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11 *Attorneys for Plaintiff NuVasive, Inc.*

12 UNITED STATES DISTRICT COURT  
13 SOUTHERN DISTRICT OF CALIFORNIA  
14 SAN DIEGO DIVISION

15 NUVASIVE INC., a Delaware  
16 corporation,

17 Plaintiff,

18 v.

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

21 Defendants.

) Case No. 18-cv-00347-CAB-MDD

) **DECLARATION OF WENDY L.  
DEVINE IN SUPPORT OF  
NUVASIVE, INC.'S BENCH  
BRIEF REGARDING NEXUS AND  
XLIF**

) PER CHAMBERS RULES, NO  
ORAL ARGUMENT UNLESS  
SEPARATELY ORDERED BY THE  
COURT

) Judge: Hon. Cathy Ann Bencivengo  
Magistrate Judge: Mitchell D. Dembin

) Trial: 3/1/2022

1 I, Wendy L. Devine, declare as follows,

2 1. I am a partner with Wilson Sonsini Goodrich & Rosati, and counsel  
3 for Plaintiff NuVasive, Inc. (“NuVasive”) in the above captioned matter. I submit  
4 this Declaration in Support of NuVasive’s Bench Brief Regarding Nexus And  
5 XLIF. I have personal knowledge of the facts set forth herein based on  
6 information made available to me and, if called as a witness, I would be competent  
7 to testify thereto.

8 2. Attached hereto as **Exhibit A** is a true and correct copy of excerpts of  
9 the Reporter’s Transcript of Proceedings Status Hearing, dated February 28, 2022.

10 3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts of  
11 the Court’s Trial Transcript of Proceedings Day 2, dated March 2, 2022.

12 4. Attached hereto as **Exhibit C** is a true and correct copy of  
13 correspondence between counsel for NuVasive and counsel for Alphatec, dated  
14 March 2, 2002.

15 I declare under penalty of perjury under the laws of the United States of  
16 America that the foregoing is true. Executed this 4th day of March in 2022 in San  
17 Diego, California.

18  
19 By:           /s/ Wendy L. Devine            
20 WENDY L. DEVINE

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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document has been served on this date to all current and/or opposing counsel of record, if any to date, who are deemed to have consented to electronic service via the Court’s CM/ECF system per Civ.L.R. 5.4(d). Any other counsel of record will be served by electronic mail, facsimile and/or overnight delivery.

I declare under penalty of perjury under the Laws of the United States of America that the above is true and correct. Executed this 4th day of March 2022, at San Diego, California.

By: /s/ Arlene Apodaca  
ARLENE APODACA