

IN THE 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.

**ORDER GRANTING ASSIGNEE'S MOTION FOR
(A) ORDER APPROVING SETTLEMENT AND COMPROMISE
OF CLAIMS AGAINST FORMER DIRECTORS AND OFFICERS,
(B) ORDER AUTHORIZING PAYMENT OF PROFESSIONAL FEES, AND
FINAL JUDGMENT AS TO SETTLED CLAIMS IN LAWSUITS**

THESE CASES came before the Court for hearing on April 19, 2021, at 3:00 p.m. (the
“**Hearing**”) upon the *Assignee's Motion for (A) Order Approving Settlement and Compromise of*

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 “**Assignment Estates**”).

Claims Against Former Directors and Officers, (B) Order Authorizing Payment of Professional Fees and (C) Final Judgment as to Settled Claims in the Lawsuits (the “**Compromise Motion**”) filed by Soneet R. Kapila as Assignee.²

The Court, having considered the Compromise Motion, the Settlement Agreement, the record in the Assignment Cases, and argument of interested parties, finds and concludes as follows:³

A. This Court has jurisdiction to hear and consider the Compromise Motion, the proposed settlement, and the compromise.

B. Notice has been provided to creditors of the Assignment Estates (defined below), as required by Section 727.111(4), Florida Statutes.

C. Due, proper, and sufficient notice of the Compromise Motion and of the hearing on the Compromise Motion was given to creditors and parties in interest. Such notice was proper, adequate, and satisfied the requirements of Sections 727.109(7) and 727.111(4), Florida Statutes.

D. In the context of a Chapter 727 assignment, the Assignee has the sole authority and standing to prosecute the Claims being resolved and enter into a Settlement in connection therewith. *Moffatt & Nichol, Inc. v. B.E.A. International Corp, Inc.*, 48 So.3d 896, 899 (Fla. 3d DCA 2010) (finding that an assignee is the only party who has standing to pursue and settle fraudulent transfer, preferential transfer and other derivative claims); *Smith v. Effective Teleservices, Inc.*, 133 So.3d 1048, 1053 (Fla. 4th DCA 2014) (same).

E. The settlement and compromise embodied in the Settlement Agreement falls within

² Capitalized terms not defined in the Order shall have the meaning set forth in the Compromise Motion.

³ The findings of fact and conclusions of law stated in this Order shall constitute the Court’s findings of fact and conclusions of law. To the extent any finding of fact later shall be determined to be a conclusion of law, it shall be so deemed. To the extent any conclusion of law later shall be determined to be a finding of fact, it shall be so deemed.

the reasonable range of possible litigation outcomes and reflects the Assignee's appropriate exercise of his business judgment.

F. The settlement and compromise embodied in the Settlement Agreement is in the best interests of creditors and the estates created by the filing of the Assignment Cases (the "**Assignment Estates**") because the settlement will generate a substantial recovery to the Assignment Estates and will avoid the substantial risk, delay, and expense associated with the continued litigation and likely appeals of the Claims being settled.

G. The terms of the Settlement Agreement, including without limitation, the Settlement Payment and mutual releases provided for in the Settlement Agreement, are above the lowest level in the range of reasonableness and in all respects satisfy the standards set forth in *Wallis v. Justice Oaks II, Ltd. (In re Justice Oaks II, Ltd.)*, 898 F.2d 1544, 1549 (11th Cir. 1990), for approval of a compromise of a controversy on behalf of the Assignment Estates.

H. Dismissal with prejudice of the Lawsuits against the Defendants will dispose of separate and distinct causes of action that are not interdependent with other pleaded claims in this proceeding and this Order will totally dispose of the entire Lawsuits as to the Defendants in this proceeding, as contemplated by Rule 9.110(k), Fla. R. App. P.

Based on the findings above and for the reasons stated in the Compromise Motion and on the terms of the Settlement Agreement, which shall constitute the decision of the Court, it is

ORDERED as follows:

1. The Compromise Motion is granted.
2. The Settlement Agreement is approved in all respects. The failure to specifically describe or include any particular provision of the Settlement Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the

Settlement Agreement be approved and so ordered in its entirety.

3. The Parties are authorized and directed to implement and comply with the terms and conditions of the Settlement Agreement.

4. Payment of Settlement Amount. Within thirty (30) days from the date of the “Final Order” as defined in paragraph 4 of the Settlement Agreement, Defendants agree to pay or cause to be paid to Plaintiff the total sum of Nine Million Dollars (\$9,000,000.00) by wire transfer delivered to Plaintiff pursuant to wire transfer instructions to be provided by Plaintiff (the “**Settlement Payment**”).

5. Releases. The releases set forth in the Settlement Agreement are approved.

6. Dismissal of Lawsuits. The Parties agree to dismiss with prejudice the Lawsuits being settled under the Settlement Agreement by filing Joint Stipulations for Dismissal with Prejudice in such Lawsuits within five business days from Plaintiff’s receipt of the Settlement Payment.

7. Final Judgment. The dismissal with prejudice of the Lawsuits against the Defendants disposes of separate and distinct causes of action that are not interdependent with other pleaded claims in this proceeding and this Order totally disposes of the entire Lawsuits as to the Defendants in this proceeding. Accordingly, the Court hereby enters this Final Judgment as to such Claims against the Defendants.

8. Retention of Jurisdiction. The Court retains jurisdiction to enforce this Order, to give effect to the compromise, and to resolve any issues or claims that arise out of or impact this Order or compromise.

9. Approval of Contingency Fees. The Court approves a total contingency fee to Genovese Joblove & Battista, P.A. and Roche McLean & Sbar in the amount of \$2,050,800. Pursuant to the agreement between such firms, the Assignee is authorized to pay from the Settlement Payment \$1,025,400 to Genovese Joblove & Battista, P.A. and \$1,025,400 to Roche McLean & Sbar.

10. Counsel for the Assignee shall serve this Order and Final Judgment upon all interested parties and their counsel, including the creditors of the Assignment Estates.

DARREN FARFANTE
Circuit Court Judge

Copies to: Counsel of record