

**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>Ethel M. Greene</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Ethel M. Greene (“Appellant”) appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated June 27, 2003 on Appellant’s claim for benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contends that Appellee erred in his 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 September 17, 2002.
2. On February 20, 2003 Appellee issued a Preliminary Determination that Appellant was not eligible for Unrevised APR benefits because her claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. On April 4, 2003 Appellant submitted a letter contesting the Preliminary Determination.
4. On June 27, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because she did not file his claim prior to the deadline.
5. Appellant has not submitted any evidence that demonstrates that her failure to submit a timely claim form was caused by circumstances giving rise to a permissible extension of time under CAP 29.

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AND KNEE PROSTHESIS PRODUCT
LIABILITY LITIGATION**

Notice of Special Master Determination

Ethel M. Greene

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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:

Appellee did not abuse his discretion in denying Appellant's application for Unrevised APR benefits.

Settlement Agreement §4.1(a) requires Class Members to submit a Blue Form on or before the date that is one hundred twenty (120) days after Trial Court approval, i.e. September 5, 2002.

Appellant acknowledges that her filing was untimely and requests that it be considered because the Claims Administrator's initial notice regarding the deadlines for the Blue Form was misleading.

The responsibility for filing timely is with the Appellant and not the Office of the Claims Administrator.

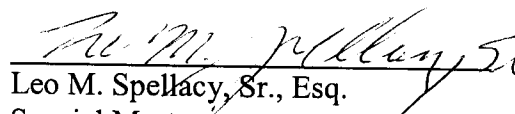
CAP 29 explains how Appellee is to exercise discretion in granting extensions. Section 5 specifically states that a Class Member's unawareness of a clearly articulated deadline, miscalculation of a deadline, or allegation that he or she did not receive adequate notice of the Settlement Agreement at or before the time the Settlement Agreement received Trial Court Approval or Final Judicial Approval are not a permissible basis for an extension of time.

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 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 October 1, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 16, 2003

Date


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