

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  
APPROVING SETTLEMENT OF CONTROVERSY WITH  
JOHN AND TRUDY COOPER REGARDING CAUSES OF ACTION**

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

<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.

Florida Rule of Civil Procedure 1.100(b) and § 727.109(7) of the Florida Statutes, for approval of a settlement reached with John and Trudy Cooper (collectively, “**Cooper**”), which resolves certain potential claims and causes of action asserted by the Assignee against Cooper. 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: 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**”).

### **Relief Requested and Basis for Relief**

3. In accordance with the Assignee’s rights under Chapter 727 of the Florida Statutes, the Assignee asserts that he possesses certain causes of action against Cooper, including, but not limited to, causes of actions to avoid and recover transfers under applicable law, including Chapter 726 Florida Statutes (the “**Causes of Action**”). Specifically, Cooper

received, on account of an equity investment in the Assignor, the sum of \$176,009.60 within the four years preceding the filing of the LSI Assignment Case. Cooper denies any and all liability related to the Causes of Action.

4. The parties desire to compromise, settle and finally terminate any and all claims that the Assignee may have against Cooper, including any claims relating in any way to the Causes of Action.

5. Accordingly, the Assignee seeks Court approval of the settlement between the Assignee and Cooper (the “**Settlement**”), which is set forth in the Settlement and Release Agreement (the “**Settlement Agreement**”), attached hereto as Exhibit A. The principal terms of the Settlement Agreement are summarized below<sup>2</sup>:

- a. Within 20 days from the date of the “Final Order,” as defined in Paragraph 3 of the Settlement Agreement, the Released Party<sup>3</sup> agrees to pay or cause to be paid to the Assignee the total sum of \$88,004.80 (the “**Settlement Payment**”). Because this dispute was settled prior to the filing of the suit, no contingency fee is due,<sup>4</sup> and the Assignee will retain the entire Settlement Payment.
- b. The Settlement Agreement is subject to Court approval.
- c. This Agreement shall be binding on the Parties on the Effective Date, subject only to approval of the Order, which shall be deemed to occur on the date upon which the last of the following occurs:
  - i. the Court has entered the Order; and
  - ii. the time to appeal, petition for an extraordinary writ, or move for reargument, rehearing, or a new trial has expired; and

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<sup>2</sup> The summary of the Settlement Agreement provided herein is qualified in all respects by the terms of the Settlement Agreement. In the event of any conflict between this summary and the Settlement Agreement, the terms of the Settlement Agreement shall expressly control.

<sup>3</sup> Capitalized terms not otherwise defined in this summary shall have the meaning ascribed to them in the Settlement Agreement.

<sup>4</sup> Professional fees and costs associated with this matter, as allowed by the Court, will be paid as permitted by law.

- iii. no appeal, petition for an extraordinary writ, or motion for reargument, rehearing, or a new trial, has been filed; and
  - iv. if any appeal, petition for an extraordinary writ, or motion for reargument, rehearing, or a new trial has been filed, such filing or proceeding has been voluntarily withdrawn or resolved by the highest court (or any other tribunal having appellate jurisdiction over the Order) to which the Order was appealed, or to which a petition for an extraordinary writ was taken, or from which reargument, rehearing, or a new trial was sought, and the Order has not been reversed, vacated, stayed, modified or amended, and the time to take any further appeal, petition, or motion has expired without such actions having been taken.
  - v. Upon satisfaction of each condition (c)(i) through (c)(iv) above, the Order shall be referred to as the “Final Order.”
- d. The Releasing Parties, including all of their agents, representatives, predecessors, successors, assigns, affiliates, employees, attorneys, heirs, beneficiaries, creditors, insurers, and anyone claiming by or through them, agree to release, remise, acquit and forever discharge the Released Party from any and all claims, demands, actions, causes of action, liens, damages, expenses, costs, liabilities and/or all other obligations or rights of any kind whatsoever, whether known or unknown, without limitation, arising out of or relating in any way to any events or activities prior to the date hereof, including but not limited to the Causes of Action.

6. Section 727.109 of the Florida Statutes specifically empowers the Court to enter an order approving “the compromise or settlement of a controversy” upon motion by the Assignee. Fla. Stat. § 727.109(7). Further, in the context of a Chapter 727 assignment for the benefit of creditors proceeding, only the Assignee may bring and settle a fraudulent transfer claim under

Chapter 726 of the Florida Statutes. *Smith v. Effective Teleservices, Inc.*, 133 So.3d 1048, 1053 (Fla. 4th DCA 2014).

7. In accordance with the foregoing, the Assignee has determined in an exercise of his business judgment that the Settlement is in the best interests of the assignment estates. The Settlement amounts to a 50% recovery on the face amount of the Causes of Action. Entry into the Settlement provides for a certain and early recovery for the assignment estates and avoids the risks and delays inherent in litigation. Moreover, by settling the Causes of Action before commencement of litigation, the Assignee avoids the costs and expense of litigation. As noted above, pursuant to the terms of retention agreed to between the Assignee and special litigation counsel, the Assignee will not be required to pay a contingency fee to special litigation counsel on this settlement recovery, meaning that this settlement is roughly equivalent to an 80% recovery after litigation is commenced.<sup>5</sup> The Settlement is fair and reasonable, and the Assignee submits that the Court should approve the Settlement Agreement.

WHEREFORE, the Assignee respectfully requests that this Court enter an order (i) granting this Motion, (ii) approving the Settlement and the Settlement Agreement, (iii) authorizing and directing Cooper to pay to the Assignee the Settlement Payment, subject to the terms of the Settlement Agreement, in full and complete satisfaction of the Causes of Action and any claims

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<sup>5</sup> The Assignee will, however, seek pre-judgment interest in the cases that are litigated.

relating in any way to the Causes of Action, and (iv) providing for such other and further relief as is just and proper.

DATED: January 13, 2020

/s/ Edward J. Peterson

Edward J. Peterson (FBN 0014612)  
Matthew B. Hale (FBN 0110600)  
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](mailto:epeterson@srbp.com); [mhale@srbp.com](mailto:mhale@srbp.com)  
Counsel for Assignee

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing *Assignee's Motion for Order Authorizing Settlement of Controversy with John and Trudy Cooper Regarding Causes of Action* has been furnished on this 13th day of January, 2020 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)**

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  
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Laser Spine Institute, LLC  
Medical Care Management Services, LLC  
Spine DME Solutions, LLC  
Total Spine Care, LLC  
Laser Spine Institute Consulting, LLC  
Laser Spine Surgery Center of Oklahoma, LLC  
c/o Nicole Greensblatt, Esq.  
Kirkland & Ellis, LLP  
601 Lexington Avenue  
New York, NY 10022  
Email: [ngreenblatt@kirkland.com](mailto:ngreenblatt@kirkland.com)

**Assignee and Assignee's Counsel (via the Court's electronic servicing system)**

Soneet Kapila  
c/o Stichter Riedel, Blain & Postler, P.A.  
Attn: Edward J. Peterson, Esq.  
110 E. Madison Street, Suite 200  
Tampa, Florida 33602

Soneet Kapila  
c/o Genovese Joblove & Battista, P.A.  
Attn: Greg Garno, Esq. and Paul Battista, Esq.  
100 Southeast Second Street, Suite 4400  
Miami, Florida 33131  
Email: [pbattista@gjb-law.com](mailto:pbattista@gjb-law.com), [ggarno@gjb-law.com](mailto:ggarno@gjb-law.com)

Soneet Kapila  
c/o Roche, McLean & Sbar, P.A.  
Attn: Robert Roche, Jonathan Sbar, Andrea Holder  
2309 S. MacDill Avenue  
Tampa, FL 33629  
Email: [roche@rmslegal.com](mailto:roche@rmslegal.com), [aholder@rmslegal.com](mailto:aholder@rmslegal.com), [jsbar@rmslegal.com](mailto:jsbar@rmslegal.com)

**Secured Creditors:**

CarePayment, LLC (MAIL RETURNED)  
5300 Meadow Rd., #400  
Lake Oswego, OR 97035

Steris Corporation  
5960 Heisley Rd.  
Mentor, OH 44060  
CIT Bank, N.A.  
10201 Centurion Pkwy., #400  
Jacksonville, FL 32256

Medport Billing, LLC (MAIL RETURNED)  
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  
Phoenix, AZ 85004  
Email: [muthigk@maco.maricopa.gov](mailto:muthigk@maco.maricopa.gov)

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

Highwoods Realty Limited Partnership  
c/o Eric E. Ludin, Esq.  
Tucker & Ludin, P.A.  
5235 16<sup>th</sup> Street North  
St. Petersburg, FL 33703-2611  
Email: [ludin@tuckerludin.com](mailto:ludin@tuckerludin.com); [erin@ludinlaw.com](mailto:erin@ludinlaw.com)



Terry and Sherry Legg  
c/o Colling Gilbert Wright & Carter, LLC  
801 N. Orange Avenue, Ste. 830  
Orlando, FL 32801  
Email: [JGilbert@TheFloridaFirm.com](mailto:JGilbert@TheFloridaFirm.com); [RGilbert@TheFloridaFirm.com](mailto:RGilbert@TheFloridaFirm.com);  
[CertificateofService@TheFloridaFirm.com](mailto:CertificateofService@TheFloridaFirm.com)

Joe Bailey; Mark Miller; Ted Suhl; Laserscopic Spinal Centers of America, Inc.; Laserscopic Medical Clinic, LLC; Laserscopic Surgery Center of Florida, LLC; Laserscopic Diagnostic Imaging; Laserscopic Spinal Center of Florida, LLC; and Tim Langford  
c/o Gunster, Yoakley & Stewart, P.A.  
401 E. Jackson Street, Ste 2500  
Tampa, FL 33602  
Email: [wschifino@gunster.com](mailto:wschifino@gunster.com) (primary)  
[kmather@gunster.com](mailto:kmather@gunster.com) (primary)  
[jbennett@gunster.com](mailto:jbennett@gunster.com) (primary)  
[cwarder@gunster.com](mailto:cwarder@gunster.com) (secondary)  
[tkennedy@gunster.com](mailto:tkennedy@gunster.com) (secondary)

Deanna Ali  
c/o Jessica Crane, Esq.  
Crane Law, P.A.  
13555 Automobile Blvd., Ste 560  
Clearwater, FL 33762  
Email: [Jessica@CraneLaw.com](mailto:Jessica@CraneLaw.com)

Heather Emby  
c/o Jessica Crane, Esq.  
Crane Law, P.A.  
13555 Automobile Blvd., Ste 560  
Clearwater, FL 33762  
Email: [Jessica@CraneLaw.com](mailto:Jessica@CraneLaw.com)

Deanna Ali  
c/o Kwall Barack Nadeau PLLC  
304 S. Belcher Rd. Ste C  
Clearwater, FL 33765  
Email: [rbarack@employeerights.com](mailto:rbarack@employeerights.com)  
[mnadeau@employeerights.com](mailto:mnadeau@employeerights.com)  
[Jackie@employeerights.com](mailto:Jackie@employeerights.com)

Heather Emby  
c/o Kwall Barack Nadeau PLLC  
304 S. Belcher Rd. Ste C  
Clearwater, FL 33765  
Email: [rbarack@employeeights.com](mailto:rbarack@employeeights.com)  
[mnadeau@employeeights.com](mailto:mnadeau@employeeights.com)  
[Jackie@employeeights.com](mailto:Jackie@employeeights.com)

Texas Capital Bank, N.A.  
c/o Trenam Kemker  
101 E. Kennedy Blvd., Ste 2700  
Tampa, FL 33602  
Primary Email: [slieb@trenam.com](mailto:slieb@trenam.com)  
Secondary Email: [mмосbach@trenam.com](mailto:mмосbach@trenam.com)  
Tertiary Email: [dmedina@trenam.com](mailto:dmedina@trenam.com)

DBF-LSI, LLC  
c/o Michael C. Markham, Esq.  
401 E. Jackson Street, Suite 3100  
Tampa, Florida 33602  
Email: [mikem@jpfirm.com](mailto:mikem@jpfirm.com); [minervag@jpfirm.com](mailto:minervag@jpfirm.com)

Shirley and John Langston  
c/o Donald J. Schutz, Esq.  
535 Central Avenue  
St. Petersburg, Florida 33701  
Email: [donschutz@netscape.net](mailto:donschutz@netscape.net); [don@lawus.com](mailto:don@lawus.com)

Jared W. Headley  
c/o Cameron M. Kennedy, Esq.  
Searcy Denney Scarola, et al  
517 North Calhoun Street  
Tallahassee, Florida 32301  
Email: [kennedyteam@searcylaw.com](mailto:kennedyteam@searcylaw.com); [cmk@searcylaw.com](mailto:cmk@searcylaw.com)

Deanna E. Ali  
c/o Brandon J. Hill, Esq.  
Wenzel Fenton Cabassa P.A.  
1110 N. Florida Avenue, Suite 300  
Tampa, Florida 33602  
Email: [bhill@wfclaw.com](mailto:bhill@wfclaw.com); [twells@wfclaw.com](mailto:twells@wfclaw.com)

MedPro Group  
c/o Jeffery Warren, Esq. and Adam Alpert, Esq.  
Bush Ross, P.A.  
P.O. Box 3913  
Tampa, FL 33601-3913  
Email: [jwarren@bushross.com](mailto:jwarren@bushross.com); [aalpert@bushross.com](mailto:aalpert@bushross.com);  
[mlinares@bushross.com](mailto:mlinares@bushross.com); [ksprehn@bushross.com](mailto:ksprehn@bushross.com)

Cosgrove Enterprises, Inc.  
c/o Walters Levine Lozano & Degrave  
601 Bayshore Blvd., Ste 720  
Tampa, Florida 33606  
Email: [hdegrave@walterslevine.com](mailto:hdegrave@walterslevine.com); [jduncan@walterslevine.com](mailto:jduncan@walterslevine.com)

Cherish Collins  
c/o Heather N. Barnes, Esq.  
The Yerrid Law Firm  
101 E. Kennedy Boulevard, Suite 3910  
Tampa, FL 33602  
Email: [hbarnes@yerridlaw.com](mailto:hbarnes@yerridlaw.com); [evento@yerridlaw.com](mailto:evento@yerridlaw.com)

Timothy Farley and Marilyn Farley  
c/o Heather N. Barnes, Esq.  
The Yerrid Law Firm  
101 E. Kennedy Boulevard, Suite 3910  
Tampa, FL 33602  
Email: [hbarnes@yerridlaw.com](mailto:hbarnes@yerridlaw.com); [evento@yerridlaw.com](mailto:evento@yerridlaw.com)

Holland & Knight, LLP  
c/o W. Keith Fendrick, Esq.  
Post Office Box 1288  
Tampa, Florida 33601-1288  
Email: [keith.fendrick@hkclaw.com](mailto:keith.fendrick@hkclaw.com); [andrea.olson@hkclaw.com](mailto:andrea.olson@hkclaw.com)

Kenneth Winkler  
c/o William E. Hahn, Esq.  
310 S. Fielding Ave.  
Tampa, FL 33606  
Email: [bill@whahn-law.com](mailto:bill@whahn-law.com); [Kelly@whahn-law.com](mailto:Kelly@whahn-law.com)

Ray Monteleone  
c/o Hill, Ward & Henderson, P.A.  
101 East Kennedy Boulevard  
Bank of America Plaza, Suite 3700  
Tampa, Florida 33601-2231  
[dennis.waggoner@hwlaw.com](mailto:dennis.waggoner@hwlaw.com); [julie.mcdaniel@hwlaw.com](mailto:julie.mcdaniel@hwlaw.com); [patrick.mosley@hwlaw.com](mailto:patrick.mosley@hwlaw.com);  
[tricia.elam@hwlaw.com](mailto:tricia.elam@hwlaw.com); [ghill@hwlaw.com](mailto:ghill@hwlaw.com); [jessica.simpson@hwlaw.com](mailto:jessica.simpson@hwlaw.com)

William Horne and WH, LLC  
c/o Hill, Ward & Henderson, P.A.  
101 East Kennedy Boulevard  
Bank of America Plaza, Suite 3700  
Tampa, Florida 33601-2231  
[dennis.waggoner@hwhlaw.com](mailto:dennis.waggoner@hwhlaw.com); [julie.mcdaniel@hwhlaw.com](mailto:julie.mcdaniel@hwhlaw.com); [patrick.mosley@hwhlaw.com](mailto:patrick.mosley@hwhlaw.com);  
[tricia.elam@hwhlaw.com](mailto:tricia.elam@hwhlaw.com); [ghill@hwhlaw.com](mailto:ghill@hwhlaw.com); [jessica.simpson@hwhlaw.com](mailto:jessica.simpson@hwhlaw.com)

Jonna Lemeiux  
Law Offices of Scott M. Miller  
Cambridge Square  
1920 Boothe Circle, Suite 100  
Longwood, Florida 32750  
[service@scottmillerlawoffice.com](mailto:service@scottmillerlawoffice.com); [amy@scottmillerlawoffice.com](mailto:amy@scottmillerlawoffice.com)

Robert Kimble, Administrator and Personal Rep of  
Estate of Sharon Kimble  
c/o Luis Martinez – Monfort  
400 North Ashely Drive, Suite 1100  
Tampa Florida 33602  
Primary Email: [lmmonfort@gbmmlaw.com](mailto:lmmonfort@gbmmlaw.com); [litigation@gbmmlaw.com](mailto:litigation@gbmmlaw.com)

Weiss Family Management, LLLP  
c/o V. Stephen Cohen, Esq.  
100 North Tampa Street, Suite 1900  
Tampa, FL 33602  
Primary: [scohen@bajocuva.com](mailto:scohen@bajocuva.com); [lheckman@bajocuva.com](mailto:lheckman@bajocuva.com)

Michael C. Weiss, D.O. **(via USPS mail)**  
Independent Orthopedics, P.A.,  
3225 South Macdill Avenue  
STE 129-348  
Tampa, FL 33629  
Cell: (954) 494-7995  
Cell: (954) 328-9441  
Email: [spinedoc@me.com](mailto:spinedoc@me.com); [partyplans2@aol.com](mailto:partyplans2@aol.com)

Robert P. Grammen  
William P. Esping  
James S. St. Louis, D.O.  
Michael W. Perry  
M.D., MMPerry Holdings, LLLC  
EFO Holdings, L.P.,  
EFO Genpar, Inc.  
EFO Laser Spine Institute, Ltd.  
BERGER SINGERMAN LLP  
350 East Las Olas Boulevard, Suite 1000  
Fort Lauderdale, Florida 33301  
Email: [drt@bergersingerman.com](mailto:drt@bergersingerman.com); [jwertman@bergersingerman.com](mailto:jwertman@bergersingerman.com);  
[guso@bergersingerman.com](mailto:guso@bergersingerman.com); [fsellers@bergersingerman.com](mailto:fsellers@bergersingerman.com)

Cystal and Leonard Tinelli  
c/o Donald J. Schutz, Esq.  
535 Central Avenue  
St. Petersburg, Florida 33701  
Email: [donschutz@netscape.net](mailto:donschutz@netscape.net); [don@lawus.com](mailto:don@lawus.com)

Dr. James St. Louis  
c/o Herbert Donica, Esq.  
Donica Law Firm, P.A.  
307 South Boulevard, Suite D  
Tampa, FL 33606  
Email: [herb@donicalaw.com](mailto:herb@donicalaw.com)

Jonathan Lewis  
c/o Peter A. Siddiqui, Esq.  
Katten Muchin Rosenman  
525 West Monroe Street  
Chicago, IL 60661-3693  
Email: [peter.siddiqui@kattenlaw.com](mailto:peter.siddiqui@kattenlaw.com)

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Case No. 2019-CA-2780

Assignors,

Consolidated Case No.  
2019-CA-2762

to

Soneet Kapila,

Division L

Assignee.

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# EXHIBIT A

**ASSIGNEE'S MOTION FOR ORDER  
APPROVING SETTLEMENT OF CONTROVERSY WITH  
JOHN AND TRUDY COOPER REGARDING CAUSES OF ACTION**

## SETTLEMENT AGREEMENT AND RELEASE

This is a Settlement Agreement and General Release (the “Agreement”) effective as of the date signed by the last party (“Effective Date”) by and between Soncet Kapila as the Assignee (the “Assignee”) of the Assignors (defined below) (the Assignee and Assignors are collectively referred to as the “Releasing Parties”), and John and Trudy Cooper (the “Released Party”) (the Releasing Parties and the Released Party together are the “Parties”).

Whereas, 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 Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division on March 14, 2019, commencing an assignment for the benefit of creditors proceeding pursuant to Section 727 of the Florida Statutes (the “LSI Assignment Cases”).

Whereas, simultaneous with the filing of the LSI Assignment Case, the Assignee filed fifteen other Petitions commencing assignment for the benefit of creditors proceedings under the Florida statutes for fifteen affiliates of LSI (the “Affiliated 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”).

Whereas, the Assignee asserts that certain causes of action may exist in favor of the Assignee against the Released Party, including, but not limited to, causes of actions to avoid and recover transfers under applicable law, including Chapter 726 Florida Statutes (the “Causes of Action”).

Whereas, the Parties desire to compromise, settle and finally terminate any and all claims that the Assignee may have against the Released Party, including any claims relating in any way to the Causes of Action.

Now, therefore, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Settlement Payment:** Within 20 days from the date of the “Final Order,” as defined in Paragraph 3 below, the Released Party agrees to pay or cause to be paid to the Assignee the total sum of \$88,0004.80 (the “Settlement Payment”).

2. **Approval of Agreement by the Court:** The Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida (the “Court”) is presiding over the LSI Assignment Cases and Affiliated Assignment Cases. The Parties agree that the Assignee must have this Agreement approved by the Court. Within five business days of the Effective Date, the Assignee agrees to file a motion with the Court requesting approval of this Agreement, giving notice to all creditors and an opportunity to object to the Agreement.



3. **Binding Effect and Final Order:** This Agreement shall be binding on the Parties on the Effective Date, subject only to approval of the Order, which shall be deemed to occur on the date upon which the last of the following occurs:

- a. the Court has entered the Order; and
- b. the time to appeal, petition for an extraordinary writ, or move for reargument, rehearing, or a new trial has expired; and
- c. no appeal, petition for an extraordinary writ, or motion for reargument, rehearing, or a new trial, has been filed; and
- d. if any appeal, petition for an extraordinary writ, or motion for reargument, rehearing, or a new trial has been filed, such filing or proceeding has been voluntarily withdrawn or resolved by the highest court (or any other tribunal having appellate jurisdiction over the Order) to which the Order was appealed, or to which a petition for an extraordinary writ was taken, or from which reargument, rehearing, or a new trial was sought, and the Order has not been reversed, vacated, stayed, modified or amended, and the time to take any further appeal, petition, or motion has expired without such actions having been taken.
- e. Upon satisfaction of each condition of Paragraph 3(a) through 3(d), the Order shall be referred to as the "Final Order."

4. **Release:** In consideration of the foregoing, the Releasing Parties, including all of their agents, representatives, predecessors, successors, assigns, affiliates, employees, attorneys, heirs, beneficiaries, creditors, insurers, and anyone claiming by or through them, do hereby release, remise, acquit and forever discharge the Released Party from any and all claims,

demands, actions, causes of action, liens, damages, expenses, costs, liabilities and/or all other obligations or rights of any kind whatsoever, whether known or unknown, without limitation, arising out of or relating in any way to any events or activities prior to the date hereof, including but not limited to the Causes of Action. The Releasing Parties confirm that they own the claims released herein, and have full authority to enter into this Agreement.

4. **Additional Provisions:**

(a) It is understood and agreed that this Agreement is entered into for the settlement of disputed claims, whether known or unknown, and this Agreement is not to be construed as an admission of liability on the part of any party released hereby, all such liability being denied.

(b) The Parties expressly acknowledge that they are executing this Agreement freely and voluntarily after having received full advice concerning their rights from their respective attorneys and that it is not based in any manner upon representations made to them by any of the parties released herein. Each of the Parties hereto represents and warrants that it has full right and authority to enter into this Agreement.

(c) The Parties agree that this Agreement was jointly negotiated and drafted by the parties and shall not be construed by a court of law against any party as the drafter thereof.

(d) The Parties expressly acknowledge that this Agreement shall be binding upon them and anyone else deriving or who might thereafter derive any rights from or through them.

(e) The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

(f) This Agreement contains the entire agreement between the parties with regard to the matters set forth herein and may only be modified by a writing signed by all of the Parties.

(g) This Agreement shall be governed by the laws of the state of Florida. Any action to enforce this Agreement or litigate any related dispute shall be filed only in the appropriate court in Hillsborough County, Florida.

(h) The Parties hereby acknowledge that they have read each page of this Agreement, that they fully understand them, that they agree to them, and voluntarily sign them.

(i) This Agreement may be executed in counterparts, each of which will be deemed to be an original and all of which together will constitute one and the same instrument.

**Released Party**

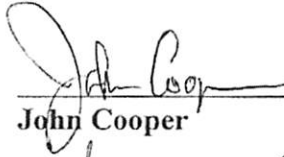
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**John Cooper**

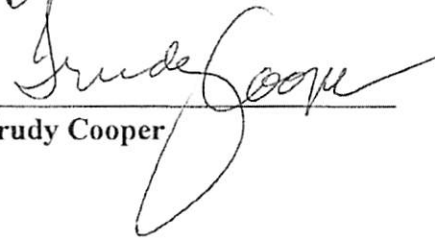
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**Trudy Cooper**

**Releasing Parties**

By:   
**Soneet Kapila, as Assignee**

**Released Party**

  
\_\_\_\_\_  
**John Cooper**

  
\_\_\_\_\_  
**Trudy Cooper**

**Releasing Parties**

By: \_\_\_\_\_  
**Soneet Kapila, as Assignee**