

**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>Lucy C. Lossett</i>)	
)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Lucy C. Lossett, by and through her attorney James C. Klick, Esq. of the Law Firm Herman, Herman, Katz & Cotlar (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated January 21, 2004 on Appellant’s claim for Extraordinary Injury Fund (“EIF”) benefits from the Sulzer Settlement Trust.

Appellant appealed the decision of the Appellee, and contends that Appellee erred in his decision to deny Appellant’s claim for EIF benefits.

The factual findings of this matter are as follows:

1. Appellant submitted a claim for EIF benefits on December 2, 2002.
2. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for EIF benefits because her claim had not been submitted before the deadline prescribed by the Settlement Agreement.

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AND KNEE PROSTHESIS PRODUCT
LIABILITY LITIGATION**

Notice of Special Master Determination

Lucy C. Lossett

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:

The Special Master shall review Final Determinations only for an abuse of discretion by the Appellee, Claims Administrator.

Appellant argues that the filing of a timely Orange Form preserves her right to file a Green Form for EIF benefits. That is correct. However, in order to be eligible for EIF benefits a timely Green Form must also be submitted.

The Federal District Court has explained the importance of the deadlines prescribed in the Settlement Agreement [*In re Sulzer Hip Prosthesis and Knee Prosthesis Product Liability Litigation*, 01-CV-9000 at 1 through 20 (N.D.O. February 6, 2004) (Docket #1714)].

In accordance with Section 4.3(a) of the Settlement Agreement, the deadline for Appellant to submit a claim for EIF benefits was November 4, 2002. Appellant's Green Form was submitted on December 2, 2002, almost a month after the deadline.

Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's claim for EIF benefits because it was not submitted prior to the applicable deadline, as required by the Settlement Agreement.

By order of the Special Master, Appellee's Final Determination of ineligibility for Appellant's EIF claim is hereby AFFIRMED.

Appellant and Appellee have fifteen days from the date of this decision to submit a fact or principle they believe the Special Master did not consider in rendering a decision. **Such submissions may not be more than three pages in length. Exhibits are not to be attached to any such submission and will not be considered. Submissions are to be mailed to the following address:**

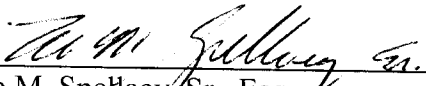
Leo M. Spellacy, Sr., Esq.
Special Master to the Sulzer Settlement Trust
c/o Liaison Counsel
1600 Midland Building
101 Prospect Avenue West
Cleveland, OH 44115

If no response is received (postmarked) by APR 09 2004, then the Special Master's Decision is final and may not be further contested or appealed.

MAR 25 2004

Date

313 / 21


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