

**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>Tyrone Murray</i>)	
)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Tyrone Murray, by and through his attorney J. Ransdell Keene, Esq. (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated December 15, 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 an untimely Orange Form seeking APRS benefits.
2. Appellee issued Preliminary and Final Determinations that Appellant was not eligible for APRS benefits because his claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. 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

Tyrone Murray

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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 claim for APRS benefits.

Appellant does not dispute the fact that his claim was late, and seeks to excuse the late filing on his inability to procure the necessary medical records until February 2003. However, the deadline for submitting his Orange Form was May 11, 2003, approximately three months after receiving the operative report that he alleges was the reason for his late filing.

In addition, 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 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:**

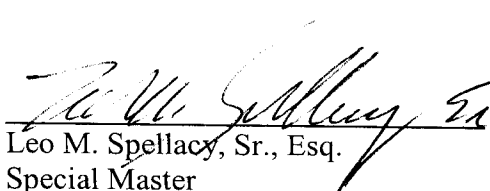
Leo M. Spellacy, Sr., Esq.
Special Master to the Sulzer Settlement Trust
c/o Liaison Counsel
1600 Midland Building
101 Prospect Avenue West
Cleveland, OH 44115

If no response is received (postmarked) by MAR 25 2004, then the Special Master's Decision is final and may not be further contested or appealed.

MAR 10 2004

Date

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