

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
2003 JUL -8 AM 10:47
NORTHERN DISTRICT OF OHIO
CLEVELAND

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

Civil Action No.: 01-CV-9000

ALL CASES

This document relates to:

(MDL No. 1401)

Gale F. Woodall

Claim Number:

Judge Kathleen M. O'Malley

Lewis F. Woodall

Claim Number:

NOTICE OF SPECIAL MASTER DETERMINATION

Class Member Gale F. Woodall and her spouse, Lewis F. Woodall, by and through their attorney Michael R. Bouman, Esq. ("Appellants") appealed the decision of the Claims Administrator ("Appellee") in rendering a Final Determination dated April 10, 2003 on Appellants' claim for benefits from the Sulzer Settlement Trust.

Appellants appealed the decision of the Appellee, and contend that Appellee erred in his decision to award a net benefit amount of Zero Dollars (\$0.00) to Appellants.

The factual findings of this matter are as follows:

1. Appellants submitted an untimely Orange Form seeking APRS benefits and an untimely Yellow Form seeking Derivative Claimant benefits on November 8, 2002.
2. On January 21, 2003 Appellee issued Preliminary Determinations that Appellants were not eligible for APRS and Derivative Claimant benefits because the claims had not been submitted in a timely fashion according to the requirements of the Settlement Agreement.
3. On April 10, 2003 Appellee issued Final Determinations that Appellants are not eligible for Settlement benefits because their claims were not filed before the deadline.
4. Appellants have not submitted any evidence that demonstrates that their failure to submit timely claim forms was caused by circumstances giving rise to a permissible extension of time under CAP 29.

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Notice of Special Master Determination

Gale F. Woodall / Claim Number:

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After a thorough review of the appeal submitted by the Appellants and the response submitted by the Appellee, the Special Master finds as follows:

Appellee did not abuse his discretion in denying Appellants' claims for APRS and Derivative benefits.

Appellants' attorney admits that the forms were filed four days late, and seeks to remedy his miscalculation on the basis of "excusable neglect".

Appellee, in administering the claims request, is obligated to follow the terms of the Settlement Agreement.

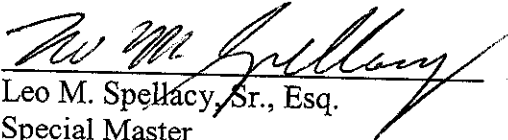
CAP 29 delineates circumstances that are not a permissible basis for the extension of time. Specifically, Section 5 prohibits the Appellee from granting an extension of time for the submission of a claim when the Class Member or his/her attorney was aware of the deadline and miscalculated by arithmetic the actual deadline.

The Settlement Agreement does not provide for an oral hearing on an appeal. Appellants' request for an oral hearing is denied.

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

Appellants 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 July 23, 2003, then the Special Master's Decision is final and may not be further contested or appealed.

July 8, 2003
Date


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