

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:

(MDL No. 1401)

Wanda Cottom

Claim Number:

Judge Kathleen M. O'Malley

Earl Cottom

Claim Number:

NOTICE OF SPECIAL MASTER DETERMINATION

Class Members Wanda Cottom and her spouse, Earl Cottom, by and through their attorney Federico Catselan Sayre, Esq. ("Appellants"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated April 1, 2003 on Appellant's claim for benefits from the Sulzer Settlement Trust.

Appellants timely appealed the decision of the Appellee, and contend that Appellee erred in its 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 28, 2002, along with a letter from Attorney Gomez of the Law Offices of Federico Catselan Sayre indicating that he was aware that the deadline for submitting Blue Forms was September 5, 2002.
2. On December 10, 2002 Appellee issued Preliminary Determinations that Appellants were not eligible for Unrevised APR and Derivative Claimant benefits because the claims had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. On December 18, 2002 Appellants submitted a letter contesting the Preliminary Determinations.
4. On April 1, 2003 Appellee issued Final Determinations that Appellants are not eligible for Settlement benefits because their claims were not filed before the deadline.
5. Appellants have not submitted any evidence that demonstrates that their failure to submit timely claim forms was caused by circumstances giving rise to a permissible extension of time under CAP 29.

FILED
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CLEVELAND OHIO

**IN RE: SULZER HIP PROSTHESIS
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Notice of Special Master Determination

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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 did not abuse his discretion in denying Appellant's request for Unrevised APR benefits and Derivative Claim benefits.

The Claims Administrator is obligated to follow the terms of the Settlement Agreement. Appellants do not deny that their claim forms were filed untimely, but contend they were prevented from filing them within the deadline because of incomplete medical records.

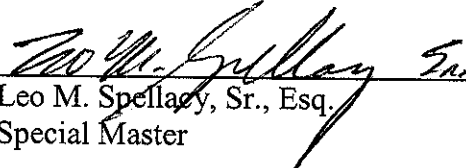
Section 4.6(a) of the Settlement Agreement explicitly allows Appellants to submit a Blue Form with incomplete medical records and the Settlement Agreement has extensive provisions for supplementing deficient claims.

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 submit to the Court a fact or principle they believe the Special Master did not consider in rendering a decision. If no response is received by June 25, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

June 10, 2003

Date


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