

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

In re:

Laser Spine Institute, LLC ¹	Case No. 2019-CA-2762
CLM Aviation, LLC	Case No. 2019-CA-2764
LSI HoldCo, LLC	Case No. 2019-CA-2765
LSI Management Company, LLC	Case No. 2019-CA-2766
Laser Spine Surgery Center of Arizona, LLC	Case No. 2019-CA-2767
Laser Spine Surgery Center of Cincinnati, LLC	Case No. 2019-CA-2768
Laser Spine Surgery Center of Cleveland, LLC	Case No. 2019-CA-2769
Laser Spine Surgical Center, LLC	Case No. 2019-CA-2770
Laser Spine Surgery Center of Pennsylvania, LLC	Case No. 2019-CA-2771
Laser Spine Surgery Center of St. Louis, LLC	Case No. 2019-CA-2772
Laser Spine Surgery Center of Warwick, LLC	Case No. 2019-CA-2773
Medical Care Management Services, LLC	Case No. 2019-CA-2774
Spine DME Solutions, LLC	Case No. 2019-CA-2775
Total Spine Care, LLC	Case No. 2019-CA-2776
Laser Spine Institute Consulting, LLC	Case No. 2019-CA-2777
Laser Spine Surgery Center of Oklahoma, LLC	Case No. 2019-CA-2780

Assignors, Consolidated Case No: 2019-CA-2762
To:

Soneet Kapila, Division L

Assignee,
_____ /

MOTION TO APPROVE SALE PROCEDURES FOR *DE MINIMIS* ASSETS

Soneet Kapila (“Assignee”), pursuant to Fla. Stat. §§ 727.108 and 727.109, hereby requests the entry of an order approving procedures for sales of assets of the assignment estates

¹ On April 8, 2019, the Court entered an order administratively consolidating this case with the assignment cases of the following entities: LSI Management Company, LLC; Laser Spine Institute Consulting, LLC; CLM Aviation, LLC; Medical Care Management Services, LLC; LSI HoldCo, LLC; Laser Spine Surgical Center, LLC; Laser Spine Surgery Center of Arizona, LLC; Laser Spine Surgery Center of Cincinnati, LLC; Laser Spine Surgery Center of St. Louis, LLC; Laser Spine Surgery Center of Pennsylvania, LLC; Laser Spine Surgery Center of Oklahoma, LLC; Laser Spine Surgery Center of Warwick, LLC; Laser Spine Surgery Center of Cleveland, LLC; Total Spine Care, LLC; and Spine DME Solutions, LLC.

with *de minimis* value (those assets valued at \$25,000 or less), and authorizing limited notice to parties in interest and shortened response times, and states:

Background

1. On March 14, 2019, Laser Spine Institute, LLC (“**LSI**”) executed and delivered an assignment for the benefit of creditors (the “**Assignment**”) 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 “**LSI Assignment Case**”).

2. Simultaneous with the filing of the LSI Assignment Case, the Assignee filed fifteen other Petitions commencing assignment for the benefit of creditors proceedings for 15 affiliates of LSI (the “**Affiliated Assignment Cases**”): LSI Management Company, LLC; Laser Spine Institute Consulting, LLC; CLM Aviation, LLC; Medical Care Management Services, LLC; LSI HoldCo, LLC; Laser Spine Surgical Center, LLC; Laser Spine Surgery Center of Arizona, LLC; Laser Spine Surgery Center of Cincinnati, LLC; Laser Spine Surgery Center of St. Louis, LLC; Laser Spine Surgery Center of Pennsylvania, LLC; Laser Spine Surgery Center of Oklahoma, LLC; Laser Spine Surgery Center of Warwick, LLC; Laser Spine Surgery Center of Cleveland, LLC; Total Spine Care, LLC; and Spine DME Solutions, LLC (collectively, together with LSI, the “**Assignors**”).

3. Prior to filing the Assignment, the Assignors engaged in the business of performing minimally invasive spine and neck surgeries. The Assignee is in the process of winding down the operations and liquidating the assets in an orderly fashion.

4. The assets of the Assignors include some items of personal property with relatively *de minimis* value in comparison to the costs and expenses of seeking and obtaining court approval for the sale of such assets. For example, the Assignors owned some used vehicles with a value of

approximately \$10,000.00 or less, and many furniture and computer items. The Assignee expects to identify additional assets having relatively nominal value.

5. Texas Capital Bank, National Association, in its capacity as Administrative Agent to the lender group (“TCB”), asserts a lien on virtually all personal property of the Assignors, including but not limited to all equipment and inventory, under a Credit Agreement (or any related documents or agreements) dated as of July 2, 2015 by and between the Assignors, as borrowers and/or guarantors, and TCB, as lender (as amended, the “**Credit Agreement**”).² Accordingly, nearly any asset that would be sold under the procedures requested herein would be likely be subject to the asserted liens of TCB.

Relief Requested

6. Through this Motion, the Assignee hereby seeks authority, subject to the exercise of his business judgment, to sell certain assets of the Assignors (each, a “**De Minimis Asset**”) where the sale price of the asset or reasonable group of assets is equal to or less than \$25,000.00. The sales would be limited to arms-length transactions to an unrelated third party and based on the Assignee’s good faith estimate of the value of a De Minimis Asset.

7. The Assignee will provide at least seven (7) days’ notice of a proposed sale to (a) TCB or any other secured creditor asserting a lien on the applicable De Minimis Asset, and (b) the limited set of notice parties prescribed in the Court’s *Order Granting Assignee’s Motion to Limit Notice* (the “**Limited Notice Parties List**”). If the Assignee does not receive a written objection by the date provided on the notice, the Assignee would be authorized to sell the applicable De Minimis Asset in accordance with the order granting this Motion, with such sale to be free and clear of any liens, claims and encumbrances, and any asserted liens attaching to the proceeds of

² Nothing in this Motion shall be deemed or construed to modify LSI’s obligations under the Credit Agreement (or any related documents or agreements).

the sale to the same extent, validity, and priority as such liens existed prior to the sale. The net proceeds of the respective sales (after payment or reserve of agreed costs of sale) shall be remitted to lienholders as their interests may appear.³

8. Because TCB asserts a blanket lien on substantially all of the Assignors' personal property assets, TCB would likely be the key party implicated in any sale of any De Minimis Asset. TCB supports the relief requested in this Motion.

9. Section 727.108(1) of the Florida Statutes, which delineates the "Duties of assignee" provides that the assignee shall "Collect and reduce to money the assets of the estate, whether by suit in any court of competent jurisdiction or by public or private sale . . ." Fla. Stat. § 727.108. This sale procedures contemplate public or private sales, both as permitted by the above-cited statute.

10. Florida Statute 727.111(4) provides for 21 days' notice to the assignor and all creditors of the sale of assets other than in the ordinary course of business. The statute also allows for the court to limit the time and parties to receive notice, for good cause shown and without notice of hearing. Fla. Stat. § 727.111(6). Indeed, the Court has authorized limited service through the implementation of the Limited Notice Parties List. The Assignee further asks the Court to limit notice to seven (7) days' notice of sales of De Minimis Assets under the procedures set forth in this Motion.

11. Approval of the above procedures for the sale of the De Minimis Assets is reasonable under the circumstances, is within the Assignee's business judgment, and is in the best interests of the assignment estates. The procedures allow for notice that is reasonable under the circumstances and commensurate with the limited value of the assets to which this motion is

³ The Assignee continues to investigate the validity and the priority of claims and liens and nothing herein shall be deemed a waiver of the Assignee's rights to contest the validity and priority of claims and liens.

addressed, while giving the Assignee flexibility to fulfill the mandate of liquidating assets for the benefit of creditors in a timely and cost-efficient manner.

WHEREFORE, the Assignee respectfully requests the entry of an order granting this Motion, the proposed form of which is attached hereto as **Exhibit A**, approving the procedures for the sale of the De Minimis Assets, and approving such other and further relief as is just.

Dated: May 8, 2019

/s/ Edward J. Peterson

Edward J. Peterson, III (FBN 0014612)

Matthew B. Hale (FBN 0110600)

Stichter, Riedel, Blain & Postler, P.A.

110 E. Madison Street, Suite 200

Tampa, Florida 33602

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Email: epeterson@srbp.com; mhale@srbp.com

Counsel for Assignee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Motion has been furnished on this 8th day of May, 2019 by the Court's electronic system to all parties receiving electronic service, and by either U.S. mail or electronic mail to the parties listed on the Limited Notice Parties list attached.

/s/ Edward J. Peterson

Edward J. Peterson

MASTER LIMITED NOTICE SERVICE LIST

April 29, 2019

Assignors and Assignor's Counsel: (via the Court's electronic servicing system)

CLM Aviation, LLC
LSI HoldCo, LLC
LSI Management Company, LLC
Laser Spine Surgery Center of Arizona, LLC
Laser Spine Surgery Center of Cincinnati, LLC
Laser Spine Surgery Center of Cleveland, LLC
Laser Spine Surgical Center, LLC
Laser Spine Surgery Center of Pennsylvania, LLC
Laser Spine Surgery Center of St. Louis, LLC
Laser Spine Surgery Center of Warwick, LLC
Laser Spine Institute, LLC
Medical Care Management Services, LLC
Spine DME Solutions, LLC
Total Spine Care, LLC
Laser Spine Institute Consulting, LLC
Laser Spine Surgery Center of Oklahoma, LLC
c/o Nicole Greensblatt, Esq.
Kirkland & Ellis, LLP
601 Lexington Avenue
New York, NY 10022
Email: ngreenblatt@kirkland.com

Assignee and Assignee's Counsel (via the Court's electronic servicing system)

Soneet Kapila
c/o Stichter Riedel, Blain & Postler, P.A.
Attn: Edward J. Peterson, Esq.
110 E. Madison Street, Suite 200
Tampa, Florida 33602

Secured Creditors:

CarePayment, LLC
5300 Meadow Rd., #400
Lake Oswego, OR 97035

Steris Corporation
5960 Heisley Rd.
Mentor, OH 44060

CIT Bank, N.A.
10201 Centurion Pkwy., #400
Jacksonville, FL 32256

Medport Billing, LLC
6352 S. Jones Blvd., #400
Las Vegas, NV 89118

U.S. Bank Equipment Finance
1310 Madrid St.
Marshall, MN 56258

Maricopa County Treasurer
c/o Peter Muthig, Esq.
222 N. Central Ave., #1100
Phoenix, AZ 85004
Email: muthigk@maco.maricopa.gov

Those Parties and Attorneys Formally Requesting Notice (via the Court's electronic servicing system unless otherwise noted)

Highwoods Realty Limited Partnership
c/o Eric E. Ludin, Esq.
Tucker & Ludin, P.A.
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St. Petersburg, FL 33703-2611
Email: ludin@tuckerludin.com; erin@ludinlaw.com

Terry and Sherry Legg
c/o Colling Gilbert Wright & Carter, LLC
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Orlando, FL 32801
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CertificateofService@TheFloridaFirm.com

Joe Bailey; Mark Miller; Ted Suhl; Laserscopic Spinal Centers of America, Inc.; Laserscopic Medical Clinic, LLC; Laserscopic Surgery Center of Florida, LLC; Laserscopic Diagnostic Imaging; Laserscopic Spinal Center of Florida, LLC; and Tim Langford
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EXHIBIT A

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

In re:

Laser Spine Institute, LLC ¹	Case No. 2019-CA-2762
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Laser Spine Surgery Center of St. Louis, LLC	Case No. 2019-CA-2772
Laser Spine Surgery Center of Warwick, LLC	Case No. 2019-CA-2773
Medical Care Management Services, LLC	Case No. 2019-CA-2774
Spine DME Solutions, LLC	Case No. 2019-CA-2775
Total Spine Care, LLC	Case No. 2019-CA-2776
Laser Spine Institute Consulting, LLC	Case No. 2019-CA-2777
Laser Spine Surgery Center of Oklahoma, LLC	Case No. 2019-CA-2780

Assignors, Consolidated Case No: 2019-CA-2762
To:

Soneet Kapila, Division L

Assignee,
_____ /

**ORDER GRANTING MOTION TO
ESTABLISH PROCEDURES AUTHORIZING THE ASSIGNEE'S SALE
OF *DE MINIMIS* ASSETS WITHOUT FURTHER NOTICE OR COURT APPROVAL**

¹ On April 8, 2019, the Court entered an order administratively consolidating this case with the assignment cases of the following entities: LSI Management Company, LLC; Laser Spine Institute Consulting, LLC; CLM Aviation, LLC; Medical Care Management Services, LLC; LSI HoldCo, LLC; Laser Spine Surgical Center, LLC; Laser Spine Surgery Center of Arizona, LLC; Laser Spine Surgery Center of Cincinnati, LLC; Laser Spine Surgery Center of St. Louis, LLC; Laser Spine Surgery Center of Pennsylvania, LLC; Laser Spine Surgery Center of Oklahoma, LLC; Laser Spine Surgery Center of Warwick, LLC; Laser Spine Surgery Center of Cleveland, LLC; Total Spine Care, LLC; and Spine DME Solutions, LLC.

THIS CASE came on for hearing on May 23, 2019, at 1:30 p.m. (the “**Hearing**”) upon the *Motion to Approve Sale Procedures for De Minimis Assets* (the “**Motion**”) made by the Assignee, Soneet Kapila, to establish procedures authorizing the Assignee’s sale of *de minimis* assets without the need for further notice or court approval. The Court, having considered the statements of counsel, and the lack of opposition by any party in attendance at the Hearing, and being fully advised of the record, finds that the Motion is well taken and should be granted. Accordingly, it is

ORDERED:

1. The Motion is granted.
2. The Assignee is authorized, subject to the exercise of his business judgment, to sell certain assets of the Assignors (each, a “**De Minimis Asset**”) where the sale price of the asset or reasonable group of assets is less than \$25,000.00. These procedures shall only apply to arms’ length transactions to an unrelated third party, and based on the Assignee’s good faith estimate of the value of a De Minimis Asset.
3. Not later than seven (7) days prior to the proposed sale, the Assignee shall give notice of a proposed sale to (a) Texas Capital Bank, National Association, in its capacity as Administrative Agent to the lender group, or to any other secured creditor asserting a lien on the applicable De Minimis Asset(s), and (b) the limited set of notice parties prescribed in the Court’s *Order Granting Assignee’s Motion to Limit Notice* (the “**Limited Notice Parties List**”).
4. If the Assignee does not receive a written objection by the date provided on the notice, the Assignee shall be authorized to sell the applicable De Minimis Asset in accordance with the order granting this Motion, with such sale to be free and clear of any liens, claims and encumbrances, and any asserted liens attaching to the proceeds of the sale to the same extent,

validity, and priority as such liens existed prior to the sale. The net proceeds of the respective sales (after payment or reserve of agreed costs of sale) shall be remitted to lienholders as their interests may appear.²

5. Counsel for the Assignee shall serve this Order upon the Limited Notice Parties List.

DONE AND ORDERED in Hillsborough County, Florida this ____ day of May, 2019.

Steven Scott Stephens
Circuit Court Judge

Copy to:
Counsel for Assignee

² The Assignee continues to investigate the validity and the priority of claims and liens and nothing herein shall be deemed a waiver of the Assignee's rights to contest the validity and priority of claims and liens.