

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

In re:

Laser Spine Institute, LLC	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

To: Assignors, Consolidated Case No.
2019-CA-2762

Soneet Kapila, Division L

Assignee

**COMMENT OF TEXAS CAPITAL BANK, N.A. AS ADMINISTRATIVE AGENT TO
THE LENDER GROUP TO THE INTERIM FEE APPLICATIONS
OF ESTATE PROFESSIONALS**

Texas Capital Bank, N.A., as administrative agent to the senior secured lenders (the “Agent”) hereby submits its comment (the “Comment”) to the interim fee applications of the Assignee’s estate professionals. Specifically, this Comment addresses the interim fee applications (the “Fee Applications”) of the following estate professionals:

- a) First Interim Application of Soneet Kapila, as Assignee, for Allowance of Compensation for the Period of March 14, 2019 through June 30, 2019;
- b) First Interim Application of KapilaMukamal, LLP for Allowance of Compensation for the Period of March 14, 2019 through June 30, 2019;
- c) First Interim Application of Stichter Riedel Blain & Postler, P.A. for Allowance of Compensation and Reimbursement of Expenses as Counsel for the Assignee for the Period of March 14, 2019 through June 30, 2019;
- d) First Interim Application of FisherBroyles, LLP for Allowance of Compensation as Healthcare Attorney for Assignee for the Period of March 27, 2019 through June 30, 2019;
- e) First Interim Application of The Wagner Law Group for Allowance of Compensation as ERISA and Employee Benefits Attorney for Assignee for the Period of March 26, 2019 through June 30, 2019;
- f) First Interim Application of Risk Management Solutions, Inc. for Allowance of Compensation as Risk Management Consultant for Assignee for the Period of April 11, 2019 through June 30, 2019;
- g) First Interim Application of Stichter, Riedel, Blain & Postler, P.A. for Allowance of Compensation as Counsel for Assignee for the Period of March 14, 2019 through June 30, 2019;
- h) Second Interim Application of Stichter, Riedel, Blain & Postler, P.A. for Allowance of Compensation as Counsel for Assignee for the Period of July 1, 2019 through October 31, 2019;
- i) Amended Third Interim Application of FisherBroyles, LLP for Allowance of Compensation and Reimbursement of Expenses as Healthcare Attorney for Assignee for the Period of July 1, 2019 through February 29, 2020;
- j) Third Interim Application of KapilaMukamal, LLP for Allowance of Compensation and Reimbursement of Expenses for the Period of November 1, 2019 through February 29, 2020;
- k) Third Interim Application of Soneet Kapila, as Assignee, for Allowance of Compensation as Assignee for the Period of November 1, 2019 through February 29, 2020;
- l) Third Interim Application of Risk Management Solutions, Inc. for Allowance of Compensation for the Period of November 1, 2019 through February 29, 2020; and

- m) Third Interim Application of The Wagner Law Group for Allowance of Compensation as ERISA and Employee Benefits Attorney for Assignee for the Period of November 1, 2019 through February 29, 2020.

1. The Agent submits that some of the services for which compensation or reimbursement are sought under the Fee Applications may constitute reasonable, necessary costs and expenses of preserving, or disposing of, the Agent's Collateral and may therefore have rendered some benefit to the Agent. Subject to approval by the Court after notice and hearing, the Agent intends to fund such costs and expenses to the extent of such benefit to the Agent (the "Agent-Benefit Expenses"). Other of the services for which compensation or reimbursement are sought did not benefit the Agent in that manner (the "Estate Expenses"). As the Court is aware, the Assignee previously filed a motion for authorization to use cash collateral (the "Motion"),¹ whereby the Assignee and the Agent agreed to: (i) consensual terms of use of cash collateral provided that the Agent obtains certain adequate protections; and (ii) a budget that covers, among other things, reasonable estate professional fees and expenses.

2. Following a contested hearing, the Motion was denied. Absent the adequate protections that the Agent negotiated in good faith with the Assignee, the Agent is unwilling to fund expenses for estate fees and expenses that do not relate to actual costs incurred securing, preserving, protecting, insuring, collecting and liquidating the Agent's Collateral.

3. Accordingly, the Agent and Lenders hereby reserve all rights to object and, if appropriate, disgorge, any Estate Expenses funded by the Agent and any other Agent funding to the extent that such funding did not benefit the Agent.

Dated: April 15, 2020

Respectfully submitted,

/s/ Stephanie C. Lieb
STEPHANIE C. LIEB, ESQ.
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¹ Capitalized terms not otherwise defined herein maintain the meanings ascribed to them in the Motion.

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*Attorneys for Texas Capital Bank, National
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group*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 15, 2020 a true and correct copy of the foregoing was electronically filed with the Clerk of the Court by using the Florida Courts E-Filing Portal System which will send a notice of electronic filing to counsel of record.

/s/ Stephanie C. Lieb

Attorney