

EXHIBIT 9

**TO THE DECLARATION OF BRIAN J. NISBET
IN SUPPORT OF DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, SUMMARY ADJUDICATION**



Surgical Technique



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PREFACE

Fellow Colleagues:

The XLIF® Procedure was created to be a safer and more reproducible, minimally disruptive procedure that utilizes conventional surgical techniques and a seamlessly integrated Maximum Access Surgery (MAS®) platform. With years of experience and thousands of successful procedures and system advancements, XLIF applications have expanded from single-level DDD to advanced degenerative spinal pathologies. XLIF is the first clinically validated lateral approach to the spine, allowing surgeons to accomplish fundamental surgical goals – anterior column correction and fusion.

Whereas previous attempts at minimally disruptive spine surgery (e.g., endoscopes, optical trocars, CO₂) typically introduced an inherent difficulty in using the new technology, XLIF is minimally disruptive while utilizing conventional surgical techniques. Over the years, the XLIF procedure and technology have evolved. However, two systems, described below, were designed to help enable safer and more reproducible minimally disruptive spine surgery, compared to previous technologies.

The MaXcess® 4 Access system provides maximum surgical access while minimizing the soft tissue disruption that often occurs during open surgery. MaXcess 4 allows the fundamentals of conventional surgical techniques to be achieved, while eliminating the unfamiliar requirements of operating coaxially through tubular portals. Additionally, since there are no adjunctive visualization tools (e.g., endoscopes, monitors), the MaXcess 4 Access system enables direct, illuminated visualization of the patient's anatomy through conventional methods.

The NVM5® system is another important technology that helps enable more reproducible, minimally disruptive techniques. This system is the only surgeon-driven technology that provides dynamic, discrete information on nerve location and condition. The XLIF technique described in this guide utilizes a lateral, retroperitoneal, transpsoas approach to access the intervertebral disc. NVM5 was designed to enable a safer trajectory past the nerves in the psoas muscle by communicating nerve proximity and directionality information. This enables the surgeon to locate and avoid the lumbar plexus while accessing the disc. NVM5 is the only clinically validated nerve avoidance system for reproducibility during a lateral transpsoas technique.

XLIF adoption has grown significantly since its introduction. Initially, the XLIF technique was used to address mainly single-level degenerative conditions in the lumbar spine. Since then, the applications have evolved and expanded. Today it is used routinely as a minimally disruptive solution to address many degenerative spinal pathologies that require anterior column support and/or reconstruction, including deformity.

As we continue to evolve spine surgery and decrease patient morbidity, it is imperative that the techniques do not undermine the surgical fundamentals that have served us well. The XLIF technique satisfies this requirement and should be considered as one of the many viable treatment options available to the spine surgeon.

Cordially,

A handwritten signature in black ink, appearing to read 'Luiz Pimenta', is positioned above the printed name.

Luiz Pimenta, M.D., Ph.D.
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PRESURGICAL PREPARATION

EQUIPMENT REQUIREMENTS:

To successfully complete this technique, the following patient positioning supplies, instruments, implants, and fixation options are required.

PATIENT POSITIONING:

- 3-Inch Tape
- Axillary Roll
- Foam Padding
- Radiolucent Bendable Surgical Table

INSTRUMENTS:

- C-arm
- Light Source
- MaXcess® 4 Access System
- MaXcess 4 Articulating Arm Tray
- MaXcess 4 Kit
- MaXcess Fixation Shim Kit (*optional*)
- XLIF® Instruments
- Anterior/Lateral General Instruments
- NVM5®
- NVM5 XLIF Dilator Kit
- NVM5 EMG Module

IMPLANTS:

- CoRoent® (XL, XL-W, XL-XW, XL-CT, XL-F, XL-FW, XL-T)

LATERAL FIXATION OPTIONS:

- XLIF Decade™ Lateral Plate
- StruXure™ Lateral Deformity Fixation System

POSTERIOR FIXATION OPTIONS:

- Precept®
- Armada®
- SpheRx® DBR® III
- SpheRx PPS
- SpheRx PPS + EXT
- Radian® Facet Screws

Reference the applicable CoRoent, MaXcess 4, NVM5, XLIF Decade, SpheRx DBR III, Armada, Precept, Radian, StruXure, and XLIF Decade Lateral Plate Technique Guide(s) or Reference Manual(s) and/or Instructions for Use (IFU) for additional important labeling information. IFUs can be referenced at www.nuvasive.com/eIFU.

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