

CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

In re:

LASER SPINE INSTITUTE, LLC,

Assignor,

Case No. 2019-CA-2762

to

SONEET KAPILA,

Assignee.

_____ /

**ASSIGNEE'S MOTION FOR ORDER AUTHORIZING
REJECTION OF EQUIPMENT LEASES AND DIRECTING THAT THE
EFFECTIVE DATE OF REJECTION BE THE DATE NOTICE IS FILED**

Assignee, Soneet Kapila of KapilaMukamal (“**Assignee**”), by and through his undersigned attorneys, hereby moves the Court, pursuant to the provisions of §§ 727.108(5) and 727.110(3) of the Florida Statutes, for the entry of an order authorizing rejection of certain equipment leases under which the applicable Assignor, Laser Spine Institute, LLC (the “**Applicable Assignor**”), is the lessee, effective as of the date the Assignee files and serves his notice of rejection as to a particular lease. In support of this motion, the Assignee states as follows:

Background

1. On March 14, 2019, Laser Spine Institute, LLC, the Applicable Assignor, executed and delivered an assignment for the benefit of creditors to the Assignee. The Assignee filed a Petition with the Court on March 14, 2019, commencing an assignment for the benefit of creditors proceeding pursuant to Section 727 of the Florida Statutes (the “**Applicable Assignment Case**”).¹

¹ Simultaneous with the filing of the Applicable Assignment Case, the Assignee filed fifteen other Petitions commencing assignment for the benefit of creditors proceedings for 15 affiliates of the Applicable Assignor. By separate motion, the Assignee will be seeking to administratively consolidate the sixteen affiliated assignment cases under the assignment case of Laser Spine Institute, LLC, Case No. 2019-CA-2762.

2. One of the Assignee's duties is to reject unexpired leases of personal property that are financially burdensome to the assignment estate.

3. The Assignee will be filing Notices of Rejection of Personal Property Leases (the "Notices") following the filing of this motion with respect to the following leased equipment:

- a. Lease Agreement dated July 28, 2017 between Laser Spine Institute, LLC and CIT Bank, N.A., Lease No. 1458252, relating to that certain Nutanix IT equipment as described in the lease.
- b. Lease Agreement dated August 2, 2016 between Laser Spine Institute, LLC and M2 Lease Funds LLC, relating to that certain medical equipment as described in the lease.

4. The Assignee is working to confirm that the assignment estates do not require the use of any of the leased equipment during the wind-down process. Once the Assignee determines that the leased equipment can be turned over to the applicable lessor, the Assignee will file a Notice identifying the affected property, the address at which the affected property is located, the name and telephone number of the person in possession of the affected property, and the deadline for removal of the affected property.

Relief Requested

5. The Assignee seeks the Court's authorization of the lease rejections set forth above pursuant to §§ 727.108(5) and 727.110(3), Florida Statutes, effective as of the date the Assignee files a Notice with respect to the affected lease.

6. Section 727.108 of the Florida Statutes provides that one of the Assignee's duties is, "[t]o the extent reasonable in the exercise of the assignee's business judgment, reject an unexpired lease of nonresidential real property or of personal property under which the assignor is the lessee." Fla. Stat. § 727.108(5). Further, § 727.108 expressly grants the Court the power to "[a]uthorize the assignee to reject an unexpired lease of nonresidential real property or of personal property under which the assignor is the lessee pursuant to s. 727.108(5)." Fla. Stat. § 727.109(6).

7. The procedure for rejection of a personal property lease is set forth in § 727.110(3) of the Florida Statutes, which provides that the Assignee shall file a notice of rejection with the Court and serve the notice on appropriate parties. Further, the notice “must identify the affected property, the address at which the affected property is located, the name and telephone number of the person in possession of the affected property, and the deadline for removal of the affected property.” Fla. Stat. § 727.110(3)(a).

8. This motion and the Notices to be filed, described above, satisfy the requirements of § 727.110(3). It is critical that the Assignee be able to immediately reject financially burdensome personal property leases once he has determined that the estates do not require the use of any of the leased equipment during the wind-down process. The rejection of such leases creates a savings to the estate, which ultimately benefits creditors.

9. Accordingly, the Court’s authorization of each lease rejection set forth above, as of the date each Notice is filed, will conserve estate resources and judicial resources and will benefit the creditors of the applicable estate.

WHEREFORE, the Assignee respectfully requests the Court grant this motion and order that the leases described herein shall be rejected, effective as of the date the Assignee files each Notice, and that the Court grant such other relief as is just and proper.

/s/ Edward J. Peterson
Harley E. Riedel (FBN 183628)
Edward J. Peterson (FBN 0014612)
Matthew B. Hale (FBN 0110600)
Stichter, Riedel, Blain & Postler, P.A.
110 E. Madison Street, Suite 200
Tampa, Florida 33602
Telephone: (813) 229-0144
Facsimile: (813) 229-1811
Email: hriedel@srbp.com; epeterson@srbp.com
mhale@srbp.com
Counsel for Assignee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been sent by either electronic mail or U.S. mail on this 15th day of March, 2019 to:

CIT Bank, N.A.
Attn: Magalie Gilbert
10201 Centurion Parkway N., #100
Jacksonville, FL 32256

M2 Lease Funds LLC
Attn: Jean May
175 N. Patrick Blvd, Suite 140
Brookfield, WI 53045

Toby Gerber, Esquire
toby.gerber@nortonrosefulbright.com
Counsel for Texas Capital Bank, as Administrative Agent

Lara Fernandez, Esquire
lfernandez@trenam.com
Counsel for Texas Capital Bank, as Administrative Agent

Jennifer Altman, Esquire
jennifer.altman@pillsburylaw.com
Counsel for Joe Samuel Bailey, et al.

Kenneth Mather, Esquire
kmather@gunster.com
Counsel for Joe Samuel Bailey, et al.

Stuart Markman, Esquire
smarkman@kmf-law.com
Counsel for Joe Samuel Bailey, et al.

Nicole Greenblatt, Esquire
nicole.greenblatt@kirkland.com
Counsel for Assignors

/s/ Edward J. Peterson

Edward J. Peterson