

**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 R. Pitts</i>)	
)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member John R. Pitts (“Appellant”) appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated July 17, 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 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 Yellow Form seeking Derivative Claimant benefits on March 11, 2003.
2. On July 17, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because he did not file his claim before the deadline.
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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LIABILITY LITIGATION**

Notice of Special Master Determination

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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:

There is no evidence of an abuse of discretion by the Appellee.

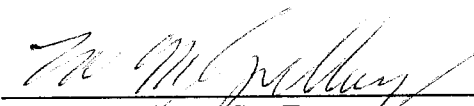
Appellant's untimely submission of the Blue Form is barred by the plain language of the Settlement Agreement, and Appellant has not submitted any evidence that demonstrates excusable neglect.

The deadline for submitting a claim is November 4, 2002. Appellant submitted an untimely Yellow Form on March 11, 2003.

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 October 16, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

October 1, 2003
Date



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