

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2003 JUL -8 AM 10:47
NORTHERN DISTRICT OF OHIO
CLEVELAND

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

Civil Action No.: 03-1401-9000

ALL CASES

This document relates to:)
James R. Mandish)
Claim Number:)

(MDL No. 1401)

Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member James R. Mandish, by and through his attorney Daniel D. Moody, Esq. of the Law Firm Pansler & Moody ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated April 22, 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 for the Orange Form submitted on December 4, 2002.

The factual findings of this matter are as follows:

1. Appellant timely submitted an Orange Form seeking APRS benefits on May 6, 2002 (Orange Form 1) and a Green Form seeking Non-Affected Product Revision Surgery benefits on May 31, 2002.
2. Appellant also submitted an untimely second Orange Form seeking APRS benefits on December 4, 2002 (Orange Form 2).
3. On January 10, 2003 Appellee issued a Preliminary Determination granting Appellant's request for APRS benefits for Orange Form 1 and denying Appellant's request for APRS benefits for Orange Form 2 because the second claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
4. On April 22, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits for Orange Form 2 because he did not file his claim before the deadline.
5. Appellant has not submitted any evidence that demonstrates that his 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

James R. Mandish

Claim Number: 062321846

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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 December 4, 2002 claim for APRS benefits.

Appellant was required to file his claim for benefits before November 4, 2002.

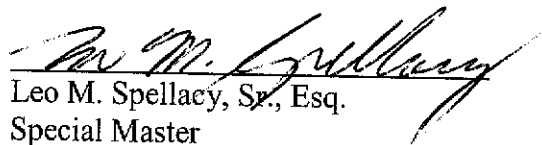
Appellant's filing was untimely and was not the product of newly discovered evidence. Appellant was in possession of the lot numbers of the two Affected Products at the time of filing the first claim form on May 6, 2002. The first claim was awarded Settlement benefits.

The Settlement Agreement requires claimants to submit an Orange Form for each Affected Product. Appellant's second claim form of December 4, 2002 was not filed timely.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) for the Orange Form submitted December 4, 2002 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 July 23, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 8, 2003
Date


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