

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.

**ASSIGNEE'S MOTION TO APPROVE SETTLEMENT
WITH CIGNA HEALTH AND LIFE INSURANCE COMPANY**

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.

The Assignee seeks to take the action described herein. Objections must be filed and served within twenty-one (21) days from the service of this Motion. In the event an objection is timely filed and served, the Court will hold a hearing on July 30, 2019 at 3:00 p.m. to consider any timely filed objections, and to consider the Assignee's Motion to Approve Settlement With Cigna Health and Life Insurance Company before the Honorable Judge Steven Scott Stephens, Hearing Room 512, 800 East Twiggs Street, Tampa, Florida 33602.

If no objection is timely filed and served, then all creditors and parties in interest have consented to the relief sought in this Motion and the Assignee shall submit a proposed order to the Court. The deadline to object is twenty-one (21) days from service of this Motion.

Soneet Kapila, as assignee (the “Assignee”) for Laser Spine Institute, LLC, pursuant to Sections 727.109(7) and 727,111(4), Florida Statutes, moves this Court to approve the settlement reached between the Assignee and Cigna Health and Life Insurance Company (“Cigna”) on the following grounds.

Background

1. On March 14, 2019, Laser Spine Institute, LLC (“LSI”) 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 “**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**,” and together with the LSI Assignment Case, the “**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.

Relief Requested

3. Prior to the filing of the Assignment Cases, LSI and Cigna entered into an Administrative Services Only Agreement (the “**ASO**”) associated with self-funded medical and pharmacy plans. Effective April 1, 2019, LSI terminated the ASO with Cigna.

4. On or about March 28, 2019, LSI received wire-transferred funds from Cigna for pharmacy rebate credits totaling \$202,590.35 (the “**Rebate**”).

5. Cigna takes the position that the Rebate should be returned to Cigna in order to cover short-falls in ERISA plan obligations. The Assignee disagrees with this position.

6. In order to settle all claims and disputes that have arisen with respect to the Rebate, LSI and Cigna have agreed to the following terms of settlement (the “**Settlement**”), which shall be incorporated into any order approving the Settlement: Pursuant to the Settlement, the assignment estate will keep the sum of \$101,295.18, subject to any valid liens. The assignment estate will remit the sum of \$101,295.17 to Cigna within five (5) business days of the entry of an order approving the Settlement. Payment should be mailed to the attention of Marylou Kilian Rice, Cigna Legal, 900 Cottage Grove Road, B6LPA, Hartford, CT 06152. Pursuant to the Settlement, the Assignee, the assignment estates, and Cigna mutually release each other with respect to any further claims relating to the Rebate.

7. Texas Capital Bank, N.A., in its capacity as administrative agent to the lender group - which asserts a lien on the Rebate- approves of the Settlement.

8. The Settlement is in the best interest of the estates because it avoids costly and unproductive litigation, and preserves limited assets of the estates.

Basis for Relief Requested

9. Section 727.109(7) of the Florida Statutes, authorizes this Court to “hear and determine” a motion for “the settlement of a controversy.” Section 727.111(4), Florida Statutes, establishes a “negative notice” procedure for the settlement of such matters in the event interested parties do not object to the settlement. The Settlement benefits the estates and is in the best interests of the creditors because it will reduce litigation costs and risks to the estates. In addition, the estates will receive a substantial sum of money pursuant to the Settlement.

WHEREFORE, the Assignee respectfully requests that Court enter an order granting this Motion, approving the Settlement, and for such other and further relief as is just.

Dated: July 15, 2019

/s/ Edward J. Peterson

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Counsel for Assignee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion has been furnished on this 15th day of July, 2019 by the Court's electronic system to all parties receiving electronic service, by either U.S. mail or electronic mail to the parties listed on the Limited Notice Parties list and

Cigna Health and Life Insurance Company
c/o Patrick S. Scott, Esquire
Patrick.scott@gray-robinson.com

/s/ Edward J. Peterson _____
Edward J. Peterson

MASTER LIMITED NOTICE SERVICE LIST

June 21, 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
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Assignee and Assignee's Counsel (via the Court's electronic servicing system)

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

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