits on November 11, 2002.
2. On December 11, 2002 Appellee issued a Preliminary Determination that Appellant was not eligible for Derivative Claimant benefits because her claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. Appellant submitted a letter dated January 14, 2003 contesting the Preliminary Determination.
4. On April 30, 2003 Appellee issued a Final Determination that Appellant was not eligible for Settlement benefits because her claim was not filed before the deadline.
5. Appellant has not submitted any evidence demonstrating that her failure to submit a timely claim form was caused by circumstances giving rise to a permissible extension of time under CAP 29.

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Notice of Special Master Determination

Sylvia A. Cleghorn

Claim Number: 1

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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 Derivative Claimant benefits.

Appellant acknowledges that she was untimely in filing the Yellow Form and seeks to excuse this failure on the "uncooperativeness" of her husband during the divorce proceedings, the inability of her divorce attorney, and her own misunderstanding of the Settlement Agreement.

Appellee is obligated to follow the terms of the Settlement Agreement, which allows him to grant an extension of time for reasons related to surprise, inadvertence, or excusable neglect.

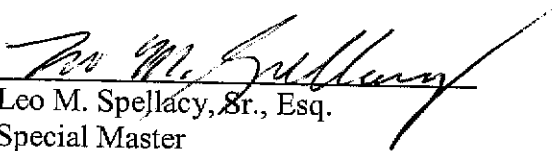
Appellant does not contend that any of those circumstances made her unaware of the deadline, or that she was unable to make a claim as a result of the circumstances.

Appellant has not demonstrated excusable neglect sufficient to grant an extension of the filing deadline.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) 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 23, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 8, 2003
Date


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