

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

In re:

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|--|------------------------------|
| Laser Spine Institute, LLC¹ | 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.

**FORMER LSI EMPLOYEES' AND WARN ACT CLASS MEMBERS'
MOTION TO ATTEND MEDIATION IN "D & O LITIGATION"**

1. Class Representatives Deanna Ali ("Ali") and Heather Embry ("Embry")(collectively "the WARN Class Representatives"), on behalf of a certified class ("the

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.

WARN Act Class Members”), hereby move for an order allowing them to attend an upcoming mediation in the D & O litigation.

2. Ali and Embry represent a national group of approximately 500 former LSI employees whose rights under the WARN Act were violated because they received no advance notice of Defendants’ (“LSI”) March 1, 2019 mass layoff.

3. The WARN Act Class Representatives filed a class action lawsuit in the Middle District of Florida against several of the LSI entities on March 4, 2019 (“the federal case”). The WARN Act Class Members seek relief against LSI for statutory WARN Act remedies consisting of sixty days’ pay and loss of benefits.

4. The federal case was stayed on March 19, 2019, due to this Notice of Assignment for the Benefit of Creditors (“the ABC case”) filed by LSI.

5. On June 13, 2019, the federal court re-opened the federal case so the WARN Class Representatives -- with LSI’s consent -- could move for class certification of the WARN Act Class Members’ claims.

6. The federal court certified the class on July 8, 2019, and approved notice on July 26, 2019.

7. In the interim, the WARN Act Class Representatives timely filed a class proof of claim in this case on behalf of the WARN Act Class Members.

8. The Class Representatives have been diligently pursuing this matter, and also working with the trustee to try to resolve this case. However, the WARN Act Class Members have not been offered, much less obtained, any monetary relief whatsoever.

9. Counsel for the WARN Act Class Members recently learned that a mediation is scheduled in May of 2020 for the parallel D & O litigation. That litigation involves claims made against certain individuals and LSI officers.

10. Because the D & O litigation contains allegations made against certain individuals for failure to comply with the WARN Act, counsel for the WARN Act Class Members should be permitted to attend the D & O mediation to ensure the rights of the 500 class members are both advanced, and also protected.

11. LSI opposes allowing counsel for the WARN Act Class Members to attend mediation in the D & O litigation. For reasons that are unclear the WARN Act Class Representatives, LSI takes the position that “consistent with the position taken by the Assignee with other parties in interest in the assignment cases who have asked to attend the mediation, that no other parties in interest, including the WARN Act claimants, will be allowed to attend mediation.”

12. However, allowing counsel for the WARN Act Class Members to attend mediation will not prejudice any party to the D & O litigation.

13. Rather, allowing counsel for the WARN Act Class Members to attend mediation in the D & O litigation will serve to protect the interests of the nearly 500 WARN Act class members, and help to ensure their claims are not negatively impacted by its outcome.

WHEREFORE, the WARN Act Class Representatives respectfully move this Honorable Court for an order permitting their counsel to attend mediation in the D & O litigation. A proposed order is attached hereto as Exhibit A.

Dated this 17th day of March, 2020.

Respectfully submitted,

/s/ *Brandon J. Hill*

BRANDON J. HILL

Florida Bar Number: 37061

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Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 17, 2020, I electronically filed the foregoing with the Clerk of the Court by using the Florida Courts E-Filing Portal system which will send a Notice of Electronic Filing to all counsel of record.

/s/ *Brandon J. Hill*

BRANDON J. HILL

EXHIBIT A

- Proposed Order -

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Assignors,

**Consolidated Case No:
2019-CA-2762**

to:

Soneet Kapila, Division L

Assignee.

**[PROPOSED ORDER] ALLOWING COUNSEL FOR FORMER LSI EMPLOYEES AND
WARN ACT CLASS MEMBERS TO ATTEND MEDIATION IN “D & O LITIGATION”**

THIS CASE came on for consideration [with/without] a hearing upon the Motion of the
WARN Act Plaintiffs Dr. Denna E. Ali and Heather Embry (the “WARN Act Class Members”),

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for an order allowing their counsel to attend mediation in the parallel litigation involving former LSI directors and officers (“the D & O litigation”). It is **ORDERED**:

1. The Motion is **GRANTED**.
2. Counsel for the WARN Act Class Members are permitted to attend and participate in mediation in the D & O Litigation.

DONE AND ORDERED in Hillsborough County, Florida this _____ day of March, 2020.

The Honorable Steven Scott Stephens
Circuit Court Judge

Copies to counsel of record.