

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

In re:

Laser Spine Institute, LLC <sup>1</sup>	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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**ASSIGNEE'S MOTION FOR ORDER  
AUTHORIZING COMPROMISE OF CONTROVERSY WITH MEDPRO  
GROUP REGARDING EXCESS HEALTHCARE LIABILITY POLICY REFUND**

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<sup>1</sup> 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 October 2, 2019 at 2:00 p.m. to consider any timely filed objections, and to consider the Assignee’s Motion for Order Authorizing Compromise of Controversy with MedPro Group Regarding Excess Healthcare Liability Policy Refund 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 (“**Assignee**”) for the benefit of the creditors of the Assignors (defined below), by and through his undersigned attorneys, hereby files this motion pursuant to Florida Rule of Civil Procedure 1.100(b) and § 727.109(7) of the Florida Statutes, to compromise disputes with MedPro Group, on behalf of National Fire & Marine Insurance Company (collectively, “**MedPro**”), with respect to the refund of insurance premiums under that certain excess healthcare liability policy issued to the Assignors that this Court previously authorized the Assignee to terminate effective May 28, 2018. In support of this motion (the “**Motion**”), the Assignee states as follows:

**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 (collectively, together with LSI, the “**Assignors**”).

3. 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, 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.

#### **MedPro Insurance Policy Refund**

4. Prior to the filing of the Assignment Cases, LSI maintained an Excess Healthcare Liability Policy with MedPro (the “**MedPro Policy**”), which provided among other coverages professional liability coverage in excess of the self-insured retention amount of \$1 million per claim or an aggregate of \$6 million self-insured retention for all claims made during the policy period.

5. On May 28, 2019, this Court entered an order (the “**Termination Order**”) approving the Assignee’s termination of the MedPro Policy effective as of May 28, 2019. Early termination of the MedPro Policy triggered a return of premium ostensibly being due to the Assignee, as successor-in-interest to the insureds. In the Termination Order, this Court expressly retained jurisdiction over any disputes regarding the amount of any refund due to the estates in these Assignment Cases (the “**Assignment Estates**”) as a result of the termination of the MedPro Policy.

6. The Assignee and MedPro have since worked together in good faith to determine the amount of the refund under the MedPro Policy. The parties agree that the amount of refund due under the MedPro Policy is \$112,671.00 (the “**Refund**”).

7. On July 26, 2019, the Assignee made a demand upon MedPro for the Refund to be issued to the Assignee. However, MedPro asserted that it has rights of setoff, recoupment, and/or subrogation in the Refund as a result of, among other things, the Assignors’ failure to pay the self-insured retention under the MedPro Policy and MedPro’s providing defense of claims under the MedPro Policy under reservation of rights. MedPro has further asserted that its rights in the Refund are superior to any lien rights that TCB may have as lender to the Assignors.

**Relief Requested and Basis for Relief**

8. The Assignee seeks Court approval to compromise the controversy with respect to the Refund on the following terms: (a) 25% of the Refund (\$28,167.75) will be paid by MedPro to the Assignee upon approval of this Motion; and (b) MedPro will retain 75% of the Refund (\$84,503.25), which shall be in partial satisfaction of the claims filed by MedPro in these Assignment Cases.

9. To the extent that TCB asserts an interest in the Refund, TCB has approved the terms of the foregoing compromise. To the extent that TCB asserts a lien on the portion of the Refund paid to the Assignee, any such lien shall attach to the portion of the Refund paid to the Assignee and the Court shall retain jurisdiction to determine the validity of the lien.

10. The Assignee has determined in an exercise of his business judgment that the foregoing compromise is in the best interests of the Assignment Estates inasmuch as it avoids the costs and expense of litigating over the Assignee’s entitlement to the Refund and provides a certain recovery for the Assignment Estates.

WHEREFORE, the Assignee respectfully requests that this Court enter an order (i) granting this Motion, (ii) approving the compromise of the controversy with respect to the Refund set forth above, (iii) authorizing and directing MedPro to pay to the Assignee the sum of \$28,167.75 in full and complete satisfaction of any claims that the Assignment Estates have in the Refund, (iv) authorizing and directing MedPro to retain the sum of \$84,503.25 in full and complete satisfaction of any claims that MedPro has in the Refund, and (v) providing for such other and further relief as is just and proper.

Dated: September 6, 2019

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Counsel for Assignee

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing *Assignee's Motion for Order Authorizing Compromise of Controversy with MedPro Group Regarding Excess Healthcare Liability Policy Refund* has been furnished on this 6th day of September, 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 attached Limited Notice Parties list.

/s/ Edward J. Peterson  
Edward J. Peterson

MASTER LIMITED NOTICE SERVICE LIST

July 16, 2019

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

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Laser Spine Surgery Center of Arizona, LLC  
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