

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

2003 JUN 10 AM 11:52  
RECEIVED

**IN RE: SULZER HIP PROSTHESIS** ) **Civil Action No.: 01-CV-9000**  
**AND KNEE PROSTHESIS PRODUCT** )  
**LIABILITY LITIGATION** ) **ALL CASES**  
)  
*This document relates to:* ) **(MDL No. 1401)**  
*Robert K. Davis* )  
*Claim Number:* ) **Judge Kathleen M. O'Malley**

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Robert K. Davis, by and through his attorney Chafica A. Singha, Esq. ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated March 3, 2003 on Appellant's claim for benefits from the Sulzer Settlement Trust.

Appellant timely appealed the decision of the Appellee, and contends that Appellee erred in its 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 October 9, 2002.
2. In support of his claim, Appellant submitted with his claim form an affidavit of Attorney Chafica A. Singha describing the efforts she made to obtain the medical records required to render Appellant's claim form complete.
3. The Affidavit of Chafica A. Singha indicates that Appellant knew he was an Affected Product Recipient and had decided to pursue a claim for benefits from the Sulzer Settlement Trust before the September 5, 002 deadline for submitting a claim for Unrevised APR benefits.
4. On November 12, 2002 Appellee did issue a Preliminary Determination that Appellant was not eligible for Unrevised APR benefits because the claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
5. On December 17, 2002 Appellant submitted a letter contesting the Preliminary Determination and attached to that letter was a copy of the Affidavit of Chafica A. Singha that had been included with the original submission.
6. On March 3, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because he did not file his claim before the deadline.
7. Appellant has not submitted any evidence that demonstrates that his failure to submit a timely claim form was caused by circumstances giving rise to a permissible extension of time under CAP 29.

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

Notice of Special Master Determination

Robert K. Davis

Claim Number:

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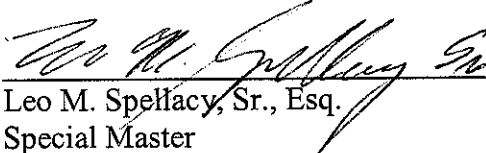
After a thorough review of the appeal submitted by the Appellant and the response submitted by the Appellee, the Special Master finds as follows:

There is no evidence of an abuse of discretion by the Appellee. The required application for benefits (Blue Form) was not filed timely and is barred by the plain language of the Settlement Agreement. The deadline for submitting a claim is September 5, 2002. Appellant submitted an untimely Blue Form on October 9, 2002

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