

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.

NOTICE OF FILING FULLY EXECUTED SETTLEMENT AGREEMENT

Soneet Kapila, by and through his undersigned counsel, hereby gives notice of filing the fully executed Settlement Agreement, dated August 29, 2019, by and between Soneet Kapila of KapilaMukamal, LLP, as Assignee of the Assignors, and Raintree III/IV Property Owner, LLC.

Dated: September 6, 2019

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 (collectively, the "Assignors").

/s/ Edward J. Peterson

Edward J. Peterson (FBN 0014612)
Stichter, Riedel, Blain & Postler, P.A.
110 E. Madison Street, Suite 200
Tampa, Florida 33602
Telephone: (813) 229-0144
Facsimile: (813) 229-1811
Email: epeterson@srbp.com
Counsel for Assignee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Notice of Filing Fully Executed Settlement Agreement has been furnished on this 6th day of September, 2019, by the Court's electronic noticing system to all parties receiving electronic service.

/s/ Edward J. Peterson

Edward J. Peterson

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this "Agreement"), is entered into as of August 29, 2019 (the "Effective Date"), by and between (i) **Soneet Kapila of KapilaMukamal, LLP**, as assignee (the "Assignee") of the Assignors listed on the attached Exhibit A (the "Assignors"), on the one hand, and (ii) **Raintree III/IV Property Owner, LLC**, a Delaware limited liability company, "Raintree"), on the other hand. The Assignee and Raintree are sometimes referred to below individually as a "Party" and collectively as the "Parties".

RECITALS

WHEREAS, on March 14, 2019, the Assignors and the Assignee entered into an assignment for the benefit of creditors under Chapter 727 of the Florida Statutes;

WHEREAS, on March 14, 2019, the Assignee filed a Petition Commencing Assignment for Benefit of Creditors with the Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division (the "Assignment Court"), commencing an assignment for the benefit of creditors proceeding pursuant to Chapter 727 of the Florida Statutes (the "Assignment Cases"), resulting in the creation of estates for each respective Assignor (the "Assignment Estates");

WHEREAS, as of the date of filing the Assignment Cases, Assignor Laser Spine Surgery Center of Arizona, LLC ("LSSC Arizona") and Raintree were parties to an Office Lease initially dated May 30, 2008, as amended from time to time (the "Lease");

WHEREAS, pursuant to the Lease, LSSC Arizona occupied the premises located in Scottsdale, Arizona, as more accurately described in the Lease (the "Premises");

WHEREAS, as of the date of filing the Assignment Cases, assets claimed by the Assignment Estates, primarily consisting of furniture, fixtures, and equipment of the Assignors (the "Assets") were located at the Premises, and Raintree disputes the validity, extent and priority of the Assignment Estates;

WHEREAS, Raintree has asserted a landlord lien under Arizona state law with respect to the Assets as security for amounts owed by LSSC Arizona to Raintree pursuant to the Lease (the "Claimed Lien"), and the Assignee disputes the validity, extent, and priority of such lien;

WHEREAS, Maricopa County has asserted a tax lien under Arizona state law with respect to the Assets as security for amounts owed by LSSC Arizona to Maricopa County (the "Claimed Tax Lien");

WHEREAS, on July 10, 2019, the Assignee filed with the Assignment Court a *Motion for Order Compelling Lessor Raintree Venture Owner, LLC to Allow Assignee Access to Maintain Assets and Patient Record Data, for Turnover of Assets of the Laser Spine Institute, LLC Assignment Estate, and Awarding Sanctions* (the "Motion to Compel") and on July 29, 2019, Raintree filed with the Assignment Court a *Motion to Dismiss Assignee's Motion to Compel and Alternative Response in Opposition to Motion to Compel* (the "Motion to Dismiss");

WHEREAS, the Parties desire to settle all remaining claims and disputes between them, including the dispute regarding the Claimed Lien and disposition of the Assets.

NOW THEREFORE, in consideration of the foregoing recitals and the respective covenants and agreements set forth in this Agreement, and for other good and valuable consideration, including the mutual promises, covenants and releases contained in this Agreement, the sufficiency of which the Parties acknowledge, the Parties agree as follows:

AGREEMENT AND RELEASE TERMS

1. ***Satisfaction of the Tax Lien.*** Within three (3) business days following entry of an order approving this Agreement by the Assignment Court, the Assignment Estates shall pay to Maricopa County all amounts necessary to fully and completely satisfy the Claimed Tax Lien. All of Raintree's obligations hereunder are fully and absolutely contingent on the Assignment Estates' full and complete satisfaction of the Claimed Tax Lien.

2. ***Settlement Payment.*** As full settlement of any and all of Raintree's claims, liens, encumbrances, causes of action, and rights to payment of any kind against the Assignee or the Assignment Estates, except for any obligations created by the Settlement Agreement, the Assignment Estates shall pay to Raintree a lump-sum payment of \$65,000.00 within three (3) business days following entry of an order approving this Agreement by the Assignment Court. In no event shall the Assignee be personally liable under this Agreement.

3. ***Withdrawal of Motion to Compel and Motion to Dismiss.*** Within three (3) business days following entry of an order approving this Agreement by the Assignment Court and full and indefeasible payment to Raintree hereunder, the Assignee shall file with the Assignment Court a notice of withdrawal of his Motion to Compel, and Raintree shall file a notice of withdrawal of its Motion to Dismiss.

4. ***Access to Premises.*** Within five (5) business days following entry of an order approving this Agreement by the Assignment Court (the "Access Date"), Raintree shall provide access to the Premises to Centurion and other agents of the Assignee reasonably necessary to remove the Assets or PHI or to make any repairs required by this Agreement. No less than three business days prior to any agent, employee or contractor of Centurion or Assignee gaining access to the Premises, Assignee or Centurion shall: (a) provide Raintree with the name(s) of the lead supervisory agents, employees, and/or contractors of Centurion or Assignee seeking to access the Premises; (b) make a good faith effort to provide Raintree with names of all non-supervisory agents, employees, and/or contractors of Centurion or Assignee seeking to access the Premises; and (c) provide Raintree with a description of the steps to be taken to remove the Assets from the Premises. For the avoidance of doubt, neither Centurion nor Assignee shall have any obligation to provide Raintree with the names of non-supervisory agents, employees, and/or contractors that are hired as temporary workers to assist with the removal of the Assets from the Premises.

5. ***Removal of Assets from the Premises.*** The Assignee shall remove the Assets from the Premises within 21 days following the Access Date (the “Removal Deadline”) under the following terms:

- a. The Assignee shall use the services of Centurion Service Group LLC (“Centurion”) to remove the Assets from the Premises.
- b. If the Assets are not removed by the Removal Deadline, Raintree shall be entitled to liquidated damages against the Assignment Estates equal to a market rate for short term office rent in similar buildings within a radius of twenty miles from the Premises, based upon at least three quotes.
- c. The Assignee, through Centurion, shall, promptly repair, in good and workmanlike manner, any damage to the Premises caused by Centurion’s removal of the Assets. If Centurion fails to do so, Raintree shall have the right to repair any such damage and the Assignee and Centurion shall be jointly and severally obligated to pay Raintree for the cost of all such repairs. Notwithstanding anything to the contrary in this Agreement, neither Assignee nor Centurion shall be responsible for: (i) patching the holes in the wall that will be left in the areas where the Sterilizer(s) are currently located; (ii) removing or repairing wiring or bolts in the areas where lighting is removed; (iii) making repairs to areas that have not been materially damaged by Centurion’s or Assignee’s work at the Premises; or (iv) making improvements to the Premises. Centurion will patch the holes in the wall that will be left in the areas where the MRI(s) are currently located.
- d. Following removal of the Assets, the Assignee shall have no further right to access to the Premises and will leave the Premises broom clean.

6. ***Removal of Protected Health Information.*** On or before the Removal Deadline, the Assignee shall remove from the Premises any and all patient records or patient information, including any Protected Health Information (“PHI”), within the meaning of the Health Insurance Portability Act of 1996, 45 C.F.R. § 164.501, as amended, and all regulations promulgated in connection therewith (“HIPAA”). Such removal shall be performed in compliance with HIPAA and any other applicable state or federal regulations. Upon completion of the removal of the PHI, the Assignee shall furnish a certificate of completion to the Raintree certifying that all PHI has been removed from the Premises in compliance with applicable state or federal regulations.

7. ***Indemnification.*** Centurion shall indemnify and hold Raintree and its affiliates, successors, assigns, agents, contractors, and other representatives harmless from and against any and all claims, losses, costs, damages, liabilities, and expenses arising from: (a) Centurion’s removal of the Assets from the Premises, including Centurion’s removal of any PHI that might be found in or on the Assets it removes from the Premises, or (b) any willful or grossly negligent acts or omissions of Centurion or any of Centurion’s agents, employees, contractors, or invitees.

8. ***Centurion as Signatory to this Agreement.*** Centurion, by signing this Agreement, shall be deemed a party to only to the terms of this Agreement explicitly referencing it set forth in Paragraphs 4, 5 and 7. Centurion shall be deemed a third-party beneficiary of this Agreement.

9. ***General Release by Raintree.*** As a material inducement for the Assignee to enter into this Agreement and as consideration for the releases to be provided, Raintree hereby remises, releases, acquits, satisfies, and forever discharges the Assignee and Assignment Estates (including the Assignee's attorneys, agents, successors and assigns), of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, costs (including attorneys' fees, expert fees, and out-of-pocket expenses), pre and post-judgment interest, obligations, losses, loss of services, expenses, compensation, judgments, executions, claims and demands whatsoever, in law or in equity, which Raintree ever had, now has, or which any personal representative, affiliate, successor, heir or assign of Raintree, hereafter can, shall or may have, against the Assignee or the Assignment Estates, for, upon or by reason of any matter, cause or thing whatsoever, known and unknown, foreseen and unforeseen, from the beginning of the world to the day of these presents, and including but not limited to all issues, causes, claims, counterclaims, set-offs, and allegations which were raised or could have been raised relating to or arising out of the Lease or the Assignment Cases. For the sake of clarity, Raintree specifically releases any liens, claims, or encumbrances in the Assets.

10. ***General Release by the Assignee.*** As a material inducement for Raintree to enter into this Agreement and as consideration for the releases to be provided, the Assignee hereby remises, releases, acquits, satisfies, and forever discharges Raintree (including Raintree's attorneys, agents, successors and assigns), of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, costs (including attorneys' fees, expert fees, and out-of-pocket expenses), pre and post-judgment interest, obligations, losses, loss of services, expenses, compensation, judgments, executions, claims and demands whatsoever, in law or in equity, which the Assignee ever had, now has, or which any personal representative, successor, heir or assign of the Assignee, hereafter can, shall or may have, against Raintree, for, upon or by reason of any matter, cause or thing whatsoever, known and unknown, foreseen and unforeseen, from the beginning of the world to the day of these presents, and including but not limited to all issues, causes, claims, counterclaims, set-offs, and allegations which were raised or could have been raised relating to or arising out of the Lease or the Assignment Cases.

11. ***Effectiveness of Releases.*** This Agreement will not become effective until entry of an order approving this Agreement by the Assignment Court and the full and indefeasible payment to Raintree required hereunder.

12. ***Attorneys' Fees and Costs through the Effective Date.*** Except as set forth herein, each Party shall bear its own attorneys' and professionals' fees and costs with regard to this Agreement and the Assignment Cases.

13. **Assignment Court Approval.** This Agreement shall be subject to approval of the Assignment Court.

14. **Warranty of Free Consent.** Each Party acknowledges and warrants that such Party:
- a. executed this Agreement without any threat, force, fraud, duress, or representation of any kind by any person or entity;
 - b. is aware of the rights to which such Party would otherwise be entitled;
 - c. has had a full and adequate opportunity to investigate the nature and extent of the claims such Party has against the other and has decided to enter into this Agreement;
 - d. has had the opportunity to have full and appropriate representation by counsel of such Party's own choice and that, after consultation with such Party's respective attorneys, after being duly apprised of its rights with respect to the Agreement, each freely accepts the terms, conditions and revisions of this Agreement and enters into this Agreement voluntarily and without any coercion or constraint; and
 - e. has cooperated in the drafting and preparation of this Agreement and, in connection with any construction of any provision to be made of this Agreement, has agreed such provision shall not be construed against any Party on the basis that any Party was the drafter, but that instead the language of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning and not strictly for or against any Party.

15. **Admissibility of Agreement.** The Parties agree that in the event of a breach of this Agreement by any of the Parties, this Agreement is admissible into evidence in any action to enforce this Agreement. This Agreement, and the submission of approval of the same to the Assignment Court, will not be used as evidence in support of an assertion that the Assignment Court has jurisdiction over Raintree and neither shall be construed as submission by Raintree to the jurisdiction of the Assignment Court.

16. **Authority; Binding Effect; Legality.** Each of the Parties represents and warrants that
- a. such Party has the requisite power and authority to execute and deliver this Agreement and the related documents to which such Party is a signatory;
 - b. the execution and delivery of this Agreement by such Party has been duly authorized by all requisite action(s) and creates valid and binding obligations of such Party, enforceable in accordance with its terms;
 - c. neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement will violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, or other restriction

of any governmental authority or conflict with, result in a breach of, or constitute a default under any contract, lease, license instrument, or other arrangement to which such Party is bound; and

- d. such Party is authorized to execute this Agreement on behalf of its officers, directors, representatives, employees, agents, affiliates, subsidiaries, attorneys, insurers, successors, predecessors, and assigns.

17. **Severability.** If any provision, or the application of any provision, of this Agreement is held invalid, the invalidity shall not affect any other provision or application of the Agreement, which can be given effect without the invalid provisions or application, and to this end the provisions of this Agreement are declared to be severable.

18. **Sufficiency of Consideration.** Each Party acknowledges that the covenants contained in this Agreement provide good and sufficient consideration for every promise, duty, release, obligation, agreement, and right contained in this Agreement.

19. **Binding Agreement; Assignment.** The terms of this Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective executors, administrators, successors, assigns, officers, directors, shareholders, parents, subsidiaries, agents, servants, employees, related entities, and legal representatives.

20. **No Transfer.** Each Party represents and warrants that the entities signing this Agreement are the sole owners of the actual or alleged claims, demands, rights, causes of action, and other matters that are released under this Agreement; that such claims, demands, rights, causes of action, and other matters have not been assigned, transferred, or disposed of; and that such Party has the full right and power to grant, execute, and deliver the releases contained in this Agreement.

21. **Complete Agreement.** This Agreement is intended by the Parties as the final expression of their agreement concerning the subject matter of this Agreement and as a complete and exclusive statement of the terms and provisions of this Agreement. Nothing other than this Agreement shall be relevant or admissible to supplement, explain, or vary any of the terms and provisions as set forth in this Agreement among the Parties. This Agreement cannot be amended, released, discharged, changed, modified, or terminated in any manner without the written consent of all the Parties.

22. **Notice Addresses.** From and after the Effective Date, the notice addresses for the Parties shall be as listed below:

If to Raintree Parties:

Raintree III/IV Property Owner, LLC
c/o Oaktree Real Estate Group
333 So. Grand Avenue, 28th Floor
Los Angeles, CA 90071
Attn: Brad Weinberg
Email: bweinberg@oaktreecapital.com
Facsimile No.: (213) 830-6392

With copy to:

John M. O'Neal, Esq.
Quarles & Brady LLP
One Renaissance Square
Two North Central Avenue
Phoenix, Arizona 85004
Email: john.oneal@quarles.com

And:

CAMI, Inc.
10089 Willow Creek Road, Suite 230
San Diego, CA 92131
Attention: Ron Lack
Telephone: (858) 831-9240
Facsimile: (858) 831-9243
Email: rlack@cypressoffice.com

If to Kapila:

Soneet Kapila
KapilaMukamal, LLP
1000 South Federal Highway, Suite 200
Fort Lauderdale, FL 33316
Email: skapila@kapilaco.com

With copy to:

Edward J. Peterson, Esq.
Matthew B Hale, Esq.
Stichter, Riedel, Blain & Postler, P.A.
110 E. Madison Street, Ste. 200
Tampa, Florida 33602
Email: epeterson@srbp.com
mhale@srbp.com

If to Centurion:

Erik Tivin
Centurion Service Group
3325 Mount Prospect Road
Franklin Park, Illinois 60131
Email: erik@centurionservice.com

With copy to:

Beau T. Greiman, Esq.
Greiman, Rome & Griesmeyer, LLC
2 North LaSalle, Suite 1601
Chicago, Illinois 60602
Email: bgreiman@grglegal.com

23. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, and such counterparts when taken together shall constitute one in the same Agreement. Photographic or scanned copies of such signed counterparts may be used in lieu of the originals for any purpose

24. **Litigation Expenses.** If any Party seeks to enforce such Party's rights under this Agreement by legal proceedings or otherwise, the non-prevailing Party shall be responsible for the costs and expenses incurred by the prevailing party in connection with such proceedings, including without limitation attorneys' fees and witness fees.

[SIGNATURE PAGE FOLLOWS]

WHEREFORE, the Parties hereto have executed this Settlement Agreement as of the dates set forth below.

RAINTREE III/IV PROPERTY OWNER, LLC

SONEET KAPILA, AS ASSIGNEE

Signed: _____

Signed: _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

CENTURION SERVICE GROUP, LLC

Signed:  _____

By: Erik Tivin _____

Title: CEO _____

Date: August 29, 2019 _____

WHEREFORE, the Parties hereto have executed this Settlement Agreement as of the dates set forth below.

RAINTREE III/IV PROPERTY OWNER, LLC

Signed:  _____

By: ~~Brad Weinberg~~ ~~Authorized Signatory~~ **Mark Jacobs**
Authorized Signatory

Title: _____

Date: 9/4/19 9/4/19

SONEET KAPILA, AS ASSIGNEE

Signed: _____

By: _____

Title: _____

Date: _____

CENTURION SERVICE GROUP, LLC

Signed: _____

By: _____

Title: _____

Date: _____

WHEREFORE, the Parties hereto have executed this Settlement Agreement as of the dates set forth below.

RAINTREE III/IV PROPERTY OWNER, LLC

Signed: _____

By: _____

Title: _____

Date: _____

SONEET KAPILA, AS ASSIGNEE

Signed: Soneet Kapila

By: SONEET KAPILA

Title: ASSIGNEE

Date: 8/29/19

CENTURION SERVICE GROUP, LLC

Signed: _____

By: _____

Title: _____

Date: _____

EXHIBIT A

Case No.	Assignor
2019-CA-2762	Laser Spine Institute, LLC
2019-CA-2764	CLM Aviation, LLC
2019-CA-2765	LSI HoldCo, LLC
2019-CA-2766	LSI Management Company, LLC
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