

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

To

Soneet Kapila,

Consolidated Case
No. 2019-CA-2762
Division L

Assignee.

**NOTICE OF FILING PROOF OF CLAIM OF
NATIONAL INDEMNITY COMPANY AGAINST ASSIGNOR,
LASER SPINE SURGERY CENTER OF PENNSYLVANIA, LLC**

National Indemnity Company, through undersigned counsel, and pursuant to §727.112, Florida Statutes, hereby files and give notice of its Proof of Claim against Assignor, Laser Spine Surgery Center of Pennsylvania, LLC (Case No. 2019-CA-2771), by delivering the Proof of Claim and supporting documents attached hereto as Exhibit A, upon the Assignee, Soneet Kapila, and Edward J. Peterson, Esq., Stichter, Riedel, Blain & Postler, P.A.

Dated: July 12, 2019

/s/ Adam Lawton Alpert

Jeffrey W. Warren, Esq.

Florida Bar No. 0150024

Adam Lawton Alpert, Esq.

Florida Bar No. 0490857

BUSH ROSS, P.A.

P.O. Box 3913

Tampa, FL 33601-3913

(813) 224-9255 (telephone)

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Email: aalpert@bushross.com

Email: mlinaires@bushross.com

Email: ksprehn@bushross.com

*Attorneys for non-party creditor National Indemnity
Company*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing Notice of Filing Proof of Claim with the Clerk of this Court by using the Florida Courts E-Filing Portal system which will send a Notice of Electronic Filing to all counsel of record.

/s/ Adam Lawton Alpert

ATTORNEY

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
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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,
To:

Consolidated Case No.
2019-CA-2762

Soneet Kapila,

Division L

Assignee

PROOF OF CLAIM

TO RECEIVE ANY DIVIDEND IN THESE PROCEEDINGS (THE "ASSIGNMENT CASES"), YOU
MUST COMPLETE THIS PROOF OF CLAIM AND DELIVER IT TO THE ASSIGNEE, OR THE
ASSIGNEE'S COUNSEL, NO LATER THAN:

JULY 12, 2019

THE ASSIGNEE'S NAME AND ADDRESS ARE AS FOLLOWS:

SONEET KAPILA, ASSIGNEE
1000 SOUTH FEDERAL HIGHWAY, SUITE 200
FORT LAUDERDALE, FL 33316

ASSIGNEE'S COUNSEL IS:
EDWARD J. PETERSON, ESQUIRE
STICHTER, RIEDEL, BLAIN & POSTLER, P.A.
110 E. MADISON ST., SUITE 200
TAMPA, FL 33602

1. PLEASE SPECIFY THE ASSIGNOR AGAINST WHICH YOU ASSERT A CLAIM:
Laser Spine Surgery Center of Pennsylvania, LLC.
(IF YOU HAVE A CLAIM AGAINST MORE THAN ONE ASSIGNOR, YOU MUST FILE A SEPARATE CLAIM AGAINST EACH ASSIGNOR).

2. CREDITOR NAME (Your name): National Indemnity Company
ADDRESS: c/o Bush Ross, P.A., Attn: Jeffrey W. Warren, Esq.
ADDRESS: 1801 N. Highland Avenue
CITY, STATE, ZIP: Tampa, Florida 33602
TELEPHONE NUMBER: (813) 224-9255
E-MAIL ADDRESS: jwarren@bushross.com

Please be sure to notify us if you have a change of address.

Check box if address on claim differs from address to which this notice was sent: []

3. BASIS FOR CLAIM:
 Goods Sold Wages, Salaries and Compensations Secured Creditor
 Services Performed Taxes
 Money Loaned Customer Deposit
 Shareholder Other: See attachments

4. DATE DEBT WAS INCURRED: See attachments

5. AMOUNT OF CLAIM: See attachments

6. Does Claim amend, replace, or supplement a prior claim? If so, please state the date and amount of the prior claim(s):

7. SUPPORTING DOCUMENTS: Attach copies of supporting documents, such as promissory notes, purchase order, invoices, itemized statement of running accounts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.

8. SIGNATURE: Sign and print name and title, if any, of the creditor or other person authorized to file this claim:

As required by law, the proof of claim and any supporting documentation you submit shall become a part of the public record related to the Assignment Cases. As a result, the Assignee and his professionals shall be permitted, and may be directed by the Court, to include such documentation, including to the extent provided, protected health information, in any subsequent pleading, notice, document, list, or other public disclosure made in connection with the Assignment Cases. Such inclusion by the Assignee and his professionals shall not constitute a "wrongful disclosure" under HIPAA, the Florida Information Protection Act of 2014, or any regulations promulgated thereunder.

DATED: 11 JULY 2019

BY: Philip M. Wolf
Signature of Claimant or Representative

PHILIP M. WOLF - SVP
Print Name and Title Here

For Assignee's Use Only:
Claim Number: _____
Date: _____

**Attachment to National Indemnity Company's
Proof of Claim in *In re Laser Spine Surgery Center of Pennsylvania, LLC*, Case No. 2019-CA-2771**

National Indemnity Company (“**Claimant**”) claims currently unliquidated amounts due from Laser Spine Surgery Center of Pennsylvania, LLC (the “**Assignor**”)¹ arising from the Claimant’s issuance of a Supersedeas Bond in the amount of \$11,970,312.33 with respect to Assignor’s appeal of that certain judgment entered in the case styled *Robert Kimble, et al. v. Laser Spine Institute – Philadelphia, et al.*, Case No. 16-00569, Chester County Court of Common Pleas in Chester County, Pennsylvania. Attached is a copy of the Supersedeas Bond. To the extent that the Claimant is required to pay any amounts with respect to the bonded obligations, the Claimant is entitled to recover such amounts from the Assignor arising from Assignor’s contractual obligations, or any indemnification, subrogation, and other common law rights that Claimant has to recover from the Assignor for such amounts.

To the extent that Soneet Kapila (the “**Assignee**”), as assignee of the Assignor’s assets (the “**Assignor’s Estate**”), asserts claims against the Claimant of any kind, the Claimant reserves the right to assert that such claims are subject to rights of setoff or recoupment. To the extent that the Assignee, Assignor, the Assignor’s Estate, or any other party asserts any claims against the Claimant that would give rise to any counterclaim, cross-claim or other claim against the Assignee, Assignor, the Assignor’s Estate, or any other party, the Claimant reserves all rights to assert such claims.

The Claimant reserves the right to (i) amend, clarify, modify, update or supplement this Proof of Claim at any time in any respect, including without limitation to assert additional claims and requests for payment or additional grounds for its claims, or to specify the amount of the Assignor’s contingent, unmatured or unliquidated claims as they become, non-contingent, matured or liquidated; (ii) file additional proofs of claim at any time and in any respect; or (iii) file a request for payment of administrative or priority expense in accordance with § 727.114, Fla. Stat. By virtue of the filing of this Proof of Claim, the Claimant does not waive and hereby expressly reserves its right to pursue claims and

¹ Claimant understands that the Assignor merged with Laser Spine Institute of Pennsylvania, LLC and Assignor is the surviving entity from such merger.

requests for payment, including, but not limited to, the claims and requests for payment described herein against the Assignor or the Assignor's Estate based upon alternative legal theories.

By filing this Proof of Claim, the Claimant does not waive, and specifically preserves, its procedural and substantive defenses to any claim that may be asserted against it by the Assignee, Assignor, the Assignor's Estate, or any other party. The Claimant also reserves all rights accruing to it against the Assignee, Assignor, the Assignor's Estate, or any other party, and the filing of this Proof of Claim is not intended to be and shall not be considered as (a) an election of remedies, or (b) a waiver or limitation of any rights of the Claimant. The Claimant reserves the right to withdraw this Proof of Claim with respect to any claims for any reason whatsoever.

This Proof of Claim shall not be deemed to be a waiver of the Claimant's rights (i) to trial by jury in any proceeding so triable in this case or any case, controversy, or proceeding related to this case, or (ii) to any other rights, claims, actions, setoffs, or recoupments to which the Claimant is or may be entitled, in law or in equity, all of which rights, claims, actions, defenses, setoffs, and recoupments the Claimant expressly reserves.

ROBERT KIMBLE, ADMINISTRATOR
AND PERSONAL REPRESENTATIVE OF
THE ESTATE OF SHARON KIMBLE AND : CHESTER COUNTY
ROBERT KIMBLE IN HIS OWN RIGHT, : COURT OF COMMON PLEAS

Plaintiffs :

v. :

LASER SPINE INSTITUTE, LLC, GLENN : NO. 16-00569
RUBENSTEIN, ET AL, :

Defendants :

SUPERSEDEAS BOND

Appellants, Laser Spine Institute, LLC, Laser Spine Institute of Philadelphia, Laser Spine Institute of Pennsylvania, LLC, and Glenn Rubenstein, having appealed from a judgment docketed on January 17, 2019, and having procured the execution of this instrument for the purpose of complying with the Pennsylvania Rules of Appellate Procedure, the undersigned Surety acknowledges itself bound and indebted to the Commonwealth of Pennsylvania, for the use of the persons or parties entitled thereto, in the sum of Eleven Million Nine Hundred Seventy Thousand Three Hundred Twelve Dollars and Thirty-Three Cents (\$11,970,312.33), to be paid as required by law.

Upon conclusion of this matter, if the Appellants satisfy the above identified judgment or any court order modifying or affirming that judgment and pay all costs, interest and damages for delay that may be awarded, this obligation shall be void; otherwise, it shall remain in force. In no event shall the Surety's obligation exceed Eleven Million Nine Hundred Seventy Thousand Three Hundred Twelve Dollars and Thirty-Three Cents (\$11,970,312.33).

Date: February 14, 2019



National Indemnity Company (Surety)
1314 Douglas Street, Suite 1400
Omaha, NE 68102-1944
NAIC: 20087

BY: _____

A handwritten signature in black ink, appearing to read "Ted J. Lane", written over a horizontal line.

Ted J. Lane, Attorney-in-Fact
Bond No. 70NGP184641

**POWER-OF-ATTORNEY
NATIONAL INDEMNITY COMPANY**

1314 DOUGLAS STREET, SUITE 1400, OMAHA, NEBRASKA 68102-1944
(402) 916-3000

70NGP184641

KNOW ALL MEN BY THESE PRESENTS: This Power-of-Attorney is not valid unless attached to the duly-executed bond that it authorizes. This Power-of-Attorney specifies **THE AUTHORITY OF THE ATTORNEY-IN-FACT** and **THE LIABILITY OF NATIONAL INDEMNITY COMPANY, WHICH SHALL NOT EXCEED:**

**ELEVEN MILLION, NINE HUNDRED SEVENTY THOUSAND, THREE HUNDRED TWELVE
AND 33/100 DOLLARS
(\$ 11,970,312.33)**

NATIONAL INDEMNITY COMPANY, a Nebraska corporation, having its principal office in the City of Omaha, State of Nebraska, does hereby make, constitute and appoint Ted J. Lane in the City of Omaha, County of Douglas, State of Nebraska, its true and lawful attorney-in-fact, at Omaha, in the State of Nebraska, to make, execute, seal and deliver for and on its behalf, and as its act and deed, any and all bonds and undertakings, provided that the liability of the Company as surety on any such bond executed under this authority shall not in any event exceed the sum shown above.

THIS POWER VOID IF ALTERED OR ERASED

The acknowledgement and execution of any such document by the said Attorney-In-Fact shall be as binding upon the Company as if such bond had been executed and acknowledged by the regularly-elected officers of this Company.

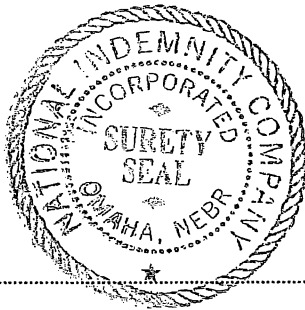
This Power of Attorney is granted, and is signed and sealed by original signature, under and by the authority of the following Resolution adopted by the Executive Committee, as duly authorized by the Board of Directors of NATIONAL INDEMNITY COMPANY, at a meeting duly called and held on the 15th day of March, 2017:

RESOLVED, That the President, any Vice President or the Secretary shall have the power and authority to (1) appoint Attorneys-in-fact and to authorize them to execute on behalf of this Company bonds and other undertakings and (2) remove at any time any such Attorney-in-fact and revoke the authority given.

FURTHER RESOLVED, That any Surety Administrator or Surety Underwriter shall have the power and authority to appoint Attorneys-in-fact and to authorize them to execute on behalf of this Company any license bond with a limit of \$10,000 or less.

FURTHER RESOLVED, That any Surety Administrator shall have the power and authority to appoint Attorneys-in-fact and to authorize them to execute on behalf of this Company (1) any bond, except an appeal bond, with a limit of \$10,000 or less and (2) any license bond with a limit of \$50,000 or less.

In Witness Whereof NATIONAL INDEMNITY COMPANY has caused its official seal to be hereunder affixed, and these presents to be signed by its President this 14th day of February, 2019.



NATIONAL INDEMNITY COMPANY

BY [Signature]
(Name) Donald F. Wurster
(Title) President

STATE OF NEBRASKA }
COUNTY OF DOUGLAS } ss.:

On this 14th day of February, 2019, before me, a Notary Public, personally appeared Donald F. Wurster, who being by me duly sworn, acknowledged that he signed the above Power of Attorney as President of said NATIONAL INDEMNITY COMPANY and acknowledged said instrument to be the voluntary act and deed of said corporation.

JOSLYN JENSEN
General Notary State of Nebraska
My Commission Expires
June 22, 2022.

[Signature]
Notary Public, Nebraska

- 1. THIS POWER DOES NOT AUTHORIZE EXECUTION OF BONDS OF NE EXEAT OR ANY GUARANTEE FOR FAILURE TO PROVIDE PAYMENTS OF ALIMONY SUPPORT OR WAGE LAW CLAIMS, OR BONDS FOR CRIMINAL APPEARANCE.
- 2. THIS POWER DOES NOT AUTHORIZE THE EXECUTION OF BONDS FOR LOAN GUARANTEES.

This Power Can Only Be Used in The State of: PENNSYLVANIA
This Power Can Only Be Used For The Following Obligor(s): COMMONWEALTH OF PENNSYLVANIA
Bond Title or Description: SUPERSEDEAS BOND / NO. 16-00569, CHESTER COUNTY COURT OF COMMON PLEAS
Principal or case reference: LASER SPINE INSTITUTE, LLC, GLENN RUBENSTEIN, ET AL. (Defendants/Appellants)