

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

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

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Vicki Crow, by and through her attorney Donna J. Bowen, Esq. of the Law Firm Slack & Davis (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated February 13, 2004 on Appellant’s claim for Extraordinary Injury Fund (“EIF”) benefits from the Sulzer Settlement Trust.

Section 4.6(f) of the Settlement Agreement states “Within thirty (30) days after the date of the Claims Administrator’s Final Determination, the applicable Affected Product Recipient may appeal the Final Determination by filing a notice with the Federal District Court and serving a copy on the Claims Administrator.”

Appellant was issued a Final Determination regarding her EIF claim on February 13, 2004. In accordance with the terms of the Settlement Agreement, her Notice of Appeal was required to be filed within 30 days of the date of the Final Determination, or March 15, 2004. Her Notice of Appeal was received by the Special Master on June 8, 2004, almost three months after the deadline.

Appellant requests that her appeal be considered timely because the delay in filing the appeal “is wholly the result of inadvertent mistake, which was made in good faith, on the part of Claimant’s attorney.”

However, counsel does not provide a reasonable explanation for her failure to follow the clear and unambiguous requirements of the Settlement Agreement and CAP 30 in filing a timely appeal for her client.

CAP 29 § 5(d) prohibits the granting of an extension of time due to a Class Member’s reliance on their attorney.

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

Notice of Special Master Determination

Vicki Crow

Page 2 of 2

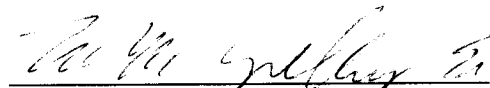
CAP 29 follows the law and imputes the negligence of the attorney to the Appellant. To hold otherwise would create a situation wherein the attorney would be protected for his or her negligence.

Appellant's request for an extension of time in which to file an appeal is DENIED and Appellant's appeal is hereby DISMISSED.

Appellee's Final Determinations regarding Appellant's claim for EIF benefits is final and may not be further contested or appealed.

**JUN 21 2004**

Date

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