

**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>Addeline Sampson</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley
)	

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Addeline Sampson (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated June 19, 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 Blue Form seeking Unrevised APR benefits on September 13, 2002.
2. On December 11, 2002 Appellee did issue a Preliminary Determination awarding Appellant Unrevised APR benefits.
3. On December 17, 2002 Appellee did issue a Revised 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.
4. Appellant did not contest the December 17, 2002 Preliminary Determination.
5. On June 19, 2003 Appellee issued a Final Determination that Appellant is not eligible for Settlement benefits because her claim was not filed before the deadline.
6. 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.

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

Notice of Special Master Determination

Addeline Sampson

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 Special Master is to review the findings of the Appellee, Claims Administrator, to determine if the Appellee has abused his discretion in determining the validity of the Class Member's claim.

The terms of the Settlement Agreement require that the application for benefits must be filed within a certain time period. Settlement Agreement §4.1(a) provides that a Class Member requesting Unrevised Affected Product Recipient benefits must file a Blue Form on or before one hundred twenty (120) days after Trial Court approval, or September 5, 2002.

Appellant submitted her Blue Form on September 13, 2002.

Appellee initially approved the request on December 11, 2002 but later, on December 17, 2002, notified Appellant of the denial based on an untimely filing. Appellee's initial mistake in approving the claim does not relieve the Appellant of her responsibility to file timely or provide a reasonable excuse for the late filing.

Appellant in her appeal does not offer a reasonable explanation why her claim was late. In addition, Appellant failed to timely contest the Preliminary Determination. Her letter of April 21, 2003 was 125 days after the December 17, 2002 Preliminary Determination. The Preliminary Determination was final and not subject to appeal unless contested within 45 days.

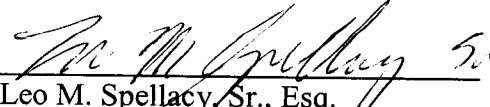
The Appellee, Claims Administrator, did not abuse his discretion in denying Appellant's claim as untimely.

By order of the Special Master, Appellee's Final Determination of Zero Dollars (\$0.00) is hereby.

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 September 24, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

September 9, 2003

Date


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