

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION**

NUVASIVE, INC., a Delaware corporation,

Plaintiff,

v.

ALPHATEC HOLDINGS, INC., a Delaware corporation and ALPHATEC SPINE, INC., a California corporation,

Defendants.

CASE NO. 3:18-cv-00347-CAB-MDD

**PLAINTIFF'S NOTICE OF INTENT TO SEEK PRELIMINARY INJUNCTION AND REQUEST FOR EXPEDITED CASE MANAGEMENT CONFERENCE WITH DISTRICT COURT JUDGE**

Complaint Filed: February 13, 2017

**Jury Trial Demanded**

1 Plaintiff NuVasive, Inc. (“NuVasive”) hereby gives notice to Alphatec  
2 Holdings, Inc. and Alphatec Spine, Inc. (“Defendants”) and this Honorable Court  
3 that NuVasive intends to promptly seek a preliminary injunction in this matter.  
4 Accordingly, NuVasive respectfully requests, pursuant to Local Civil Rule 16.1,  
5 that the Court schedule an early case management conference with Judge  
6 Bencivengo.

7 Local Civil Rule 16.1(c)(1) states, in part:

8 At any time after the filing of a complaint and before an answer  
9 has been filed, counsel for any party may make a request in writing  
10 to the judicial officer assigned to supervise discovery in the case to  
11 hold an early neutral evaluation conference, discovery conference  
12 or status/case management conference. Copies of the request must  
13 be sent to counsel for the parties and the parties whose addresses  
14 are known to the requesting counsel. Upon receiving such request,  
15 the judicial officer will examine the circumstances of the case and  
16 the reasons for the request and determine whether any such  
17 conference would assist in the reduction of expense and delay the  
18 case. The judicial officer will hold such conferences as he or she  
19 deems appropriate.

20 The present case relates to Defendants’ willful infringement of several of  
21 NuVasive’s patents covering devices and methods for lateral spinal surgery.  
22 Dkt. No. 1. The complaint was filed on February 13, 2018, and served on  
23 Defendants on February 14, 2018. Dkt. Nos. 1, 8, and 9. Defendants’ answer is  
24 due on March 7, 2018. To date, Defendants have not made an appearance.

25 NuVasive believes that the parties and the Court will benefit from an early  
26 determination regarding the schedule for briefing on its forthcoming Motion for  
27 Preliminary Injunction. Accordingly, an early case management conference would  
28 reduce expense and potential delay in resolution of this matter. Moreover, it is

1 expected that the assigned District Court Judge, Judge Bencivengo, will ultimately  
2 preside over NuVasive's request for a preliminary injunction. Therefore,  
3 NuVasive respectfully requests that the case management conference be conducted  
4 by and with Judge Bencivengo.

5 Accordingly, NuVasive respectfully requests that the Court promptly  
6 schedule a case management conference to address scheduling for a motion for  
7 preliminary injunction.

8 Dated: February 22, 2018

By: /s/ Wendy L. Devine  
PAUL D. TRIPODI II  
State Bar No. 162380  
ptripodi@wsgr.com  
Wilson Sonsini Goodrich & Rosati P.C.  
633 West Fifth Street, Suite 1550  
Los Angeles, CA 90071  
Telephone: 323-210-2900  
Fax: 866-974-7329

NATALIE J. MORGAN  
State Bar No. 211143  
nmorgan@wsgr.com  
Wilson Sonsini Goodrich & Rosati P.C.  
12235 El Camino Real  
San Diego, CA 92130  
Telephone: 858-350-2300  
Fax: 858-350-2399

WENDY L. DEVINE  
State Bar No. 246337  
wdevine@wsgr.com  
Wilson Sonsini Goodrich & Rosati P.C.  
One Market Plaza  
Spear Tower, Suite 3300  
San Francisco, California 94105-1126  
Telephone: 415-947-2000  
Fax: 415-947-2099

*Attorneys for Plaintiff NuVasive, Inc.*

28