

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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

2003 JUL 16 10 53 AM  
Civil Action No.: 01-CV-9000

ALL CASES

*This document relates to:* )  
*Betty L. Pinnell* )  
*Claim Number.* )

(MDL No. 1401)

Judge Kathleen M. O'Malley

**NOTICE OF SPECIAL MASTER DETERMINATION**

Class Member Betty L. Pinnell, by and through her attorney Steven D. Copple of the Law Firm Copple, Boehm & Murphy ("Appellant"), appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated April 1, 2003 on Appellant's claim for benefits from the Sulzer Settlement Trust.

Appellant timely appealed the decision of the Appellee, and contends that Appellee erred in its 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 24, 2002.
2. On November 5, 2002 Appellee did issue 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 December 20, 2002 Appellant submitted a letter contesting her Preliminary Determination. The letter stated that the untimely submission was caused by a miscalculation of the deadline by Appellant's attorney's legal assistant.
4. On April 1, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because her claim was not filed before the deadline.
5. Appellant has not submitted any evidence that demonstrates 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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Notice of Special Master Determination

Betty L. Pinnell

Claim Number:

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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:

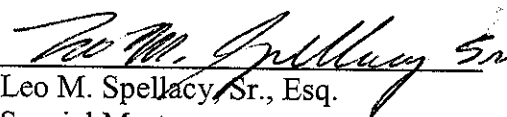
The Appellee did not abuse his discretion in denying Appellant's claim for Unrevised APR benefits.

Appellant in admitting the filing of the Blue Form was late relies on a miscalculation by a legal assistant. A miscalculation of the deadline absent specific circumstances under which an extension may be granted does not provide the requisite excuse to extend the deadline set forth in the Settlement Agreement.

Since there is no excusable neglect that caused Appellant's untimely filing, 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 to the Court a fact or principle they believe the Special Master did not consider in rendering a decision. If no response is received by June 25, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

June 10, 2003  
Date

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