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Doc#: 1008131093 Fee: \$60.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 03/22/2010 12:38 PM Pg: 1 of 13

NTC/JFS

ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES is made and delivered as of this 19th day of March, 2010 by JFS 1913 19 NORTH AVENUE, LLC, an Illinois limited liability company ("Assignor"), to and for the benefit of THE NORTHERN TRUST COMPANY, an Illinois banking corporation ("Assignee"):

WITNESSETH:

Assignor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, transfers, sets over and assigns to Assignee, all of the right, title and interest of Assignor (i) in and to all of the rents, issues and profits of and from the Mortgaged Property described in EXHIBIT A attached hereto and made a part hereof (the "Mortgaged Property"); (ii) in and to all leases and subleases (the "Leases") now or hereafter existing on all or any part of the Mortgaged Property (which term includes, if EXHIBIT B is attached to this instrument, the particular lease or leases of the Mortgaged Property (the "Existing Leases") described in said EXHIBIT B); (iii) in and to all rights and claims for damage against tenants arising out of defaults under the Leases, including rights to compensation with respect to rejected Leases pursuant to Section 365(a) of the Federal Bankruptcy Code or any replacement Section thereof; and (iv) all of Assignor's interest in any tenant improvements and fixtures located on the Mortgaged Property.

THIS ASSIGNMENT OF RENTS AND LEASES IS GIVEN TO SECURE:

(a) Payment by Assignor when due of (i) the indebtedness evidenced by that certain Mortgage Note of even date herewith (the "Note") made by the Assignor, in the principal sum of TWO MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$2,150,000.00), and delivered to Assignee simultaneously with the execution and delivery of this Assignment, and any and all renewals, extensions or refinancings thereof; (ii) any other obligations, liabilities or indebtedness which may be due and owing from Assignor to Assignee, or by any co-maker or guarantor of the Note, whether such obligations, liabilities or indebtedness are now existing or hereafter created, direct or indirect, absolute or contingent, joint or several, due or to become due, howsoever created, evidenced or arising and howsoever acquired by Assignee, and any and all renewals, extensions or refinancings thereof; and (iii) all costs and

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NORTH AVENUE, LLC

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expenses paid or incurred by Assignee in enforcing its rights hereunder, including without limitation, court costs and reasonable attorneys' fees.

(b) Observance and performance by Assignor of the covenants, terms, conditions and agreements contained in (i) the Note, (ii) this Assignment, (iii) the Mortgage and Security Agreement (the "**Mortgage**") of even date herewith made by the Assignor to Assignee and creating a first mortgage lien on the Mortgaged Property, and (iv) the other Loan Documents (as defined in the Mortgage).

AND ASSIGNOR HEREBY COVENANTS, AGREES, REPRESENTS AND WARRANTS AS FOLLOWS:

1. Representations and Warranties of Assignor. Assignor represents and warrants to Assignee that:

(a) This Assignment, as executed by Assignor, constitutes the legal and binding obligation of Assignor enforceable in accordance with its terms and provisions;

(b) Assignor is the lessor under the Existing Leases and is or will be the lessor under all Leases, in each case either directly or as successor in interest to the named lessor thereunder;

(c) Assignor has not heretofore made any other assignment of its entire or any part of its interest in and to any or all of the Leases, or any or all of the rents, issues, income or profits assigned hereunder or entered into any agreement to subordinate any of the Leases, or Assignor's right to receive any of the rents, issues, income or profits assigned hereunder;

(d) Assignor has not heretofore executed any instrument or performed any act which may or might prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation; and

(e) To the best of Assignor's knowledge, no tenant is in default under any Lease.

2. Covenants of Assignor. Assignor covenants and agrees that so long as this Assignment shall be in effect:

(a) Assignor shall not enter into any lease for all or any portion of the Mortgaged Property without the prior written reasonable consent of Assignee which consent shall be deemed given if Assignee fails to notify Assignor that Assignee's consent is being withheld within twenty (20) days after the loan officer of Assignee with primary responsibility for administering the Loan has received (and has confirmed such receipt) Assignor's request for consent and all other information reasonably necessary for Assignee to adequately evaluate such request.

(b) Assignor shall observe and perform all of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the lessor thereunder, and Assignor shall not do or suffer to be done anything to impair the security thereof, or without the express written reasonable consent of Assignee, (i) release the liability of any tenant thereunder, or

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- (ii) permit any tenant thereunder to withhold the payment of rent or to make monetary advances and off-set the same against future rentals, or (iii) permit any tenant thereunder to claim a total or partial eviction, (iv) permit any tenant thereunder to terminate or cancel any Lease, or (v) enter into any oral leases with respect to all or any portion of the Mortgaged Property;
- (c) Assignor shall not collect any of the rents, issues, income or profits assigned hereunder more than thirty (30) days in advance of the time when the same shall become due, except for security or similar deposits;
- (d) Assignor shall not make any other assignment of its entire or any part of its interest in or to any or all Leases, or any or all rents, issues, income or profits assigned hereunder without the prior written consent of Assignee;
- (e) Assignor shall not alter, modify or change the material terms and provisions of any Lease or give any consent (including, but not limited to, any consent to any assignment of, or subletting under, any Lease) or approval, required or permitted by such terms and provisions or cancel or terminate any Lease (other than any Lease in which the tenant thereunder is in default) without the prior written consent of Assignee which consent shall not be unreasonably withheld, conditioned or delayed;
- (f) Assignor shall not accept a surrender of any Lease other than any Lease in which the tenant thereunder is in default, or convey or transfer, or suffer or permit a conveyance or transfer, of the Mortgaged Property demised under any Lease or of any interest in any Lease so as to effect, directly or indirectly, proximately or remotely, a merger the estates and rights of, or a termination or diminution the obligations of, any tenant thereunder other than any Lease in which the tenant thereunder is in default;
- (g) Assignor shall not alter, modify or change the terms of any guaranty of any Lease, or cancel or terminate any such guaranty or to its knowledge do or suffer to be done anything which would terminate any such guaranty as a matter of law, without the prior written consent of Assignee, which consent shall not be unreasonably withheld, conditioned or delayed;
- (h) Assignor shall not waive or excuse the obligation to pay rent under any Lease;
- (i) Assignor shall enforce the observance and performance of each covenant, term, condition and agreement contained in each Lease to be observed and performed by the tenant(s) thereunder and shall enforce all rights and remedies of the lessor thereunder in case of default thereunder by any tenant;
- (j) Assignor shall, at its sole cost and expense, appear in and defend any and all actions and proceedings arising under, relating to or in any manner connected with any Lease or the obligations, duties or liabilities of the lessor or any tenant or guarantor thereunder, and shall pay all costs and expenses of Assignee, including court costs and attorneys' fees, in any such action or proceeding in which Assignee may appear;

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(k) Assignor shall give notice within ten (10) days to Assignee of any notice of any default on the part of the lessor with respect to any Lease received from any tenant or guarantor thereunder;

(l) Assignor shall not permit any of the Leases to become subordinate to any lien or liens other than liens securing the indebtedness secured hereby or liens for general real estate taxes not delinquent;

(m) Assignor shall not execute hereafter any Lease unless there shall be included therein a provision providing that tenant acknowledges that such Lease has been assigned pursuant to this Assignment and agrees not to look to Assignee as mortgagee, mortgagee in possession or successor in title to the Mortgaged Property for accountability for any security deposit required by lessor under such Lease unless such sums have actually been received in cash by Assignee as security for tenant's performance under such Lease;

(n) Assignor shall furnish to Assignee, within ten (10) days after a request by Assignee to do so, a written statement containing the names of all tenants and subtenants of the Mortgaged Property, or any part thereof;

(o) Assignor shall exercise within five (10) business days after a request by Assignee to do so, any right to request from the tenant under any Lease a certificate or estoppel affidavit with respect to the status of said Lease; and

(p) In the event that any tenant under any Lease is or becomes the subject of any proceeding under the Federal Bankruptcy Code, as amended from time to time, or any other federal, state, or local statute which provides for the possible termination or rejection of the Leases assigned hereby, Assignor covenants and agrees that if any such Lease is so terminated or rejected, no settlement for damages shall be made without the prior written consent of Assignee, and any check in payment of damages for termination or rejection of any such Lease will be made payable both to Assignor and Assignee. Assignor hereby assigns any such payment to Assignee and further covenants and agrees that upon the request of Assignee, it will duly endorse to the order of Assignee any such check, the proceeds of which will be applied in accordance with the provisions of paragraph 6 below.

3. Rights Prior to Default. So long as no Event of Default exists, Assignee shall not demand from tenants under the Leases or any other person liable thereunder, any of the rents, issues, income and profits assigned hereunder, and Assignor shall have the right to collect at the time, but not more than thirty (30) days in advance of the date provided for the payment thereof, all rents, issues, income and profits assigned hereunder, and to retain, use and enjoy the same. After an Event of Default, Assignee shall have the right to notify the tenants under the Leases of the existence of this Assignment at any time.

4. Events of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" for purposes of this Assignment:

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- (a) Failure by the Assignor to pay or cause to be paid within ten (10) days of when due (i) any installment of principal or interest payable pursuant to the Note or (ii) any other amount payable pursuant to the Note, the Mortgage, the other Loan Documents or this Assignment.
- (b) Failure by the Assignor to promptly perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Assignor under this Assignment, the Note, the Mortgage, or any other Loan Document; provided, however, Assignor shall have a period not to exceed thirty (30) days after written notice of any such failure of performance to cure the same and an Event of Default shall not be deemed to exist during said thirty (30) day period, unless the continued operation or safety of the Mortgaged Property, or the priority, validity or enforceability of the lien created by this Assignment, the Mortgage or any other Loan Document, or the value of the Mortgaged Property is impaired, threatened or jeopardized it being further provided if such failure is not capable of cure within such 30 day period and Assignor commences during such 30 day period such cure and thereafter diligently and continuously pursues said cure (for a period not to exceed 90 days), no Event of Default shall be deemed to have occurred hereunder.
- (c) The existence of any inaccuracy or untruth in any material representation, covenant or warranty contained in this Assignment or any Loan Document, or of any statement or certification as to facts delivered to Assignee by Assignors, any co-maker or guarantor of the Note, or any applicant for the loan evidenced by the Note.
- (d) The making of any levy, judicial seizure or attachment on the Leases or any portion thereof, which shall remain undismissed or undischarged for a period of thirty (30) days.
- (e) The existence of any other default or Event of Default under any of the other Loan Documents.

5. Rights and Remedies Upon Default. At any time upon or following the occurrence of any one or more Events of Default hereunder, Assignee may, at its option, exercise any one or more of the following rights and remedies without any obligation to do so, without in any way waiving such Event or Events of Default, without further notice or demand on Assignor, without regard to the adequacy of the security for the obligations secured hereby, without releasing Assignor or any guarantor or co-maker of the Note from any obligation hereunder, and with or without bringing any action or proceeding to foreclose the Mortgage or any other lien granted by the Loan Documents:

- (a) Declare the unpaid balance of the principal sum of the Note, together with all accrued and unpaid interest thereon, immediately due and payable;
- (b) Enter upon and take possession of the Mortgaged Property, either in person or by agent or by a receiver appointed by a court, and have, hold, manage, lease and operate the same on such terms and for such period of time as Assignee may deem necessary or proper, with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to Assignee, to make, enforce, modify and accept the surrender of

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Leases, to obtain and evict tenants, to fix or modify rents, and to do any other act which Assignee deems necessary or proper;

(c) Either with or without taking possession of the Mortgaged Property, demand, sue for, settle, compromise, collect, and give acquittances for all rents, issues, income and profits of and from the Mortgaged Property and pursue all remedies for enforcement of the Leases and all the lessor's rights therein and thereunder, provided that, for such purpose, this Assignment shall constitute an authorization and direction to the tenants under the Leases to pay all rents and other amounts payable under the Leases to Assignee, without proof of default hereunder, upon receipt from Assignee of written notice to thereafter pay all such rents and other amounts to Assignee and to comply with any notice or demand by Assignee for observance or performance of any of the covenants, terms, conditions and agreements contained in the Leases to be observed or performed by the tenants thereunder, and provided, further, that Assignor will facilitate in all reasonable ways Assignee's collection of such rents, issues, income and profits, and upon request will execute written notices to the tenants under the Leases to thereafter pay all such rents and other amounts to Assignee; and

(d) Make any payment or do any act required herein of Assignor in such manner and to such extent as Assignee may deem necessary, and any amount so paid by Assignee shall become immediately due and payable by Assignor with interest thereon until paid at an annual rate (the "**Default Rate**") equal to four percent (4%) plus the Loan Rate (as defined in the Note) then in effect under the Note and shall be secured by this Assignment.

6. Application of Proceeds. All sums collected and received by Assignee out of the rents, issues, income and profits of the Mortgaged Property following the occurrence of any one or more Events of Default under the provisions hereof shall be applied as follows:

(a) First, to reimbursement of Assignee for and of all expenses (including court costs and attorneys' fees) of: taking and retaining possession of the Mortgaged Property; managing the Mortgaged Property and collecting the rents, issues, income and profits thereof, including without limitation, salaries, fees and wages of a managing agent and such other employees as Assignee may deem necessary and proper; operating and maintaining the Mortgaged Property, including without limitation, taxes, charges, claims, assessments, water rents, sewer rents, other liens, and premiums for any insurance provided in the Mortgage; the cost of all alterations, renovations, repairs or replacements of or to the Mortgaged Property which Assignee may deem necessary and proper, with interest thereon at the Default Rate;

(b) Second, to reimbursement of Assignee for and of all sums expended by Assignee pursuant to paragraph 5(d) above to make any payment or do any act required herein of Assignor, together with interest thereon as provided herein;

(c) Third, to reimbursement of Assignee for and of all other sums with respect to which Assignee is indemnified pursuant to paragraph 7 below, together with interest thereon as provided herein;

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- (d) Fourth, to reimbursement of Assignee for and of all other sums expended or advanced by Assignee pursuant to the terms and provisions of or constituting additional indebtedness under any of the Loan Documents, with interest thereon as provided therein;
- (e) Fifth, to the payment of all accrued and unpaid interest on the principal sum of the Note;
- (f) Sixth, to payment of the unpaid balance of the principal sum of the Note; and
- (g) Seventh, any balance remaining to Assignor, its respective heirs, legatees, administrators, legal representatives successors and assigns.

7. Limitation of Assignee's Liability. Assignee shall not be liable for any loss sustained by Assignor resulting from Assignee's failure to let the Mortgaged Property following the occurrence of any one or more Events of Default under the provisions hereof or from any other act or omission of Assignee in managing, operating or maintaining the Mortgaged Property following the occurrence of any one or more Events of Default under the provisions hereof. Assignee shall not be obligated to observe, perform or discharge, nor does Assignee hereby undertake to observe, perform or discharge any covenant, term, condition or agreement contained in any Lease to be observed or performed by the lessor thereunder, or any obligation, duty or liability of Assignor under or by reason of this Assignment, and Assignor shall and does hereby agree to indemnify Assignee for, and to hold Assignee harmless of and from, any and all liability, loss or damage which Assignee may or might incur under any Lease or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligation or undertaking on its part to observe or perform any of the covenants, terms, conditions and agreements contained in any Lease; provided, however, in no event shall Assignor be liable for any liability, loss or damage which Assignee incurs as a result of Assignee's gross negligence or willful misconduct. Should Assignee incur any such liability, loss or damage under any Lease or under or by reason of this Assignment, or in the defense of any such claim or demand, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall become immediately due and payable by Assignor with interest thereon at the Default Rate and shall be secured by this Assignment. This Assignment shall not operate to place responsibility for the care, control, management or repair of the Mortgaged Property or for the carrying out of any of the covenants, terms, conditions and agreements contained in any Lease upon Assignee, nor shall it operate to make Assignee responsible or liable for any waste committed upon the Mortgaged Property by any tenant, occupant or other party, or for any dangerous or defective condition of the Mortgaged Property, or for any negligence in the management, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any tenant, occupant, licensee, employee or stranger. Nothing herein or in the Mortgage contained, and no exercise by Assignee of any of the rights herein or in the Mortgage conferred shall constitute or be construed as constituting Assignee a "mortgagee in possession" of the Mortgaged Property, in the absence of the taking of actual possession of the Mortgaged Property by Assignee pursuant to the provisions hereof. Assignee has not received nor been transferred any security deposited by any tenant with the lessor under the terms of any Lease and Assignee assumes no responsibility or liability for any security so deposited.

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8. Non-Waiver. Nothing contained in this Assignment and no act done or omitted to be done by Assignee pursuant to the rights and powers granted to it hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Note, the guaranty thereof or any of the Loan Documents; this Assignment is made and accepted without prejudice to any of the rights and remedies of Assignee under the terms and provisions of such instruments; and Assignee may exercise any of its rights and remedies under the terms and provisions of such instruments either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Assignee may take or release any other security for the performance of the obligations secured hereby, may release any party primarily or secondarily liable therefor, and may apply any other security held by it for the satisfaction of the obligations secured hereby without prejudice to any of its rights and powers hereunder.
9. Further Assurances. Assignor shall execute or cause to be executed such additional instruments (including, but not limited to, general or specific assignments of such Leases as Assignee may designate) and shall do or cause to be done such further acts, as Assignee may reasonably request, in order to permit Assignee to perfect, protect, preserve and maintain the assignment made to Assignee by this Assignment.
10. Severability. The invalidity or unenforceability of any particular provision of this Assignment shall not affect the other provisions, and this Assignment shall be construed in all respects as if such invalid or unenforceable provision had not been contained herein.
11. Benefit. This Assignment is binding upon Assignor and its respective permitted assigns, and the rights, powers and remedies of Assignee under this Assignment shall inure to the benefit of Assignee and its successors and assigns, including without limitation, the holder from time to time of the Note.
12. Written Modifications. This Assignment shall not be amended, modified or supplemented without the written agreement of Assignor and Assignee at the time of such amendment, modification or supplement.
13. Duration. This Assignment shall become null and void at such time as Assignor shall have paid the principal sum of the Note, together with all interest thereon, and shall have fully paid and performed all of the other obligations secured hereby and by the Loan Documents.
14. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.
15. Notices. All notices and demands which are required or permitted to given or served hereunder shall be deemed sufficiently served when delivered or mailed in the manner and to the persons described in the Mortgage.
16. Priority. Assignor and Assignee acknowledge the parties hereto and agree that upon recordation of this Agreement in the Office of the Recorder of Deeds, Cook County, Illinois, the rights of Assignee hereunder relative to the perfection and priority of the liens and security interests granted hereunder are as set forth in Chapter 765 of the Illinois Compiled Statutes, Section 5/31.5, as amended.

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17. Jury Trial Waiver. Assignor, and Assignee by its acceptance of this Assignment, hereby waive their respective rights to a trial by jury in any action or proceeding based upon, or related to, the subject matter of this Assignment and the business relationship that is being established. This waiver is knowingly, intentionally and voluntarily made by Assignor and Assignee, and Assignor acknowledges that neither Assignee nor any person acting on behalf of Assignee has made any representations of fact to include this waiver of trial by jury or has taken any actions which in any way modify or nullify its effect. Assignor and Assignee acknowledge that this waiver is a material inducement to enter into a business relationship, that each has relied on this waiver in entering into this Assignment and that each of them will continue to rely on this waiver in their related future dealings. Assignor and Assignee holder further acknowledge that they have been represented (or have had the opportunity to be represented) in the giving of this Assignment and in the making of this waiver by independent legal counsel.

[Signatures on Following Page]

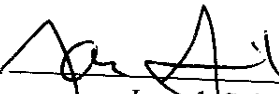
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IN WITNESS WHEREOF, Assignor has executed and delivered this Assignment as of the day and year first above written.

JFS 1913-19 NORTH AVENUE, LLC,
an Illinois limited liability company

By: JFS Realty Capital LLC,
an Illinois limited liability company,
its Manager

By: 
Joseph Seigle, Manager

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STATE OF ILLINOIS)
) SS
COUNTY OF)

I, Toni L. Ruckman a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Joseph Seigle, the Manager of JFS Realty Capital LLC, the Manager of JFS 1913-19 North Avenue, LLC, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his/her own free and voluntary act for the uses and purposes therein.

Given under my hand and Notarial Seal this 18th day of March, 2010.

Toni L. Ruckman
Notary Public

My Commission Expires:



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EXHIBIT A

Legal Description of Mortgaged Property

LOTS 5, 6 AND 7 IN BLOCK 3 IN PICKET'S SECOND ADDITION TO CHICAGO, BEING LOT 4 OF ASSESSOR'S DIVISION OF PART OF THE NORTH 1/2 OF SECTION 6, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

This instrument was prepared by
and, after recording, return to:

Permanent Real Estate
Tax Index No.: 17-06-200-028-0000 (Lots 6 and 7)
17-06-200-029-0000 (Lot 5)

Michael Steingo, Esq.
Freeborn & Peters
311 South Wacker Drive
Suite 3000
Chicago, Illinois 60606

Property Address:

1913-15 W. North Avenue, Chicago, IL

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EXHIBIT B

Description of Existing Leases

1. The Lease dated June 23, 1995 between Sterling Bay L.L.C., an Illinois limited liability company and Northwestern Memorial Management Corporation, an Illinois corporation
2. First Amendment to Lease dated April 1, 1999 by and among Shechtman Enterprises, a Wisconsin general partnership and Northwestern Memorial Physicians Group, Ltd., an Illinois corporation and Northwestern Memorial Hospital, an Illinois not-for-profit corporation
3. Second Amendment to Lease dated October 9, 2008 by and among 1913 W. North LLC, an Illinois limited liability company and Northwestern Memorial Hospital, an Illinois not-for-profit corporation
4. Assignment and Assumption of Lease dated October 3, 2007 between Shechtman Enterprises, LLC, a Wisconsin limited liability company and 1913 W. North LLC, an Illinois limited liability company
5. Assignment and Assumption of Agreement and Consent Agreement dated April 1, 1999 by and between Shechtman Enterprises, LLC, a Wisconsin limited liability company and Northwestern Memorial Physicians Group, Ltd., an Illinois corporation and Northwestern Memorial Hospital, an Illinois not-for-profit corporation