

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

In re:

Laser Spine Institute, LLC	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.

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**SHIRLEY AND JOHN LANGSTON'S OPPOSITION TO ENTRY OF ANY ORDERS  
GRANTING "STAY RELIEF" AS TO COURT CASES PENDING ON DATE OF  
ASSIGNMENTS, INCLUDING  
JONNA LEMIEUX'S MOTION FOR RELIEF FROM STAY**

Shirley and John Langston (the "Langstons") by and through undersigned counsel, respectfully oppose the entry of any order in the nature of an order granting stay relief as to medical malpractice cases pending as of the date of the Assignments, as no stay exists. The Langstons are also plaintiffs in a medical malpractice case that was pending as of the date of the

Assignments. The Langstons also oppose the opposition of Assignee, Soneet Kapila of KapilaMukamal, as assignee of Laser Spine Institute, LLC and the above-captioned affiliate assignors ("Assignee"), as it appears to expand the Assignees' rights beyond the rights granted under Chapter 727, Fla. Stat. The Langstons state:

1. A proceeding under Chapter 727 for an Assignment for Benefit of Creditors ("ABC:") does not say any pending litigation. An ABC is not a bankruptcy case. A law review article evaluating Florida's ABC statute explained some of the differences as follows:

For purposes of this discussion, though, there are two important differences between an ABC and bankruptcy liquidation. First, the assignor-assignee relationship is consensual, in that a business owner can choose her assignee and the assignee is free to accept or refuse the assignment. In contrast, in bankruptcy, the United States Trustee's office appoints a disinterested trustee to administer the estate. This difference is the foundation of the historical concerns with ABCs, as these procedures were seen as giving debtors too much control at the expense of creditors. The second important difference is that, unlike in bankruptcy, the commencement of an ABC does not enjoin creditor collection. A bankruptcy filing automatically gives rise to one of the broadest injunctions available, enjoining collection activities against both the person and property of the debtor. **Under an ABC, there is no automatic stay against creditor collection. Creditors may continue to attempt to collect on their debts against the debtor's person and property;** however, creditors are practically frustrated from collecting against the debtor's property, as state law gives the assignee priority over levying creditors. Thus, creditors with a prior perfected security interest may still foreclose against their collateral; however, unsecured creditors will be unable to collect on the post-assignment assets. Andrew B. Dawson, *Better than Bankruptcy?*, 69 Rutgers U. L. Rev. 137, 147 (2016) (emphasis added).

Footnote 53 states, in part:

BERMAN, *supra* note 36, at 5 (noting that ABC laws themselves may stop such collection activities, e.g. Florida Statute 727.105 prohibits unsecured creditors from trying to seize assets in the possession of the assignee;

2. Section 727.105 states:

Proceedings may not be commenced against the assignee except as provided in this chapter, but nothing contained in this chapter affects any action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power. Except in the case of a consensual lienholder enforcing its rights in personal property or real property collateral, there shall be no levy, execution, attachment, or the like in respect of any judgment against assets of the estate in the possession, custody, or control of the assignee.

3. There is nothing under Chapter 727 that grants any form of stay relief as to assignor entities as to creditors suing the entity or pursuing any assets that are either abandoned by the Assignee or that are otherwise not under the jurisdiction of the Assignee. This would include any insurance policies payable for the claims. Liability insurers are not protected by any type of stay. There is no stay.

4. The Assignee's Opposition "consents to the relief requested in the Motion provided that the Claimant is limited to recovering from available insurance and does not obtain any *in personam* relief against the assignment entities." There is no restriction under Chapter 727 from any *in personam* relief against the entities. The only protection is for the assets assigned to the Assignee. Creditors must work through the claims process.

5. The Entry of a court order "granting" stay relief to the creditor is unnecessary as there is no stay. An order precluding the creditor to obtain "in personam" relief is unnecessary and expands the rights of the Assignors to be protected from *in personam* judgments. No such protection exists.

6. There is no stay, there is no bar to any lawsuits against the entities, and there is no bar to *in personam* judgments against the entities. The bar is as to the assigned assets only.

7. The Motion of Jonna Lemieux should be denied as seeking unnecessary relief.

Wherefore; Shirley and John Langston oppose the entry of an order granting the relief sought in the motion for relief from stay, and oppose the entry of any order purporting to limit the rights of any creditors to sue and obtain judgments against the Assignors.

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