

# AFFIDAVIT OF SERVICE

State of Florida

County of Palm Beach

Circuit Court

Case Number: 06-CA-006810 XXXX MB AB 60 Court Date: 1/25/2008

Plaintiff:  
**STEFAN COELLO,**

vs.

Defendant:  
**RONALD LEVINE,**

For:  
Fred L. Fulmer  
LAW OFFICES OF FRED LAND FULMER, P.A.  
2456 E. Sunrise Blvd.  
International Bldg., Suite 1216  
Ft. Lauderdale, FL 33304

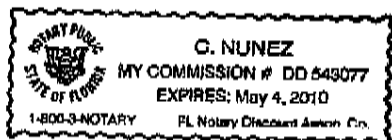
FILED  
08 JAN 16 PM 5:24  
PALM BEACH COUNTY  
CIRCUIT CLERK  
JEFFREY L. CAREY

Received by Professional Process Servers on the 8th day of January, 2008 at 9:00 am to be served on **JEFFREY KUGLER, M.D., MEDICAL RECORDS CUSTODIAN, 3618 LANTANA ROAD, SUITE 100, LAKE WORTH, FL 33462.**

I, Jeffrey L. Carey, being duly sworn, depose and say that on the 10th day of January, 2008 at 2:15 pm, I:

SERVED the within named Corporation by delivering a true copy of the **SUBPOENA DUCES TECUM FOR DEPOSITION** with the date and hour endorsed thereon by me to **ELENOR M.** as Records Custodian.

I am over the age of eighteen, and have no interest in the above action. Under penalty of perjury, I declare that I have read the foregoing Verified Return of Service and that the facts stated in it are true.



Subscribed and Sworn to before me on the 11th day of January, 2008 by the affiant who is personally known to me.

*G. Nunez*  
\_\_\_\_\_  
NOTARY PUBLIC

*Jeffrey L. Carey*  
\_\_\_\_\_  
Jeffrey L. Carey  
Process Server

Professional Process Servers  
& Investigators, Inc.  
1749 N.E. 26th Street, Suite C  
Wilton Manors, FL 33305  
(954) 568-2523  
Our Job Serial Number: 2008000413

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant.

**SUBPOENA DUCES TECUM FOR DEPOSITION**

THE STATE OF FLORIDA:

TO: MEDICAL RECORDS CUSTODIAN FOR  
Jeffrey Kugler, M.D.  
3618 Lantana Road, Suite 100  
Lake Worth, FL 33462

Served: Eleanor M.

Date: 1/10/08 Time: 2:15 pm

By: Jeff Carey

**YOU ARE COMMANDED** to appear before a person authorized by law to take depositions at **3618 Lantana Road, Suite 100, Lake Worth, FL on Friday, January 25, 2008 at 1:00 PM**, for the taking of your deposition in this action, and to bring with you at that time and place the following:

1. Jeffrey Kugler, M.D.'s daily schedule log for office visits, therapy visits, consultation visits, pre-surgery visits, post-surgery visits and same day surgery visits for Stephan Coello.
2. Any and all surgery records, surgery schedules, surgery logs, computer entries regarding the number of surgeries, and type of surgeries performed by Jeffrey Kugler, M.D. at Palm Beach Lakes Surgical Center on August 5, 2005.
3. Any letters of protection signed by or entered into by and between Stefan Coello and/or his attorneys, including but not limited to Rick Jacobs, Esquire and Shuler, Halverson and Weisser and Jeffrey Kugler, M.D.
4. Any and all records, documents, registers, entries, computer notes, logs, evidencing, showing, stating the amount of reimbursement or the amount of

413

payment from any source (insurance, private pay or litigation) received by Jeffrey Kugler, M.D. for disc decompression surgeries performed by Jeffrey Kugler, M.D. from 1/1/05 to 12/1/05.

DATED this 3rd day of January, 2008.

Law Offices of Fred Land Fulmer, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, FL 33304  
(954)763-1052 Broward

FRED L. FULMER, ESQUIRE  
FL BAR NO: 347681  
For the Palm Beach Circuit Court



---

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant.

FLA BAR NO: 347681

NOTICE OF HEARING

FILED  
08 JAN 17 PM 1:52  
SHARON R. BOOK, CLERK  
PALM BEACH COUNTY  
CIRCUIT COURT

TO: **WILLIAM ZOELLER, ESQUIRE**, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401; **STEVEN L. ROBBINS, ESQUIRE**, Attorneys for Witness, Cutler, P.O. Drawer 8400, Jupiter, Fl 33468-8400 and **JAMES A. FARRELL, ESQUIRE/ MATTHEW S. SACKEL, ESQUIRE**, Shutts & Bowen, LLP, Attorneys for Non-Party Steinger, Iscoe & Greene, P.A., 250 Austrial Avenue, Suite 500, West Palm Beach, FL 33401.

**YOU ARE HEREBY NOTIFIED** that we will call up for hearing before the Honorable JONATHAN D. GERBER, Judge of the above-named Court, in Chambers in West Palm Beach, Florida, on **Thursday, January 24, 2008, at 8:45 AM**, or as soon thereafter as the same can be heard:

**DEFENDANT'S MOTION TO COMPEL COMPLIANCE WITH  
SUBPOENA DUCES TECUM AND COMPEL ANSWERS TO  
DEPOSITION QUESTIONS AS TO JONATHAN CUTLER  
and  
EXPERT WITNESS, JONATHAN CUTLER'S, OBJECTIONS TO  
ALLEGED SUBPOENA DUCES TECUM**

The undersigned counsel certifies that a bona fide effort will be made prior to the date of the hearing to resolve the issues in dispute or reduce same therein.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail to the above-named addressee this 15th day of January, 2008.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By   
FRED L. FULMER

cc: Judge's Judicial Assistant  
(with copy of motion & obj)

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

FLA BAR NO: 347681

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

FILED  
08 JAN 18 PM 4:34  
SHARON R. ASOK, CLERK  
PALM BEACH COUNTY  
CLERK CIVIL 5

**DEFENDANTS' MOTION TO COMPEL DEPOSITION OF  
MEDICAL RECORDS CUSTODIAN OF JEFFREY L. KUGLER, M.D.**

**COMES NOW** the defendant, RONALD LEVINE, by and through the undersigned counsel, and files Defendant's Motion to Compel Deposition of Medical Records Custodian of Jeffrey Kugler, M.D., and in support thereof, alleges:

1. On January 3, 2008, defendant noticed the deposition of medical records custodian of Jeffrey Kugler, M.D. for January 25, 2008 at 1:00 pm at the Offices of Jeffrey Kugler, M.D., 3618 Lantana Road, Suite 200, Lake Worth, Florida and the records custodian was served with a notice of taking deposition and subpoena duces tecum. Attached is a copy of the notice of taking deposition and subpoena duces tecum labeled as Exhibit "A".

2. After service of the subpoena duces tecum upon the medical records custodian of Jeffrey Kugler, M.D., on January 11, 2008, Nicole Bood, legal coordinator for Dr. Kugler's office, advised he was not available because of surgeries and requested defendant contact her to coordinate a new date.

3. On January 11, 2008, defendant requested additional dates from Nicole Bood

of the office of Dr. Kugler for the deposition of the medical records custodian of Jeffrey Kugler, M.D., but none were provided and advised she would obtain dates and contact the undersigned counsel.

4. On January 14, 2008, undersigned counsel for defendant contacted Nicole Bood, legal coordinator for Jeffrey Kugler, M.D. requesting dates for the deposition of the medical records custodian of Jeffrey Kugler, M.D., but was advised she could not speak with me to coordinate the deposition, and defendant needed to contact their attorney, Steven L. Robbins, Esquire to coordinate the deposition.

5. On January 14, 2008, the undersigned counsel for defendant contacted Steven L. Robbins, Esquire requesting dates for the deposition of the medical records custodian of Jeffrey Kugler, M.D.

6. Defendant has not been advised of any dates for the deposition of the medical records custodian of Jeffrey Kugler, M.D.

7. Defendant desires to take the deposition of the medical records custodian of Jeffrey Kugler, M.D. to obtain additional administrative and medical records and documents in the possession of Dr. Kugler regarding his care, treatment and administrative handling of plaintiff, STEFAN COELLO.

8. Defendant has served a subpoena duces tecum upon the medical records of Jeffrey Kugler, M.D. to produce various records. Defendant anticipates the medical records custodian will not produce the records subpoenaed. Defendant requests this court to order the medical records custodian to produce the records subpoenaed at the time of the deposition.

9. Dr. Kugler has swarted defendant's discovery attempts in this matter resulting

in prejudice to the defendant.

WHEREFORE, defendant, RONALD LEVINE, prays that this Honorable Court will enter an order compelling the deposition of the medical records custodian of Jeffrey Kugler, M.D.; an order compelling compliance with the subpoena duces tecum; and to award attorney's fees and costs against Dr. Kugler for the preparation of this motion and attending hearing on same.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by facsimile and mail this 15th day of January, 2008, to: **WILLIAM ZOELLER, ESQUIRE**, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401 and **STEVEN L. ROBBINS, ESQUIRE**, Attorneys for Witness, Cutler, P.O. Drawer 8400, Jupiter, FL 33468-8400.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By

  
FRED L. FULMER

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

FLA BAR NO: 347681

Plaintiff,

vs.

**NOTICE OF HEARING**  
(Add on)

RONALD LEVINE,

Defendant.

TO: **WILLIAM ZOELLER, ESQUIRE**, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401 and **STEVEN L. ROBBINS, ESQUIRE**, Attorneys for Witness, Cutler, P.O. Drawer 8400, Jupiter, Fl 33468-8400.

**YOU ARE HEREBY NOTIFIED** that we will call up for hearing before the Honorable JONATHAN D. GERBER, Judge of the above-named Court, in Chambers in West Palm Beach, Florida, on **Thursday, January 24, 2008, at 8:45 AM**, or as soon thereafter as the same can be heard.

**DEFENDANT'S MOTION TO COMPEL DEPOSITION OF  
MEDICAL RECORDS CUSTODIAN OF JEFFREY L. KUGLER, M.D.**

The undersigned counsel certifies that a bona fide effort will be made prior to the date of the hearing to resolve the issues in dispute or reduce same therein.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by facsimile and mail to the above-named addressee this 15th day of January, 2008.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By   
FRED L. FULMER

cc: Judge's Judicial Assistant  
(with copy of motion)

SHULER, HALVORSON & WEISSER, P.A.  
ATTORNEYS FOR PLAINTIFF  
CUTLER, P.O. DRAWER 8400  
JUPITER, FLORIDA 33468-8400  
08 JAN 24 2008 PM 1:38

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

FLA BAR NO: 347681

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

**RE-NOTICE OF HEARING**

(Cancels 1/24/08 hearing at request  
of Mr. Zoeller)

FILED  
08 JAN 22 PM 3:00  
SHARON F. BOCK, CLERK  
PALM BEACH COUNTY  
CIRCUIT CLERK'S  
OFFICE

TO: **WILLIAM ZOELLER, ESQUIRE**, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401 and **STEVEN L. ROBBINS, ESQUIRE**, Attorneys for Witness, Cutler, P.O. Drawer 8400, Jupiter, FL 33468-8400.

**YOU ARE HEREBY NOTIFIED** that we will call up for hearing before the Honorable JEFFREY A. WINIKOFF, Judge of the above-named Court, in Chambers in West Palm Beach, Florida, on **Wednesday, January 30, 2008, at 8:45 AM**, or as soon thereafter as the same can be heard:

**DEFENDANT'S MOTION TO COMPEL DEPOSITION OF  
MEDICAL RECORDS CUSTODIAN OF JEFFREY L. KUGLER, M.D.**

The undersigned counsel certifies that a bona fide effort will be made prior to the date of the hearing to resolve the issues in dispute or reduce same therein.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by [redacted] mail to the above-named addressee this 17th day of January, 2008.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By   
FRED L. FULMER

cc: Judge's Judicial Assistant  
(with copy of motion)

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

FLA BAR NO: 347681

STEFAN COELLO,

Plaintiff,  
vs.

RONALD LEVINE,

Defendant. /

**RE-NOTICE OF HEARING**  
(Cancels 1/24/08 hearing at request of Mr. Zoeller)

TO: **WILLIAM ZOELLER, ESQUIRE**, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401; **STEVEN L. ROBBINS, ESQUIRE**, Attorneys for Witness, Cutler, P.O. Drawer 8400, Jupiter, Fl 33468-8400 and **JAMES A. FARRELL, ESQUIRE/ MATTHEW S. SACKEL, ESQUIRE**, Shutts & Bowen, LLP, Attorneys for Non-Party Steinger, Iscoe & Greene, P.A., 250 Australian Avenue, Sulte 500, West Palm Beach, FL 33401.

**YOU ARE HEREBY NOTIFIED** that we will call up for hearing before the Honorable JEFFREY A. WINIKOFF, Judge of the above-named Court, in Chambers in West Palm Beach, Florida, on **Wednesday, January 30, 2008, at 8:45 AM**, or as soon thereafter as the same can be heard:

**DEFENDANT'S MOTION TO COMPEL COMPLIANCE WITH  
SUBPOENA DUCES TECUM AND COMPEL ANSWERS TO  
DEPOSITION QUESTIONS AS TO JONATHAN CUTLER  
and  
EXPERT WITNESS, JONATHAN CUTLER'S, OBJECTIONS  
ALLEGED SUBPOENA DUCES TECUM**

FILED  
08 JAN 22 PM 3:08  
SHARON R. BOCK, CLERK  
PALM BEACH COUNTY, FL  
COURT CLERK

The undersigned counsel certifies that a bona fide effort will be made prior to the date of the hearing to resolve the issues in dispute or reduce same therein.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail to the above-named addressee this 17th day of January, 2008.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By   
FRED L. FULMER

cc: Judge's Judicial Assistant  
(with copy of motion & obj)

**AFFIDAVIT OF SERVICE**

State of Florida

County of Palm Beach

Circuit Court

Case Number: 06-CA-006810 XXXX MB AB 50 Court Date: 1/25/2008

Plaintiff:  
**STEFAN COELLO,**

vs.

Defendant:  
**RONALD LEVINE,**

For:  
Fred L. Fulmer  
LAW OFFICES OF FRED LAND FULMER, P.A.  
2455 E. Sunrise Blvd.  
International Bldg., Suite 1216  
Ft. Lauderdale, FL 33304

FILED  
08 JAN 28 PM 4:12  
CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 4

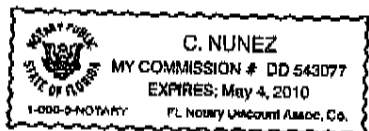
Received by Professional Process Servers on the 16th day of January, 2008 at 9:00 am to be served on RABIA ALI, 105 WOODLAKE CIRCLE, GREENACRES, FL 33483

I, Wayne Pollick, being duly sworn, depose and say that on the 16th day of January, 2008 at 8:05 am, I:

Individually Served the within named person with a true copy of this SUBPOENA DUCES TECUM FOR DEPOSITION with the date and hour endorsed thereon by me, pursuant to State Statutes.

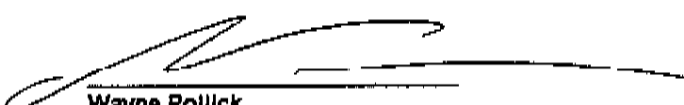
**Additional Information pertaining to this Service:**  
WHEN PROCESS SERVER ARRIVED, SUBJECT WAS GETTING IN HER CAR. PROCESS SERVER IDENTIFIED HIMSELF AND TOLD HER ABOUT THE SUBPOENA. SUBJECT REFUSED TO TAKE DOCUMENTS AND SHUT THE DOOR. PROCESS SERVER INFORMED SUBJECT THAT SHE HAS JUST BEEN SERVED AND SUBPOENA WAS LEFT AT HER FRONT DOOR.

Under penalty of perjury, I declare that I have read the foregoing Verified Return of Service and that the facts stated in it are true, that I am over the age of eighteen, that I have no interest in the above action, and that I am a Certified Process Server in the circuit in which it was served, and in good standing.



Subscribed and Sworn to before me on the 23rd day of January, 2008 by the affiant who is personally known to me.

  
NOTARY PUBLIC

  
Wayne Pollick  
856

Professional Process Servers  
& Investigators, Inc.  
1749 N.E. 26th Street, Suite C  
Wilton Manors, FL 33305  
(954) 588-2523  
Our Job Serial Number: 2008000936

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT-IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

**PRIORITY**

**SUBPOENA DUCES TECUM FOR DEPOSITION**

THE STATE OF FLORIDA:

Served: Incl.

TO: Rabia Ali  
105 Woodlake Circle  
Greenacres, FL 33463

Date: 1/18/08 Time: 8:05 am

By: Wayne Pollock

**YOU ARE COMMANDED** to appear before a person authorized by law to take depositions at **3618 Lantana Road, Suite 100, Lake Worth, FL on Friday, January 25, at 1:00 PM**, for the taking of your deposition in this action, and to bring with you at that time and place the following:

1. Jeffrey Kugler, M.D.'s daily schedule log for office visits, therapy visits, consultation visits, pre-surgery visits, post-surgery visits and same day surgery visits for Stephan Coello.
2. Any and all surgery records, surgery schedules, surgery logs, computer entries regarding the number of surgeries, and type of surgeries performed by Jeffrey Kugler, M.D. at Palm Beach Lakes Surgical Center on August 5, 2005.
3. Any letters of protection signed by or entered into by and between Stefan Coello and/or his attorneys, including but not limited to Rick Jacobs, Esquire and Shuler, Halverson and Weisser and Jeffrey Kugler, M.D.

DATED this 15th day of January, 2008.

Law Offices of Fred Land Fulmer, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, FL 33304  
(954)763-1052 Broward

FRED L. FULMER, ESQUIRE  
FL BAR NO: 347681  
For the Palm Beach Circuit Court

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AN

FLA BAR NO: 347681

STEFAN COELLO,

Plaintiff,  
vs.

RONALD LEVINE,

Defendant. /

FILED  
08 JAN 28 PM 3:41  
SHARON R. BOGIC, CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT PROBATE 3

**NOTICE OF TRIAL CONFLICT**

Counsel for defendant, RONALD LEVINE, files this Notice of Trial Conflict pursuant to local administrative order and states that the undersigned is trial counsel in the following cases:

***Coello v. Levine***

Case NO. 50 2006CA006810XXXXMB AN, 15th Judicial Circuit, Palm Beach County  
Judge Jeffrey Winikoff  
Jury trial during the 3 month (12 week) docket commencing March 17, 2008

***Colonial Decorators, LLC, et al v. Joseph C. Diamond, et al***

Case NO. 2005CA009457, 15th Judicial Circuit, Palm Beach County  
Judge Glenn Kelley  
Jury trial during the 6 week docket commencing March 31, 2008

***Zeak and Foster v. Geekie***

Case NO: 50 2006CA 005814 XXXXMB AA, 15th Judicial Circuit, Palm Beach County  
Judge Glenn Kelley  
**Specially set jury trial to commence on May 5, 2008**

***Aletto v. City of Boca Raton***

Case NO. 50 2005CA 005520MB AE, 15th Judicial Circuit, Palm Beach County  
Judge Kenneth D. Stern  
Jury trial during the 6 week docket commencing May 5, 2008

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail this 23rd day of January, 2008, to: WILLIAM ZOELLER, ESQUIRE, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By   
FRED L. FULMER

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB ~~AR~~ AN

STEFAN GOELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

FILED  
08 JAN 31 PM 12:01  
SHARON H. LINDEN, CLERK  
PALM BEACH COUNTY  
CIRCUIT COURT

**ORDER ON DEFENDANT'S MOTION TO COMPEL DEPOSITION  
OF MEDICAL RECORDS CUSTODIAN OF JEFFREY KUGLER, M.D.**

THIS CAUSE having come before this Honorable Court on defendant, RONALD LEVINE'S, Motion to Compel Deposition of Medical Records Custodian of Jeffrey Kugler, M.D., and the Court having reviewed the motion, heard argument of counsel, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED defendant shall serve a  
non party production subpoena on MRC of  
Dr. Kugler. plaintiff waives waiting time.

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County,  
Florida, this 30 day of January 2008.

  
\_\_\_\_\_  
JEFFREY A. MINKOFF, CIRCUIT JUDGE

Copies furnished:

- FRED L. FULMER, ESQUIRE, 2455 East Sunrise Blvd., #1216, Ft. Lauderdale, FL 33304
- WILLIAM ZOELLER, ESQUIRE, Barristers Building, Fourth Floor, 1615 Forum Place, WPB, FL 33401
- MATTHEW S. SACKEL, ESQUIRE, 250 Australian Avenue, Suite 500, West Palm Beach, FL 33401
- STEVEN L. ROBBINS, ESQUIRE, P.O. Drawer 8400, Jupiter, FL 33468-8400

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant.

FILED  
08 JAN 31 PM 12:01  
CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 6

**ORDER ON DEFENDANT'S MOTION TO COMPEL COMPLIANCE WITH  
SUBPOENA DUCES TECUM AND COMPEL ANSWERS TO  
DEPOSITION QUESTIONS AS TO JONATHAN CUTLER**

THIS CAUSE having come before this Honorable Court on defendant, RONALD LEVINE'S, Motion to Compel Compliance with Subpoena Duces Tecum and Compel Answers to Deposition Questions as to Jonathan Cutler, and the Court having reviewed the motion, heard argument of counsel, and being otherwise fully advised in the premises, it is

ORDERED AND ADJUDGED granted as to item #1  
of subpoena to Dr. Cutler, within 10 days of today's  
date Palm Beach Lakes Surg. Center shall provide  
a response

DONE AND ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida, this 30 day of January, 2008.

  
\_\_\_\_\_  
JEFFREY A. WINKOFF, CIRCUIT JUDGE

Copies furnished:

- FRED L. FULMER, ESQUIRE, 2455 East Sunrise Blvd., #1216, Ft. Lauderdale, FL 33304
- WILLIAM ZOELLER, ESQUIRE, Barristers Building, Fourth Floor, 1615 Forum Place, WPB, FL 33401
- MATTHEW S. SACKCL, ESQUIRE, 250 Australian Avenue, Suite 500, West Palm Beach, FL 33401
- STEVEN L. ROBBINS, ESQUIRE, P.O. Drawer 8400, Jupiter, FL 33468-8400

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AN

FLA BAR NO: 347681

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

FILED  
08 FEB -4 PM 3:01  
SHARON R. BUCK, CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 5

**NOTICE OF UNAVAILABILITY**

The undersigned counsel for defendant, RONALD LEVINE, hereby gives notice that he will be on vacation and unavailable during the time periods of March 17, 2008, up to and including March 21, 2008, and May 23, 2008 up to and including May 26, 2008, and respectfully requests that no hearings, depositions, mediation conference or status conferences be scheduled during those periods of time. In addition, defendant requests this Honorable Court not call this matter for trial during those time periods.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail this 23rd day of January, 2008, to: WILLIAM ZOELLER, ESQUIRE, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By   
FRED L. FULMER

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

FLA BAR NO: 347681

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

SHARON L. BOCH, CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 5

08 FEB -4 PM 3:54

FILE

**NOTICE OF PRODUCTION FROM NON-PARTY**

TO ALL PARTIES:

YOU ARE NOTIFIED that plaintiff has waived the time restraints associated with this notice and the undersigned will issue or apply to the clerk of this court for issuance of the attached subpoena directed to:

**MEDICAL RECORDS CUSTODIAN**  
Jeffrey Kugler, M.D.

who is not a party, to produce the items listed at the time and place specified in the subpoena.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by facsimile and mail this 30th day of January, 2008, to: **WILLIAM ZOELLER, ESQUIRE**, Schuler, Halvorson & Weisser, P.A., Attorneys for plaintiff, Barristers Building, Fourth Floor, 1615 Forum Place, West Palm Beach, FL 33401; **STEVEN L. ROBBINS, ESQUIRE**, Attorney for Dr. Kugler, P.O. Drawer 8400, Jupiter, FL 33468-8400 and **MATTHEW S. SACKEL, ESQUIRE**, Shutts & Bowen, LLP, Attorneys for Non-Parties, Jonathan Cutler, DiscoCare, Inc. and DiscoCare Distribution, Inc., 250 Australian Avenue, Suite 500, West Palm Beach, FL 33401.

LAW OFFICES OF FRED LAND FULMER, P.A.  
Attorneys for defendant  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Boulevard  
Fort Lauderdale, Florida 33304  
(954)763-1052 Broward

By   
FRED L. FULMER

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

**SUBPOENA DUCES TECUM WITHOUT  
DEPOSITION PURSUANT TO F.R.C.P. 1.351**

**MAIL THESE RECORDS ON OR BEFORE  
(February 8, 2008)**

THE STATE OF FLORIDA

TO: MEDICAL RECORDS CUSTODIAN FOR  
Jeffrey Kugler, M.D.  
3618 Lantana Road, Suite 100  
Lake Worth, FL 33462

YOU ARE COMMANDED to appear at the LAW OFFICES FRED LAND FULMER,  
P.A., Galleria Corporate Centre, Suite 1216, 2455 East Sunrise Boulevard, Fort  
Lauderdale, Florida 33304, and to have with you at that time and place the following:

1. Jeffrey Kugler, M.D.'s daily schedule log for office visits, therapy visits, consultation visits, pre-surgery visits, post-surgery visits and same day surgery visits for Stefan Coello.
2. Any and all surgery records, surgery schedules, surgery logs, computer entries regarding the number of surgeries, and type of surgeries performed by Jeffrey Kugler, M.D. at Palm Beach Lakes Surgical Center on August 5, 2005. (Patients names can be redacted.)
3. Any letters of protection signed by or entered into by and between Stefan Coello and/or his attorneys, including but not limited to Rick Jacobs, Esquire and Schuler, Halvorson and Weisser and Jeffrey Kugler, M.D.
4. Any and all records, documents, registers, entries, computer notes, logs, evidencing, showing, stating the amount of reimbursement or the amount of payment from any source (insurance, private pay or litigation) received by Jeffrey Kugler, M.D. for disc decompression surgeries performed by Jeffrey Kugler, M.D. from 1/1/05 to 12/1/05.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. You may mail or deliver copies to the attorney whose name appears on this subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena. THIS WILL NOT BE A DEPOSITION. NO TESTIMONY WILL BE TAKEN.

If you fail to:

- (1) appear as specified; or,
- (2) furnish the records instead of appearing as provided above; or,
- (3) object to this subpoena,

you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED on January 30, 3008.

By:   
FRED L. FULMER  
For the Palm Beach Circuit Court

FRED LAND FULMER, P.A.  
Attorneys for defendant  
2455 East Sunrise Blvd., Suite 1216  
Fort Lauderdale, Fl. 33304  
(954) 763-1052  
(ANY QUESTIONS, PLEASE CALL Sue, ext. 112)

BY: FRED LAND FULMER  
FLORIDA BAR NO.: 347681

9360.1

IN THE CIRCUIT COURT OF THE FIFTEENTH  
JUDICIAL CIRCUIT OF FLORIDA, IN AND  
FOR PALM BEACH COUNTY

CASE NO: 50 2006 CA 6810 XXXX MB AB

STEFAN COELLO,

Plaintiff,

v.

RONALD LEVINE,

Defendant.

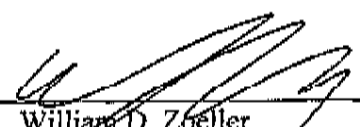
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2008 FEB -4 PM 3:51  
SHARON L. BOON, CLERK  
PALM BEACH COUNTY  
CIRCUIT CIVIL

**PLAINTIFF'S REQUEST FOR COPIES**

COMES NOW the Plaintiff, STEFAN COELLO, by and through his undersigned counsel, and requests copies of any and all documentation received pursuant to Defendant's Notice of Production from Non-Party dated January 30, 2008, directed to **Medical Records Custodian to Jeffrey Kugler, M.D.**

HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U. S. Mail to: **Fred L. Fulmer, Esq.**, 2455 East Sunrise Boulevard, Suite 1216, Fort Lauderdale, FL 33304 this the 1<sup>st</sup> day of February, 2007.

SCHULER, HALVORSON & WEISSER, P.A.  
1615 Forum Place, Suite 4D  
West Palm Beach, Florida 33401  
Telephone: (561) 689-8180  
Attorneys for Plaintiff Stefan Coello

By:   
William D. Zoeller  
Florida Bar No. 155233

IN THE CIRCUIT COURT OF THE FIFTEENTH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

STEFAN COELLO,

Plaintiff,

vs.

CASE NO: 50-2006CA006810 XXXXMB AB

RONALD LEVINE,

Defendant.

FILED  
08 FEB -6 PM12:05  
Palm Beach County, Florida  
Circuit Civil 6

**NOTICE OF HEARING**  
**(Non-Party to Appear Telephonically)**  
**(Telephone No.: 561-355-3496)**

PLEASE TAKE NOTICE that on **February 11, 2008, at 8:45 a.m.**, the undersigned counsel for Non-party ArthroCare Medical Corporation ("ArthroCare") will appear telephonically before The Honorable Jeffrey A. Winikoff, Circuit Court Judge in Courtroom 10C of the Palm Beach County Courthouse located at 205 North Dixie Highway, West Palm Beach, Florida 33401, to call up for hearing:

**Arthrocare Medical Corporation's Emergency  
Motion To Enforce Protective Order**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: WILLIAM D. ZOELLER, ESQ., Schuler, Halvorson & Weisser, P.A., 1615 Forum Place, 4<sup>th</sup> Floor, West Palm Beach, Florida 33401; FRED L. FULMER, ESQ., Law Offices of Fred L. Fulmer, P.A., 2455 East Sunrise Blvd., Ste. 1216, Fort Lauderdale, Florida 33304; and MATTHEW S. SACKEL, ESQ., Shuts & Bowen LLP, 250 Australian Ave. South, Suite 500, West Palm Beach, FL 33401 on this 5<sup>th</sup> day of February, 2008.



DAVID P. HATHAWAY, ESQUIRE  
Florida Bar No. 491411  
A. FELIPE GUERRERO, ESQUIRE  
Florida Bar No. 022589  
Dean, Mead, Egerton, Bloodworth,  
Capouano & Bozarth, P.A.  
Post Office Box 2346  
Orlando, Florida 32802-2346  
Telephone: (407) 841-1200  
Fax: (407) 423-1831  
Attorneys for ArthroCare Medical Corporation

**NOTICE TO PERSONS WITH DISABILITIES**

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact COURT ADMINISTRATION at 301 N. Olive Avenue, West Palm Beach, Florida 33401, (407) 355-2431. If hearing impaired, (TDD) 1-800-955-8771, or Voice (V) 1-800-955-8770, via Florida Relay Service.

mf  
2-6-08

IN THE CIRCUIT COURT OF THE 15TH  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

STEFAN COELLO,

Plaintiff,

vs.

CASE NO: 50-2006CA006810 XXXXMB AB

RONALD LEVINE,

Defendant.

FILED  
08 FEB -6 PM 12:05  
PALM BEACH COUNTY  
CIRCUIT CIVIL

**ARTHROCARE MEDICAL CORPORATION'S  
EMERGENCY MOTION TO ENFORCE PROTECTIVE ORDER**

ArthroCare Medical Corporation ("ArthroCare") hereby files this motion to enforce the Order Granting Defendant's Motion For Protective Order entered August 13, 2007 in the above-styled matter, and in support states:

1. On August, 13, 2007, this Court entered an Order Granting Defendant's Motion For Protective Order (the "Protective Order"). A true and correct copy of the Protective Order is attached hereto as **Exhibit "A."** The parties agreed to the Protective Order for the principal purpose of taking the deposition of Jacqueline Marsh, a witness employed by ArthroCare.

2. The Protective Order designates certain documents and items exchanged in discovery by the parties as confidential information and states that "[i]nformation testified to during a deposition may be brought under the protection of this order by making a statement to that effect at the deposition ...." See Order, ¶ 1.

3. On August 16, 2007, three days after the Protective Order was entered, Defendant's counsel took the deposition of Jacqueline Marsh. On pages 58 and 98 of the transcript, the attorneys discussed documents marked "confidential information" and specifically noted that ArthroCare was relying on the Protective Order.

4. Under the Protective Order, the matters discussed at deposition “may not be disclosed to any person except as provided in this order, or by the express written consent of an authorized ArthroCare representative.” See Protective Order, ¶ 2. The confidential information “may be used only for the preparation, trial, and hearings of this matter ... [and] may not be used for any other purpose, including but not limited to business, governmental, commercial [or] competitive ...” See Protective Order, ¶ 2.

5. However, portions of the deposition transcript have been posted to a Website entitled “Citron Research the new face of Stocklemon” with a link to a PDF file of certain transcript pages. See <http://www.citronresearch.com/index.php/2008/01/07/>. A true and correct copy of the relevant page is attached hereto as Exhibit “B.” The Website has nothing to do with the instant litigation and is used purely to attack ArthroCare and to dilute its stock for competitive purposes in direct violation of the Protective Order.

6. On January 21, 2008, the undersigned served Defendant’s counsel with a letter again indicating that the deposition testimony was confidential information under the Protective Order and providing notice that it is being published on the Internet for improper purposes. A true and correct copy of the above-referenced letter without the attachment is attached hereto as Exhibit “C.”

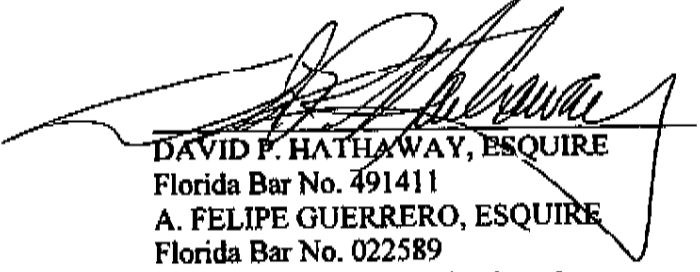
7. I hereby certify, pursuant to Local Rule 1.004(2), that on January 29, 2008 the undersigned had a good faith telephone conference with Fred L. Fulmer, Esq. regarding this motion but counsel could not reach an agreement so as to avoid the necessity of a hearing.

8. Accordingly, ArthroCare respectfully requests this Court to enter the proposed order submitted herewith.

WHEREFORE, ArthroCare requests entry of an order enforcing the Protective Order with respect to the Marsh Transcript or otherwise preventing disclosure and requiring the immediate return of the Marsh Transcript from non-parties, and for such further relief as deemed just and proper.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to: WILLIAM D. ZOELLER, ESQ., Schuler, Halvorson & Weisser, P.A., 1615 Forum Place, 4<sup>th</sup> Floor, West Palm Beach, Florida 33401; FRED L. FULMER, ESQ., Law Offices of Fred L. Fulmer, P.A, 2455 East Sunrise Blvd., Ste. 1216, Fort Lauderdale, Florida 33304; and MATTHEW S. SACKEL, ESQ., Shutts & Bowen LLP, 250 Australian Ave. South, Suite 500, West Palm Beach, FL 33401 on this 5<sup>th</sup> day of February, 2008.



DAVID P. HATHAWAY, ESQUIRE  
Florida Bar No. 491411  
A. FELIPE GUERRERO, ESQUIRE  
Florida Bar No. 022589  
Dean, Mead, Egerton, Bloodworth,  
Capouano & Bozarth, P.A.  
Post Office Box 2346  
Orlando, Florida 32802-2346  
Telephone: (407) 841-1200  
Fax: (407) 423-1831  
Attorneys for ArthroCare Medical Corporation

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant. /

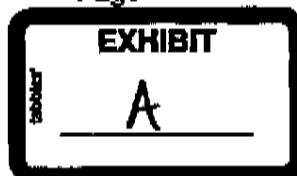
**ORDER GRANTING DEFENDANT'S MOTION FOR PROTECTIVE ORDER**

THIS CAUSE having come to be heard upon ArthroCare Corporation and any of its subsidiaries including, but not limited to ArthroCare Medical Corporation (hereinafter referred to as ArthroCare), and the Court being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that in order to protect the enumerated interests, and any added by subsequent orders, of ArthroCare, and yet allow for the appropriate discovery for the pursuit of this matter to occur, that either of the parties, or a representative of ArthroCare, may designate any documents or items exchanged in discovery that fall within the aforesaid categories as confidential.

1. The items shall be designated confidential by stamping or affixing thereto the legend "confidential information." Any and all confidential information not reduced to documentary, tangible, or physical form where they cannot be conveniently designated shall be designated by ArthroCare informing the parties in writing at the time of production. Information testified to during a deposition may be brought under the protection of this order by making a statement to that effect at the deposition or by thereafter informing the

Page 1 of 4



parties to that effect in writing within thirty days that ArthroCare receives the transcript of the deposition in question.

2. Confidential information may not be disclosed to any person except as provided in this order, or by the express written consent of an authorized ArthroCare representative. Any items designated as confidential as foreshad may be used only for the preparation, trial, and hearings of this matter, or of similar matters pursued by the attorneys involved in this case. The information may not be used for any other purpose, including but not limited to business, governmental, commercial, competitive, administrative, or judicial proceedings.

3. Any confidential information which any party desires to file with this Court shall be done so in a sealed envelope which shall be clearly marked on the outside thereof with the style of this case and the designation "confidential information," and a statement that the contents are subject to this protective order previously entered by this Court and that the envelope is not be opened except on further order of the Court or by stipulation of counsel for the parties and ArthroCare.

4. Confidential information may be disclosed to the following "approved persons" and only to the extent such persons have a legitimate need to know the particular confidential information disclosed to them:

- a. The Court, court reporters, stenographers, court personnel, jurors and alternate jurors, if any;
- b. Witnesses at depositions, hearings or other proceedings in this action, any mediator or mediators to which the party agreed to employ for the mediation;
- c. Any and all attorneys of record in this action, including their staff;
- d. Persons engaged by the attorneys of record of this action to assist them in

the pursuit of this or similar actions, including but not limited to independent experts, consultants, and their employees;

- e. The parties to this action, their officers, directors and employees, and personnel engaged by the parties to assist them in the preparation of this action, including independent experts, consultants, and their employees;
- f. Independent copying services, independent computer consulting services, independent translators, independent exhibit makers, and other independent litigation support services retained for the purposes of litigating these matters;
- g. Any person who is the author or addressee of any document or a person who, as a matter of record, has actually received any document designated as confidential other than through discovery or through attorney-client communications relating to litigation or legal advice; and,
- h. Any person who is designated by written stipulation of the parties, and Ingenix, to have access to confidential information, or has been designated to be privileged to have access to confidential information by order of this Court after notice to all parties and ArthroCare.

5. Before disclosing confidential information to any person described in paragraph d, e, or f above, such person shall be given a copy of this order, and shall agree in writing to be bound by the terms of this order and shall sign a written statement agreeing to the same.

6. No disclosure of confidential information, whether intentional, unintentional, inadvertent, or in camera, shall constitute a waiver of any of ArthroCare's rights to protect the confidentiality of the confidential information.

7. This order applies at all stages of this action.

8. The provisions of this order shall not terminate at conclusion of this litigation. The parties and their counsel shall return to ArthroCare all confidential information, including, all copies, versions and summaries thereof within six days of the end of this litigation. This shall not include copies of transcripts or other documents for which the party, or the attorney has submitted a fee.

9. This order is binding on all parties and ArthroCare.

**DONE AND ORDERED** in Chambers at West Palm Beach, Palm Beach County,

Florida, this \_\_\_\_ day of \_\_\_\_\_, 2007.

**SIGNED AND DATED**

**AUG 13 2007**

CHAMBERS OF JUDGE  
JONATHAN D. GERBER

**JONATHAN D. GERBER, CIRCUIT JUDGE**

Copies furnished:

FRED L. FULMER, ESQUIRE, 2455 East Sunrise Blvd., #1218, Ft. Lauderdale, FL 33304  
WILLIAM ZOELLER, ESQUIRE, Barristers Building, Fourth Floor, 1615 Forum Place, WPB, FL 33401

Jackie Marsh is the territory representative for spine sales for Arthrocare. She is the rep for the largest growing product in its most concentrated region of South Florida. She should be responsible for more spine sales than anyone else in the company. This testimony was in August of 2007, not more than 5 months ago. She was questioned in great detail about the relationship between Arthrocare/Discocare. (for sake of brevity we have excluded attorney objections)

Q: The sales price for the Arthrocare wand and needle is \$7500

A: Yes

Q: For what period of time has it been priced at \$7500

A: I don't know

Q: Was it priced at anything other than \$7,500 since you have worked for Arthrocare?

A: Yes

Q: When was the change

A: I don't know

Q: Why was there a change

A: I have no idea

Q: And you don't know what it was priced at before \$7,500?

A: I don't recall  
(after being shown an invoice to the Palm Beach Lakes Surgical Center we get our answer)

Q: And the indicated amount for that unit is what?

A: \$1,300

#### Jackie Marsh (PDF)

Arthrocare's officers and analysts expect investors to believe that in an industry where no one except Arthrocare can get insurance reimbursement for their spinal PDD products, Arthrocare, through the magic of Discocare, can jack up their product's price 500% and still grow the business by leaps and bounds. Where is the common sense here? How do the analysts read these testimonies of the two people closest to Arthrocare's spinal products and Discocare, and are still unable to figure out that a "cover-up" is occurring? This also forces us to ask if Arthrocare is actually selling more wands or just selling them at higher prices and what is the true quality of the earnings.

#### Conclusion

Citron understands the severity of the charges we have made in this report against Arthrocare. We are prepared to defend everything we have written in a court of law. If Arthrocare elects to sue us, we welcome the lawsuit and look forward to discovery to bring light to what we believe is the company's



**DEAN  
MEAD**

Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.  
800 North Magnolia Avenue, Suite 1500  
P.O. Box 2346 (ZIP 32802-2346)  
Orlando, Florida 32803

407-841-1200  
407-423-1831 Fax  
www.deanmead.com

Attorneys and Counselors at Law  
Orlando  
Fort Pierce  
Viera

DAVID P. HATHAWAY  
407-428-5124  
dhathaway@deanmead.com

January 21, 2008

**Via Fax and U.S. Mail**

Fred L. Fulmer, Esq.  
Law Offices of Fred Land Fulmer, P.A.  
Galleria Corporate Centre, Suite 1216  
2455 East Sunrise Blvd.  
Ft. Lauderdale, FL 33304

**CONFIDENTIAL DOCUMENT UNDER PROTECTIVE ORDER**

**Re: Stefan Coello v. Ronald Levine**

Dear Mr. Fulmer:

As you know, this law firm represents ArthroCare Medical Corporation ("ArthroCare") in the above-referenced matter. It has come to our attention that all or part of Jackie Marsh's deposition transcript has been provided to one or more persons not involved in the litigation, namely Citron Research. Indeed, several complete pages from her deposition transcript are viewable on the following website: [www.citronresearch.com](http://www.citronresearch.com).

Attached is a copy of the Order Granting Defendant's Motion for Protective Order ("Order") that was intended to avoid this precise type of situation. Under the Order, we hereby give notice that the entire deposition transcript of Jackie Marsh is "confidential information" and demand that all copies be retrieved immediately from Citron Research and any other non-parties to whom it was made available. This letter and any subsequent communications regarding this issue are also confidential information under the Order. Please call me immediately, and no later than Wednesday, January 23, 2008, to discuss this matter. This is an urgent matter and if we do not hear from you by that date, we will have no option but to file an emergency motion.

Sincerely,



David P. Hathaway

DPH/mw  
Cc: ArthroCare Medical Corporation  
Jackie Marsh  
William D. Zoeller, Esq.

00399155v1

EXHIBIT

C

# AFFIDAVIT OF SERVICE

State of Florida

County of Palm Beach

Circuit Court

Case Number: 06-CA-006810 XXXX MB AB 50 Court Date: 2/8/2008

Plaintiff:  
**STEFAN COELLO,**

vs.

Defendant:  
**RONALD LEVINE,**

For:  
Fred L. Fulmer  
LAW OFFICES OF FRED LAND FULMER, P.A.  
2455 E. Sunrise Blvd.  
International Bldg., Suite 1216  
Ft. Lauderdale, FL 33304

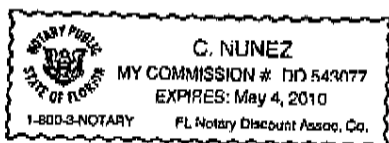
FILED  
JAN 31 2008  
CLERK  
PALM BEACH COUNTY, FL  
CIRCUIT CIVIL 4

Received by Professional Process Servers on the 31st day of January, 2008 at 9:00 am to be served on JEFFREY KUGLER, M.D., MEDICAL RECORDS CUSTODIAN, 3610 LANTANA ROAD, SUITE 100, LAKE WORTH, FL 33462.

I, Jeffery L. Carey, being duly sworn, depose and say that on the 1st day of February, 2008 at 2:50 pm, I:

SERVED the within named Corporation by delivering a true copy of the SUBPOENA DUCES TECUM WITHOUT DEPOSITION PURSUANT TO F.R.C.P. 1.351 with the date and hour endorsed thereon by me to STACEY M. (FRONT DESK) as Records Custodian.

I am over the age of eighteen, and have no interest in the above action. Under penalty of perjury, I declare that I have read the foregoing Verified Return of Service and that the facts stated in it are true.



Subscribed and Sworn to before me on the 4th day of February, 2008 by the affiant who is personally known to me.

*C. Nunez*  
NOTARY PUBLIC

*Jeffery L. Carey*  
Jeffery L. Carey  
Process Server

Professional Process Servers  
& Investigators, Inc.  
1749 N.E. 26th Street, Suite C  
Wilton Manors, FL 33305  
(954) 566-2523  
Our Job Serial Number: 2008001975

IN THE CIRCUIT COURT OF THE  
15TH JUDICIAL CIRCUIT IN AND  
FOR PALM BEACH COUNTY, FLORIDA

CASE NO: 50 2006CA006810 XXXXMB AB

STEFAN COELLO,

Plaintiff,

vs.

RONALD LEVINE,

Defendant.

**PRIORITY**

**SUBPOENA DUCES TECUM WITHOUT  
DEPOSITION PURSUANT TO F.R.C.P. 1.351**

**MAIL THESE RECORDS ON OR BEFORE**

**(February 8, 2008)**

THE STATE OF FLORIDA

TO: MEDICAL RECORDS CUSTODIAN FOR  
Jeffrey Kugler, M.D.  
3618 Lantana Road, Suite 100  
Lake Worth, FL 33462

Served: Stacey M. / Front Desk  
Date: 2-1-08 Time: 2:50 PM  
By: Jeff Carey

YOU ARE COMMANDED to appear at the LAW OFFICES FRED LAND FULMER,  
P.A., Galleria Corporate Centre, Suite 1216, 2455 East Sunrise Boulevard, Fort  
Lauderdale, Florida 33304, and to have with you at that time and place the following:

1. Jeffrey Kugler, M.D.'s daily schedule log for office visits, therapy visits, consultation visits, pre-surgery visits, post-surgery visits and same day surgery visits for Stefan Coello.
2. Any and all surgery records, surgery schedules, surgery logs, computer entries regarding the number of surgeries, and type of surgeries performed by Jeffrey Kugler, M.D. at Palm Beach Lakes Surgical Center on August 5, 2005. (Patients names can be redacted.)
3. Any letters of protection signed by or entered into by and between Stefan Coello and/or his attorneys, including but not limited to Rick Jacobs, Esquire and Schuler, Halvorson and Weisser and Jeffrey Kugler, M.D.
4. Any and all records, documents, registers, entries, computer notes, logs, evidencing, showing, stating the amount of reimbursement or the amount of payment from any source (insurance, private pay or litigation) received by Jeffrey Kugler, M.D. for disc decompression surgeries performed by Jeffrey Kugler, M.D. from 1/1/05 to 12/1/05.

FILED

1975

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of preparation. You may mail or deliver copies to the attorney whose name appears on this subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena. THIS WILL NOT BE A DEPOSITION. NO TESTIMONY WILL BE TAKEN.

If you fail to:

- (1) appear as specified; or,
- (2) furnish the records instead of appearing as provided above; or,
- (3) object to this subpoena,

you may be in contempt of court. You are subpoenaed to appear by the following attorney, and unless excused from this subpoena by this attorney or the court, you shall respond to this subpoena as directed.

DATED on January 30, 3008.

By:   
FRED L. FULMER  
For the Palm Beach Circuit Court

FRED LAND FULMER, P.A.  
Attorneys for defendant  
2455 East Sunrise Blvd., Suite 1216  
Fort Lauderdale, FL 33304  
(954) 763-1052  
(ANY QUESTIONS, PLEASE CALL Sue, ext. 112)

BY: FRED LAND FULMER  
FLORIDA BAR NO.: 347681