

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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

*This document relates to:*  
*Louis Fernandez*  
*Claim Number:*

2003 JUN 10 10:52 AM  
CIVIL ACTION No.: 01-CV-90002

ALL CASES

(MDL No. 1401)

Judge Kathleen M. O'Malley

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Louis Fernandez, by and through his attorney Daniel E. Barenbaum of the Law Firm Lieff, Cabraser, Heimann & Bernstein ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated March 14, 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 Attorney Fee benefits in the amount of Zero Dollars (\$0.00) to Appellant.

The factual findings of this matter are as follows:

1. Appellant timely submitted a Yellow Form seeking Derivative Claimant benefits.
2. On November 20, 2002 Appellee issued a Preliminary Determination awarding Appellant \$1,600 in Derivative Claimant benefits and \$0.00 in Attorney Fee benefits because Appellant did not submit proof that he had retained counsel.
3. Appellant did contest the Preliminary Determination and on December 9, 2002 submitted to Appellee a sworn declaration indicating that he was represented by counsel and had been since February 26, 2002.
4. Claims Administrator Procedure Number 9 (CAP 9) clarifies how claims for Attorney Fee benefits where Class Members entered into agreements after February 2, 2002 will be processed.
5. CAP 9 requires that an itemization of hours spent on the Claim and billable rates of the attorney be submitted.
6. Appellant did not submit an itemization of hours spent on the Claim and billable rates of his attorney
7. On March 14, 2003 Appellee issued a Final Determination denying Attorney Fee benefits because Appellant had not provided the necessary documentation pursuant to CAP 9.

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

Notice of Special Master Determination

Louis Fernandez

Claim Number:

Page 2 of 2

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

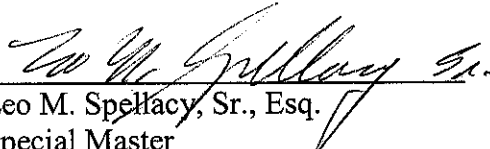
Appellee did not abuse his discretion in denying reimbursement (claims) for attorney fees.

Appellant has failed to properly submit evidence proving he is entitled to attorney fee benefits. The Settlement Agreement is explicit as to time limitations regarding evidence submission. Appellant's request was not timely and did not provide the necessary documentation.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) in Attorney Fee benefits 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