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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. 18-cv-00347-MDD-CAB

DECLARATION OF TRENTON D. TANNER IN SUPPORT OF MOVANT GREGORY LUCIER’S EX PARTE APPLICATION FOR SHORTENING OF TIME RELATED TO MOTION TO QUASH TRIAL SUBPOENA

I, Trenton D. Tanner, declare as follows:

1. I am an attorney at Hilgers Graben, PLLC, counsel for Movant, Gregory Lucier. I submit this Declaration in support of Movant Gregory Lucier’s *Ex Parte* Application for Shortening of Time related to Motion to Quash Trial Subpoena (“Application”). I have personal knowledge of the following facts and, if called as a witness, I could and would testify competently thereto.

2. I have met and conferred with counsel for Alphatec Holdings, Inc. and Alphatec Spine, Inc. (collectively, “Alphatec”), regarding the relief sought in the Application and the relief sought in Movant Gregory Lucier’s Motion to Quash Trial Subpoena. Specifically, I exchanged emails with Alphatec’s counsel related to this relief on January 31, February 1, February 3, February 7, and February 8, 2022. I also spoke with Alphatec’s counsel about these issues on February 2, February 8, and February 9, 2022.

3. In the course of these meet-and-confers, I informed Alphatec’s counsel that Mr. Lucier intended to move to quash the subpoena that Alphatec served on Mr. Lucier on January 4, 2022, for three reasons: Alphatec failed to properly serve a

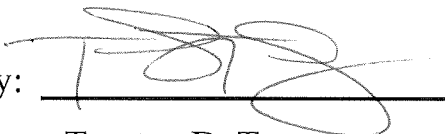
1 witness fee and mileage allowance on Mr. Lucier as required by Rule 45(b); the
2 subpoena violates the geographic limitations of Rule 45(c); and the subpoena
3 imposes an undue burden on Mr. Lucier.

4 4. On February 9, 2022, Alphatec's counsel agreed to provide the witness
5 fee and mileage allowance and to file its Response in opposition to Mr. Lucier's
6 Motion to Quash within two weeks after Mr. Lucier filed his Motion to Quash, in
7 exchange for Mr. Lucier's agreement to waive the requirement that Alphatec re-
8 serve the subpoena *concurrently* with the witness fee and mileage allowance.

9 5. Alphatec's counsel has also agreed that Mr. Lucier does not need to
10 appear to testify until at least March 7, 2022, even though the subpoena commands
11 his appearance on February 28, 2022.

12 I declare under penalty of perjury that the foregoing is true and correct.

13 Executed this 9th day of February 2022.

14
15 By: 
16 Trenton D. Tanner

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