

**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>Michael W. Ross</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Michael W. Ross (“Appellant”) appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated July 24, 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.

The factual findings of this matter are as follows:

1. Appellant submitted an untimely Orange Form seeking APRS benefits on February 1, 2003.
2. On April 17, 2003 Appellee did issue a Preliminary Determination 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. On July 24, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because he did not file his claim before the deadline.
4. 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.

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

Notice of Special Master Determination

Michael W. Ross

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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. The required application for benefits (Orange Form) was not filed timely and is barred by the plain language of the Settlement Agreement. The deadline for submitting an Orange Form claim is November 4, 2002. Appellant submitted an untimely Orange Form on February 1, 2003.

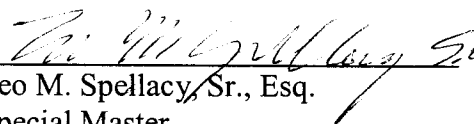
Appellant has not indicated any reason why his claim was untimely, therefore an extension of the required deadline pursuant to CAP 29 cannot be considered.

In addition, Appellant did not follow the procedures as outlined in CAP 30 for appealing a Final Determination.

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 November 5, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

October 21, 2003
Date


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