

**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>Robert Clements</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley
)	

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Robert Clements, by and through his attorney Chafica A. Singha, Esq. of the Law Firm Alley & Ingram (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated June 27, 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 a net benefit amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant submitted an untimely Blue Form seeking Unrevised APR benefits on December 12, 2002.
2. On February 20, 2003 Appellee did issue a Preliminary Determination that Appellant was not eligible for Settlement benefits because his claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. On April 7, 2003 Appellant submitted a letter contesting his Preliminary Determination. In support of his contest, Appellant also submitted an affidavit from his attorney describing the circumstances surrounding his untimely submission.
4. On June 27, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because his claim was not filed before the deadline.
5. Appellant has not submitted any evidence that demonstrates his 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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LIABILITY LITIGATION**

Notice of Special Master Determination

Robert Clements

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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:

The Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's claim for Unrevised APR benefits.

It is agreed that counsel for the Appellant filed the required Blue Form on December 12, 2002. The deadline for submission of a Blue Form was September 5, 2002.

Appellant seeks to excuse the untimely filing because his attorney was awaiting a signed contract from the referring attorney.

Appellee is required to follow the deadlines set forth in the Settlement Agreement unless the late submission is excused due to circumstances delineated in CAP 29.

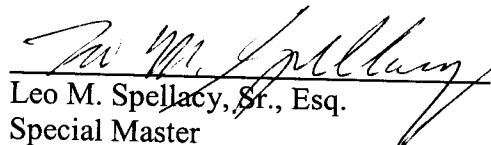
Cap 29 (paragraph 5) prevents Appellee from extending the deadline where the reason for the extension was attorney error.

Having offered no other reason for the untimely filing, 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 September 26, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 11, 2003

Date


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