

**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>Willie Bell Turner</i>)	
<i>Claim Number:</i>)	Judge Kathleen M. O'Malley
)	

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Willie Bell Turner, by and through her attorney Charles E. Jones, Esq. of the Law Firm Jones and Oliver (“Appellant”), appealed the decision of the Claims Administrator (“Appellee”) in rendering a Final Determination dated June 3, 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 January 10, 2003.
2. On January 31, 2003 Appellee did issue a Preliminary Determination that Appellant was not eligible for APRS benefits because her claim had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. On February 26, 2003 Appellant submitted a letter contesting her Preliminary Determination.
4. On June 6, 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.

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

Notice of Special Master Determination

Willie Bell Turner

Claim Number:

Page 2 of 2

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, Claims Administrator, did not abuse his discretion in denying Appellant's request for Affected Product Revision Surgery ("APRS") benefits.

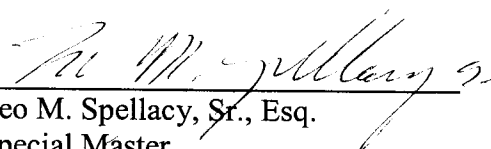
By the terms of the Settlement Agreement, Appellant was required to file her Orange Form by November 4, 2002. Appellant did not file until January 10, 2003. The filing was untimely and Appellant has failed to demonstrate a satisfactory reason why the late submission should be excused. Appellant's reason that she did not receive "formal" notice until September 25, 2002 does not excuse her late filing.

The Appellee is required to follow the explicit provisions of the Settlement Agreement and Appellee had sufficient time to submit her claim before the November 4, 2002 deadline.

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 September 8, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

August 22, 2003
Date


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