

**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>John Harrington</i>)	
<i>Claim Number.</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member John Harrington (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated July 2, 2003 on Appellant’s claims 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 untimely Blue Forms seeking Unrevised APR benefits for two Affected Products on November 1, 2002 and April 7, 2003.
2. On April 15, 2003 and April 25, 2003 Appellee issued Preliminary Determinations that Appellant was not eligible for Unrevised APR benefits because his claims had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. On May 6, 2003 Appellant submitted a letter contesting the Preliminary Determinations.
4. On July 2, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because he did not file his claims before the deadline.
5. Appellant has not submitted any evidence that demonstrates that his failure to submit timely claim forms 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

John Harrington

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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 claims for Unrevised APR benefits.

Appellant does not dispute the fact that his claims were late, but seeks to excuse the late filing on his inability to procure the necessary medical records prior to the filing deadline.

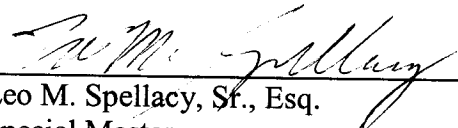
The Settlement Agreement allows for the timely filing of claim forms and later providing supplemental information to complete the claim. Appellant did not avail himself of the opportunity to submit a timely claim and supplement it at a later date with the necessary medical records.

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.

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 September 26, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 11, 2003
Date


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