

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.

OBJECTION TO CLAIM OF LEON WICKIZER AND ANGENETTE WICKIZER

¹ On April 8, 2019, the Court entered an order administratively consolidating this case with the assignment cases (collectively, the “**Assignment Cases**” or the “**Assignment Estates**”) 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**”).

**NOTICE OF OPPORTUNITY TO OBJECT
AND REQUEST A HEARING**

The Assignee seeks an order disallowing the Wickizer Claims (defined below) filed by Leon Wickizer and Angenette Wickizer. Responses must be filed and served on Assignee, Soneet R. Kapila, KapilaMukamal, LLP, 1000 South Federal Highway, Suite 200, Fort Lauderdale, FL 33616 and Scott Stichter, Stichter Riedel, Blain & Postler, P.A., 110 E. Madison Street, Suite 200, Tampa, Florida 33602 within 21 days from the service of this Objection. If no responses are filed, the Court may grant the relief without further notice. In the event a response is timely filed and served, the Court will hold a hearing to consider any timely filed responses and to consider this Objection. Any such hearing will be separately noticed.

Soneet Kapila, as Assignee for the Assignment Estates, objects to the claim filed by Leon Wickizer and Angenette Wickizer (“**Wickizer**”), seeking to recover an unsecured claim in the LSI bankruptcy case and, in support thereof, states:

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 Chapter 727 of the Florida Statutes (the “**LSI Assignment Case**”).

2. On July 11, 2019, Wickizer submitted a proof of claim (the “**Wickizer Claim**”), a copy of which is attached as **Exhibit A**. The Wickizer Claim was filed in the amount of \$3,000,000.00. The only documentation attached to the Wickizer Claim are copies of the Complaint and a Certificate of Arbitration filed in Arizona State Court under Case No. CV2018-00362 as well as various medical records.

3. The Wickizer Claim cannot be allowed as filed because it is filed in an unliquidated amount. The Assignment Statute (Chapter 727 of the Florida Statutes, 717.101 et seq.) requires

that “Claims shall be in written form entitled “proof of claim,” setting forth the name and address of the creditor and the nature and amount of the claim, and executed by the creditor or the creditor’s authorized agent.” § 727.112(3), Fla. Stat. (Emphasis added).

4. The Assignee requests that the Wickizer Claim be disallowed.

WHEREFORE, the Assignee requests that the Court (i) enter an order substantially in the form attached as **Exhibit B** disallowing the Wickizer Claim, and (ii) grant such further relief to which he is entitled.

/s/ Scott A. Stichter
Scott A. Stichter (Florida Bar No. 0710679)
Stichter, Riedel, Blain & Postler, P.A.
110 E. Madison Street, Ste. 200
Tampa, Florida 33602-4718
Telephone: (813) 229-0144
Facsimile: (813) 229-1811
Email: [sstichter@srbp.com](mailto:ssstichter@srbp.com)
[sstichter.ecf@srbp.com](mailto:ssstichter.ecf@srbp.com)
Counsel for Soneet Kapila, Assignee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the *Objection to Claim of Leon Wickizer and Angenette Wickizer* has been furnished on February 20, 2024, via the Court’s electronic filing portal to all counsel of record to and via U.S. Mail to:

Leon Wickizer and Angenette Wickizer
4700 W. White Mountain Blvd.
Lakeside, AZ 85929

Eduardo H. Coronado, Esquire
Coronado Law Firm, P.L.L.C.
4700 West White Mountain Blvd.
Lakeside, AZ 85929

/s/ Scott A. Stichter
Scott Stichter

Exhibit “A”

1. PLEASE SPECIFY THE ASSIGNOR AGAINST WHICH YOU ASSERT A CLAIM:
Quest Spine Institute LLC
(IF YOU HAVE A CLAIM AGAINST MORE THAN ONE ASSIGNOR, YOU MUST FILE A SEPARATE CLAIM AGAINST EACH ASSIGNOR).

2. CREDITOR NAME (Your name): Leon Wictizer and Angenette Wictizer
ADDRESS: 4700 W. White Mountain Blvd.
CITY, STATE, ZIP: Lakeside, AZ 85129
TELEPHONE NUMBER: (928) 532-4529
E-MAIL ADDRESS: eduardo.ceronado@frontiers.com; paroledgl.eoroadobla@gmail.com

Please be sure to notify us if you have a change of address.

Check box if address on claim differs from address to which this notice was sent: []

3. BASIS FOR CLAIM:

- Goods Sold
- Services Performed
- Money Loaned
- Shareholder
- Wages, Salaries and Compensations
- Taxes
- Customer Deposit
- Other: Complaint Medical Malpractice

4. DATE DEBT WAS INCURRED: Over about 8/16/16 to 9/14/16

5. AMOUNT OF CLAIM: \$3,000,000.00

6. Does Claim amend, replace, or supplement a prior claim? If so, please state the date and amount of the prior claim(s):

7. SUPPORTING DOCUMENTS: **Attach copies of supporting documents**, such as promissory notes, purchase order, invoices, itemized statement of running accounts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.

8. SIGNATURE: Sign and print name and title, if any, of the creditor or other person authorized to file this claim:

As required by law, the proof of claim and any supporting documentation you submit shall become a part of the public record related to the Assignment Cases. As a result, the Assignee and his professionals shall be permitted, and may be directed by the Court, to include such documentation, including to the extent provided, protected health information, in any subsequent pleading, notice, document, list, or other public disclosure made in connection with the Assignment Cases. Such inclusion by the Assignee and his professionals shall not constitute a "wrongful disclosure" under HIPAA, the Florida Information Protection Act of 2014, or any regulations promulgated thereunder.

DATED: 7/11/19

BY: Angenette M Wictizer
Signature of Claimant or Representative

Leon Wictizer
Print Name and Title Here

Angenette M Wictizer

For Assignee's Use Only:
Claim Number: _____
Date: _____

CIVIL COVER SHEET

PLEASE TYPE OR PRINT

PLAINTIFF'S ATTORNEY Eduardo H. Coronado
ATTORNEY NO 022397

FOR COURT USE ONLY
DATE FILED: _____
CASE NO: <u>CV 201800302</u> - <u>8</u> 2018
JUDGE: _____

CONFIRMED
COPY OF ORIGINAL FILING
NAVAJO COUNTY SUPERIOR COURT
DEANNE M. ROMO, CLERK

PLAINTIFF'S NAME (S) (List All):
LEON WICKIZER and ANGENETTE WICKIZER

PLAINTIFF'S ADDRESS (ES) – Include only if not represented by an attorney.

DEFENDANT'S NAME (S) (List All)
DR. TIMOTHY LUKE M.D., DR. ERIKA VATSAR-FAIL, MD, NICKOLAS WILLARD CRNA, LASER SPINE INSTITUTE, LLC, a Foreign Entity, JOHN DOE NURSE, JANE DOE NURSE, JOHN DOE, M.D., JANE DOE M.D., JOHN DOE, D.O., JANE DOE D.O., JANE DOE P.A.C., JON DOE P.A.C. JANE DOE TECHNICIAN, JON DOE TECHNICIAN, XYZ CORPORATION, ABC PARTNERSHIP, JOHN DOE, JANE DOE.

CASE PREFERENCE N/A

AMOUNT IN CONTROVERSY (if alleged)

Compensatory	\$3,000,000.00
Punitive	\$
Attorney fees	\$ 1,000,000.00

EMERGENCY ORDER SOUGHT: N/A

_____ Temporary restraining order
_____ Provisional remedy
_____ Other _____
(specify)

NATURE OF ACTION

Place an "x" next to the case type, which describes the nature of the case you are filing. If more than one, circle the predominant one.

_____ TORT-MOTOR VEHICLE (200)

- _____ Death
- _____ Non-death injuries
- _____ Property damage

TORT NON-MOTOR VEHICLE (210)

- _____ Negligence
- _____ Products liability
- _____ Intentional
- _____ Property damage
- _____ Legal Malpractice
- _____ Other consumer fraud
(specify)

MEDICAL MALPRACTICE (220)

- Physician
- _____ Hospital
- _____ Other _____
(specify)

LOWER COURT APPEAL (250)

- _____ Civil traffic
- _____ Civil non-traffic
- _____ Special action

CONTRACTS (230)

- _____ Account (open or stated)
- _____ Promissory note
- _____ Foreclosure
- _____ Other sales; warranty
(specify)

EMINENT DOMAIN (240)

- _____ Condemnation
- _____ Vehicle forfeiture
- _____ Private way of necessity

UNCLASSIFIED CIVIL

- _____ Forcible Detainer
- _____ Change of name
- _____ Transcript of judgment
- _____ Foreign judgment
- _____ Declaratory judgment
- _____ Habeus Corpus
- _____ Quiet title
- _____ Harassment
- _____ Tax appeal
- _____ Administrative review
- _____ Other Uniform Commercial Code
(specify)

Does not meet the criteria for a complex action

CONFORMED

COPY OF ORIGINAL FILING

AUG - 8 2018

NAVAJO COUNTY SUPERIOR COURT
DEANNE M. ROMO, CLERK

1 Eduardo H. Coronado, SBN 022397
2 **CORONADO LAW FIRM, P.L.L.C.**
3 4700 West White Mountain Boulevard
4 Lakeside, AZ 85929
5 (928) 532-4529 Telephone
6 (928) 532-0753 Fax
7 eduardocoronado@frontier.com

8 Attorney for Plaintiffs

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF NAVAJO**

11 **LEON WICKIZER and ANGENETTE**
12 **WICKIZER**

13 **Plaintiffs,**

14 **v.**

15 **DR. TIMOTHY LUKE M.D., DR. ERIKA**
16 **VATSAR-FAIL, M.D., NICKOLAS**
17 **WILLARD CRNA, LASER SPINE**
18 **INSTITUTE, LLC, a Foreign Entity,**
19 **JOHN DOE NURSE, JANE DOE**
20 **NURSE, JOHN DOE, M.D., JANE DOE**
21 **M.D., JOHN DOE, D.O., JANE DOE**
22 **D.O., JANE DOE P.A.C., JON DOE**
23 **P.A.C. JANE DOE TECHNICIAN, JON**
24 **DOE TECHNICIAN, XYZ**
25 **CORPORATION, ABC PARTNERSHIP,**
26 **JOHN DOE, JANE DOE,**

27 **Defendants.**

28 **Case No.: CV2018--** 00302

COMPLAINT
MEDICAL MALPRACTICE

Plaintiffs, Leon Wickizer and Angenette Wickizer (hereinafter "Plaintiff" or "Plaintiffs"), allege as follows:

PARTIES

1. Plaintiffs are residents of Washington State.
2. The operative facts of this action took place in Maricopa County, Arizona.

- 1 3. Defendant Laser Spine Institute, of Laser Spine Institute, LLC, is a foreign entity
2 located at 8888 E. Raintree Dr. Suite 170, Scottsdale, Arizona 85260.
- 3 4. Defendants and each of them began treatment of Plaintiff on or about August
4 12th, of 2016 through on or about September 14th, 2016.
- 5 5. Defendants and each of them owed a duty of care to Plaintiff to treat Plaintiff
6 within an acceptable standard of medical care within the medical community.
- 7 6. The acceptable standard of care in the medical community does not include
8 performing spinal surgery in a negligent manner.
- 9 7. Defendants and each of them breached this duty of care to Plaintiff by not
10 treating Plaintiff correctly.
- 11 8. Defendants and each of them breached this duty of care to Plaintiff by not
12 monitoring and acting to protect Plaintiff from further harm and injury.
- 13 9. Defendant Dr. Timothy Luke, M.D. is licensed to practice in Arizona and regularly
14 engages in the practice of medicine in Arizona.
- 15 10. Defendant Dr. Timothy Luke, M.D. was acting as an agent and employee of
16 Laser Spine Institute during his treatment of Plaintiff.
- 17 11. Defendant Dr. Erika Vatsar-Fail, M.D. is licensed to practice in Arizona and
18 regularly engages in the practice of medicine in Arizona.
- 19 12. Defendant Dr. Erika Vatsar-Fail, M.D. was acting as an agent and employee of
20 Laser Spine Institute during his treatment of Plaintiff.
- 21 13. Defendant Nickolas Willard, CRNA is licensed to practice in Arizona and
22 regularly engages in the practice of medicine in Arizona.
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COUNT 1

MEDICAL MALPRACTICE AS TO ALL DEFENDANTS

14. Plaintiff realleges and incorporates by reference herein each and every allegation in this Complaint as if fully set forth herein.

15. Defendants owed a duty of care to Plaintiff to properly perform surgery and follow up care.

16. Because of Defendants' breach of their duty of care, Plaintiffs have suffered a decreased quality of life.

17. Because of Defendants' breach of their duty of care, Plaintiff, Leon Wickizer, has suffered a deprivation of quality time with Plaintiff, Angenette Wickizer, his wife.

18. Because of Defendants' breach of their duty of care, Plaintiff has not been able to perform various routine aspects of his life that he was able to previously.

19. Because of Defendants' breach of their duty of care, Plaintiff, Leon Wickizer has not be able to assist Plaintiff, Angenette Wickizer, in upkeep of their home, as he used to be able to do.

20. WHEREFORE, Plaintiff prays for judgment as follows:

- A. For damages in an amount to be proven at trial including but not limited to lost wages, future lost wages, medical expenses, future medical expenses, loss of consortium, loss of intangibles, and loss of enjoyment of life;
- B. For damage for pain and suffering.
- C. For interest on any judgment due and owing to Plaintiff at the rate provided under Arizona law until paid in full;
- D. That Plaintiff recover for such other further relief as the Court deems be just and proper.

1
2
3 **COUNT 2**

4 **MEDICAL MALPRACTICE VIA AGENCY (RESPONDEAT SUPERIOR)**

5 21. Plaintiff realleges and incorporates by reference herein each and every allegation
6 in this Complaint as if fully set forth herein.

7 22. At the time of the incident all persons named in this pleading were acting in their
8 capacity as agents for Laser Spine Institute.
9

10 23. WHEREFORE, Plaintiff prays for judgment as follows:

- 11 A. For damages in an amount to be proven at trial including but not limited
12 to lost wages, future lost wages, medical expenses, future medical
13 expenses, loss of consortium, loss of intangibles, and loss of enjoyment
14 of life;
- 15 B. For damage for pain and suffering.
- 16 C. For interest on any judgment due and owing to Plaintiff at the rate
17 provided under Arizona law until paid in full;
- 18 D. That Plaintiff recover for such other further relief as the Court deems be
19 just and proper.
20

21 **DATED** this 8 day of August, 2018.

22 **CORONADO LAW FIRM, P.L.L.C.**

23 

24 _____
25 Eduardo H. Coronado, Esq.
26 Attorney for Plaintiffs
27
28

CONFORMED

COPY OF ORIGINAL FILING

AUG - 8 2018

NAVAJO COUNTY SUPERIOR COURT
DEANNE M. ROMO, CLERK

1 Eduardo H. Coronado, SBN 022397
2 **CORONADO LAW FIRM, P.L.L.C.**
3 4700 West White Mountain Boulevard
4 Lakeside, AZ 85929
5 (928) 532-4529 Telephone
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7 eduardocoronado@frontier.com

8 *Attorney for Plaintiff*

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

10 **IN AND FOR THE COUNTY OF NAVAJO**

11 **LEON WICKIZER and ANGENETTE
12 WICKIZER**

13 **Plaintiffs,**

14 **v.**

15 **DR. TIMOTHY LUKE M.D., DR. ERIKA
16 VATSAR-FAIL, MD, NICKOLAS
17 WILLARD CRNA, LASER SPINE
18 INSTITUTE, LLC, a Foreign Entity,
19 JOHN DOE NURSE, JANE DOE
20 NURSE, JOHN DOE, M.D., JANE DOE
21 M.D., JOHN DOE, D.O., JANE DOE
22 D.O., JANE DOE P.A.C., JON DOE
23 P.A.C. JANE DOE TECHNICIAN, JON
24 DOE TECHNICIAN, XYZ
25 CORPORATION, ABC PARTNERSHIP,
26 JOHN DOE, JANE DOE,**

27 **Defendants.**

28 **Case No. CV2018--** 00362

CERTIFICATE OF ARBITRATION

29 The undersigned certifies that the largest award sought by the complainant,
30 including punitive damages, but excluding interest, attorneys' fees and costs **DO** exceed
31 the limits set by the rules for compulsory arbitration. Therefore, this case **IS NOT**
32 subject to Uniform Rules of Procedure for Arbitration.

Coronado Law Office
4700 W White Mtn Blvd
Lakeside AZ 85929

COPY

IN THE SUPERIOR COURT
STATE OF ARIZONA, COUNTY OF NAVAJO

LEON WICKIZER, ET AL.,)
)
Plaintiff,)
vs.)
)
DR TIMOTHY LUKE MD., ET AL.,)
Defendant.)
)
)
)

CASE #: CV2018-0362

CERTIFICATE OF SERVICE BY
A PRIVATE PROCESS SERVER

Rick Schattenberg, being fully qualified under ARCP 4(e) to serve process within the State of Arizona and having been so appointed by Maricopa County Superior Court, did receive the following documents:

SUMMONS; COMPLAINT; CERTIFICATE OF ARBITRATION

In each instance I personally served a true copy of each document listed above on those named below in the manner, and at the time and place shown below.

Service was made upon Laser Spine Institute LLC c/o CT Corp., by leaving documents with Krikor Kalajian, who was authorized to accept, at 3800 N Central #460, Phoenix AZ, on June 7, 2019 at 11:00a.m.

DATED: 6-7-19

RICK SCHATTEBERG

I declare under penalty of perjury that the foregoing is true and correct and was executed on this date.

FEE: \$ 60.00

DIRECT ACCESS LEGAL SERVICES
550 W. BASELINE RD., SUITE 102, #200
MESA, AZ 85210/(480)464-8484

Exhibit “B”

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
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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 SUSTAINING OBJECTION TO CLAIM OF
LEON WICKIZER AND ANGENETTE WICKIZER**

¹ On April 8, 2019, the Court entered an order administratively consolidating this case with the assignment cases (collectively, the “**Assignment Cases**” or the “**Assignment Estates**”) 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**”).

THESE CASES came on for hearing on _____ upon the Objection to Claim of Leon Wickizer And Angenette Wickizer (the “**Objection**”). The Objection seeks to disallow the Wickizer Claim². The Court, having considered the Objection, and being fully advised of the record, finds that the Objection should be sustained. Accordingly, it is

ORDERED:

1. The Objection is sustained.
2. The Wickizer Claim is disallowed.

DONE AND ORDERED in Hillsborough County, Florida this _____ day of _____, 2024.

DARREN FARFANTE
Circuit Court Judge

Copy to: Counsel of record

² Capitalized claims not defined in the Order shall have the meaning set forth in the Objection.