

**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>Suzan L. Dolezal</i>)	
<i>Edward A. Dolezal</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Members Suzan L. Dolezal and her spouse, Edward A. Dolezal (“Appellants”), appealed the decision of the Claims Administrator (“Appellee”) in rendering Final Determinations dated June 6, 2003 on Appellants’ claims for benefits from the Sulzer Settlement Trust.

Appellants appealed the decision of the Appellee, and contend that Appellee erred in his 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 September 26, 2002.
2. On February 20, 2003 Appellee did issue Preliminary Determinations that Appellants were not eligible for Settlement benefits because their claims had not been submitted before the applicable deadline in accordance with the requirements of the Settlement Agreement.
3. On June 6, 2003 Appellee issued Final Determinations that Appellants were not eligible for Settlement benefits because they did not file their claims before the deadline.

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

Notice of Special Master Determination

Suzan L. Dolezal

Edward A. Dolezal

Page 2 of 2

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

Appellee, Claims Administrator, did not abuse his discretion in denying Appellants' request for Unrevised APR and Derivative Claimant benefits.

Appellants do not dispute the fact that their claim forms were filed untimely, but seek to excuse the late filing on their inability to procure the necessary medical records prior to the filing deadline.

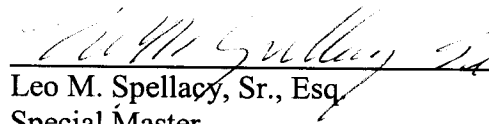
Section 4.6(a) of the Settlement Agreement explicitly allows Appellants to submit a Blue Form with incomplete medical records, and the Settlement Agreement has extensive provisions for supplementing deficient claims. Appellants did not avail themselves of the opportunity to submit timely claims and then supplement them at a later date with the necessary medical records.

CAP 29 explains under which circumstances Appellee may grant an extension of time. Appellant has not submitted any evidence of circumstances giving rise to a permissible extension of time in accordance with CAP 29.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) is hereby AFFIRMED.

Appellants 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 December 23, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

December 8, 2003
Date


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