EXHIBIT 5 TO TRENT TANNER DECLARATION ISO NUVASIVE'S COMBINED MOTIONS IN LIMINE



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SAN DIEGO DIVISION

NUVASIVE, INC., a Delaware corporation,

Plaintiff,

v. Case No. 3:18-CV-00347 -CAB-MDD

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

Defendants.

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF SCOTT ROBINSON

ALPHATEC'S HOLDINGS, INC. RULE 30(b)(6) WITNESS

SAN DIEGO, CALIFORNIA

NOVEMBER 4, 2020

Reported By: PATRICIA Y. SCHULER CSR No. 11949



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5	NUVASIVE, INC., a Delaware	6			
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17	THE TOTAL CHIENDERSCH COURTS COLLEGE	14			
18	Also Present:	15			
19	Jason Hamilton	16 17			
		18			
20	Videographer:	19			
21	Michael Spade	20			
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1 SM DIESO, CALIFORNIA; MEXMESSAY, NOWERER 4, 2020 2 A. 1281 — 1-2-8-1, -2 Crest Drive, 3 THE VIEOGRAPHEN: We are now on the 4 record. Participants should be aware that this 5 proceeding is being recorded, and as such, all 6 conversations held will be recorded unless there is 7 a request and agreement to go off the record. 9 Private conversations and/or attorney-client 9 interactions should be held outside the presence of 10 the remote interface. 11 For the purpose of creating a 12 witness-only video, the witness has been 13 spotlighted on your video screen. We ask that the 14 witness not be removed from the spotlight as it may 15 cause other people to agreem in the final video. 16 For anyone who does not want the witness 17 to take up a large part of your screen, you may 18 click the 'gallery view' button in the upper right 19 corner. 20 This is the remote videorecorded 21 deposition of Scott Robinson being taken by commel 22 for the Defendant. Today is Mednesday, November 4, 23 2020, and the time now is 10:040 a.m. in the Pacific 24 time zone. We are bere in the matter of NaVasive 25 egainst Alphateo Holdings. Wy name Michael Spade, 3 At this time, will the reporter, 4 Patricia Schuler, with U.S. Legal Support. I 2 am not related to any party in this action. 3 At this time, will the reporter, 4 Patricia Schuler, with U.S. Legal Support please 5 swear in the witness. 6 SCOTT ROBINSON, 8 having been administered an cath, was examined and testified as follows: 10 C. Can you hear me? 11 R. I Delive it's the nomptivileged 12 testimony related to implant development, Mr. Yes. 20 Q. And since your deposition last October, have been deposed, other than sitting here today? 21 deposition here today is related to that lawsuit? 22 A. Yes. 3 (Scott Robinson being taken by commel 3 back. 3 A. Yes. 4 Patricia Schuler, with U.S. Legal Support please 5 swear in the witness. 6 Page 7 1 Patricia Schuler, with U.S. Legal Support please 5 swear in the witness. 7 (Q. Sort it. 8 Q. Cond sorning, Mr. Robinson. 8 Q. Sort it. 9 Q. Rod				
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4 record. Participants should be aware that this 5 proceeding is being recorded, and as such, all conversations held will be recorded unless there is 7 a request and agreement to go off the record. Private conversations and/or attorney-client. Interactions should be held outside the presence of 10 the remote interface. Por the purpose of creating a 12 witness-only video, the witness has been 13 sporlighted on your video screen. We ask that the witness not be removed from the sporlight as it may 15 cause other people to appear in the final video. Por anyone who does not want the witness to to keep the party size of your screen, you may 18 click the 'gallery view' button in the upper right conver. 20 This is the remote videorecorded 21 degosition of Soot Robinson being taken by coursel for the Defendant. Today is Wedneaday, November 4, 23 2020, and the time now is 10:04 a.m. in the Pacific time zone. We are here in the matter of MuNasive against Alphatec Holdings. My rame Michael Spade, 5 awar in the witness. SCOYT ROBINSON, 8 having been administered an oath, was examined and 19 testified as follows: 10 Can you hear ms? 12 PM S. DEVINE: 13 C. Good morning, Mr. Robinson. 14 A. Good morning, Mr. Robinson. 15 C. Can you hear em? 16 A. I can hear you just fine, thanks. 17 C. Cant, I you can't hear me at any 18 point, would you please state and spell your 20 name for the record, the record in the matter? MuNasive has such Alphatec Boldings. Wy rame Michael Spade, 20 S. No. This is, thankfully, my first time 20 on Amount hear me 20 on Amount hear my first time 20 on Amount hear me 21 on Amount hear my first time 20 on Amount hear my first ti	2		2	A. 1281 1-2-8-1, -2 Crest Drive,
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11 witness-only video, the witness has been 12 witness-only video, the witness has been 13 spotlighted on your video screen. We ask that the 14 witness not be removed from the spotlight as it may 15 cause other people to appear in the final video. 16 For anyone who does not want the witness 17 to take up a large part of your screen, you may 18 click the "gallery view" button in the upper right 19 course. 20 This is the remote videorecorded 21 deposition of Scott Robinson being taken by counsel 22 for the Defendant. Today is Wednesday, November 4, 23 2020, and the time now is 10:04 a.m. in the Pacific 24 time zone. We are here in the matter of NuVasive 25 against Alphatec Holdings. My name Michael Spade, 26 remote video technician with U.S. Legal Support. I 27 am not related to any party in this action. 28 At this time, will the reporter, 29 A Baving been administered an oath, was examined and 20 EXAMINATION 21 EY MS. DEVINE: 21 Q. Great. If you can't hear me at any 22 print, would you please state and spell your 23 name for the record? 24 A. Would you please state and spell your 25 name for the record? 26 A. Would you please state and spell your 27 name for the record? 28 A. Scott Robinson, S-C-O-T-T, 30 A. Will do, yes. 40 Sure. 51 Q. And do you understand that I regresent NaVasive? You 52 know that? 53 Q. Do you have an understanding of well 54 do you understand that I regresent NaVasive? You 54 A. Yes. 60 Q. And do you understand that I regresent NaVasive? You 55 know that? 61 A. Yes. 62 Q. And do you understand that I regresent NaVasive? You 64 A. Yes. 62 Q. And do you understand that I regresent NaVasive? You 65 A. Yes. 62 Q. And do you understand that I regresent NaVasive? You 65 A. Yes. 62 Q. And do you understand that I regresent NaVasive? You 65 A. Yes. 62 Q. And do you understand that I regresent NaVasive? You 65 A. Yes. 62 Q. And do you understand that I regresent NaVasive? You 65 A. Yes. 62 Q. And since your deposition last October, hav 95 your job changed? 8 A. No. Whi job is the same. 9 Q. So I		-		
12 witness-only video, the witness has been 13 spotlighted on your video screen. We ask that the 14 witness not be removed from the spotlight as it may 15 cause other people to appear in the final video. 16 For anyone who does not want the witness 17 to take up a large part of your screen, you may 18 click the 'gallery view' button in the upper right 19 cowner. 20 This is the remote videorecorded 21 deposition of Scott Robinson being taken by counsel 22 for the Defendant. Today is Wednesday, November 4, 23 2020, and the time now is 10:04 a.m. in the Pacific 24 time zone. We are here in the matter of Nivasive 25 against Alphatec Holdings. My name Michael Spade, 26 remote video technician with U.S. Legal Support. I 27 am not related to any party in this action. 28 At this time, will the reporter, 29 Page 7 20 remote video technician with U.S. Legal Support please 20 swear in the witness. 21 swear in the witness. 22 Q. And since your deposition last October, have you been deposed, other than sitting here today? 23 A. No. This is, thankfully, my first time 24 time zone. 25 Q. And since your deposition last year, ha your job changed? 26 A. No. My job is the same. 27 Q. And you understand that Nivasive has swear in the witness. 28 Q. And since your deposition last October, have you heen deposed, other than sitting here today? 29 A. No. This is, thankfully, my first time 20 Page 7 21 remote video technician with U.S. Legal Support please 22 swear in the witness. 23 Q. And since your deposition last year, ha your job changed? 24 A. No. My job is the same. 25 Q. And since your deposition last year, ha your job changed? 26 A. Yes. 27 A. Yes. 28 Q. And since your deposition last year, ha your job changed? 29 A. No. This is, thankfully, my first time 29 A. No. My job is the same. 20 Q. Sol remove the place of the same. 21 A. No. My job is the same. 22 Q. Sol remove the place of the same. 23 A. Soot Robinson, Mr. Robinson. 24 A. Generally the same, yes. 25 Q. Sol won't spend a bunch of time going over logistics for today be				
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Q. Can you hear me? 15 last year. But just briefly, do you understand 16 A. I can hear you just fine, thanks. 17 Q. Great. If you can't hear me at any 18 point, would you please just let me know? 19 A. Will do, yes. 20 Q. Sure. 20 A. Yes, I will. 21 Would you please state and spell your 22 name for the record? 23 A. Scott Robinson, S-C-O-T-T, 25 last year. But just briefly, do you understand 16 that you need to give a verbal answer to question 17 A. Yes, I do. 18 Q. And if you don't understand my question 19 would you please let me know? 20 A. Yes, I will. 21 Q. And do you understand that if you do no 22 let me know that you do not understand the 23 question, that I will accept that you did	13	Q. Good morning, Mr. Robinson.	13	Q. So I won't spend a bunch of time going
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1	16 17 18 19 20 21	A. I can hear you just fine, thanks. Q. Great. If you can't hear me at any point, would you please just let me know? A. Will do, yes. Q. Sure. Would you please state and spell your name for the record?	16 17 18 19 20 21 22	that you need to give a verbal answer to questions? A. Yes, I do. Q. And if you don't understand my question, would you please let me know? A. Yes, I will. Q. And do you understand that if you do not let me know that you do not understand the
OF O And could con place whole come museum OF Date that make accord	16 17 18 19 20 21 22 23	A. I can hear you just fine, thanks. Q. Great. If you can't hear me at any point, would you please just let me know? A. Will do, yes. Q. Sure. Would you please state and spell your name for the record? A. Scott Robinson, S-C-O-T-T,	16 17 18 19 20 21 22 23	that you need to give a verbal answer to questions? A. Yes, I do. Q. And if you don't understand my question, would you please let me know? A. Yes, I will. Q. And do you understand that if you do not let me know that you do not understand the question, that I will accept that you did

	Page 10		Page 12
1	A. I understand that, yes.	1	Q. Could you tell me what it is, please?
2	Q. And do you understand that you are	2	A. I believe it's the district court filing
3	providing testimony under oath today?	3	that is accusing Alphatec of patent infringement on
4	A. Yes, I do.	4	accused implant products.
5	Q. And do you understand that I am entitled	5	Q. Sure.
6	to the complete truth, to the best of your	6	If you go to Page 5 of this document.
7	recollection?	7	A. Um-hmm.
8	A. Yes.	8	Q. It actually It's No. 5 at the bottom.
9	Q. Is there any reason why you cannot give	9	It's actually more than Page 5 because there is a
10	your most truthful, accurate, and complete	10	big introductory page.
11	testimony today?	11	A. Page 5 of the
12	A. I don't see any reason that that should	12	Q. Do you see
13	not be the case.	13	A. Page 5 of the document
14	Q. Do you understand that you are testifying	14	Q. Well
15	as a corporate representative of Alphatec today?	15	A or Page 5 of the PDF?
16	A. Yes.	16	Q. It's going to be Page 8 of the PDF which
17	Q. And do you have we shipped you some	17	has a No. 5 at the bottom. It says "Matters for
18	documents. Do you have a box of documents?	18	Examination," at the top.
19	A. I do. I have it here.	19	A. Got it.
20	Q. Great. Have you opened that box yet?	20	Q. There are a number of topics here. And
21	A. I have not, no.	21	I'm just going to walk you through the topics that
22	Q. Would you please just go ahead and open	22	I understand that you are designated to testify on
23	the box?	23	behalf of Alphatec about; is that all right?
24	A. (Witness complies.)	24	MS. RAGHAVAN: And for the record I'll
25	Q. Thank you.	25	state that all of Mr. Robinson's testimony today
	Page 11		Page 13
1	Mr. Robinson, do you see that there are a	1	will be subject to Alphatec's objections and
2	number of sealed, numbered envelopes there?	2	responses to NuVasive's
3	A. I do, yes.	3	MS. DEVINE: Fine.
4	Q. So when we go through documents today, I	4	BY MS. DEVINE:
5	will let you know which envelope has the document I	5	Starting with Topic 1, which reads, "When
6	am referencing so you will have it in hard copy.	6	and under what circumstances Alphatec first became
7	We're also going to put it up on a shared Box	7	aware of each of the implant patents in suit and
8	folder that will allow you to pull it up on your	8	what actions Alphatec took upon becoming aware of
9	screen, if that's your preference.	9	
10		١.	the implant patents in suit."
	Is that all right?	10	Do you understand that you're designated
11	Is that all right? A. Yes, I like that option.	11	Do you understand that you're designated to testify on behalf of Alphatec regarding that
11 12	Is that all right? A. Yes, I like that option. Q. Okay. You prefer looking at it on the	11 12	Do you understand that you're designated to testify on behalf of Alphatec regarding that topic?
11 12 13	Is that all right? A. Yes, I like that option. Q. Okay. You prefer looking at it on the computer?	11 12 13	Do you understand that you're designated to testify on behalf of Alphatec regarding that topic? A. Yes, I do.
11 12 13 14	Is that all right? A. Yes, I like that option. Q. Okay. You prefer looking at it on the computer? A. Probably. Just probably a little quicker	11 12 13 14	Do you understand that you're designated to testify on behalf of Alphatec regarding that topic? A. Yes, I do. Q. And regarding that topic, what can you
11 12 13 14 15	Is that all right? A. Yes, I like that option. Q. Okay. You prefer looking at it on the computer? A. Probably. Just probably a little quicker than digging through the stack here.	11 12 13 14 15	Do you understand that you're designated to testify on behalf of Alphatec regarding that topic? A. Yes, I do. Q. And regarding that topic, what can you tell me?
11 12 13 14 15 16	Is that all right? A. Yes, I like that option. Q. Okay. You prefer looking at it on the computer? A. Probably. Just probably a little quicker than digging through the stack here. (Exhibit 1 was marked for identification.)	11 12 13 14 15 16	Do you understand that you're designated to testify on behalf of Alphatec regarding that topic? A. Yes, I do. Q. And regarding that topic, what can you tell me? MS. RAGHAVAN: Objection. Vague.
11 12 13 14 15 16 17	Is that all right? A. Yes, I like that option. Q. Okay. You prefer looking at it on the computer? A. Probably. Just probably a little quicker than digging through the stack here. (Exhibit 1 was marked for identification.) BY MS. DEVINE:	11 12 13 14 15 16 17	Do you understand that you're designated to testify on behalf of Alphatec regarding that topic? A. Yes, I do. Q. And regarding that topic, what can you tell me? MS. RAGHAVAN: Objection. Vague. THE WITNESS: Could you restate the
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