

Victoria, Australia

Occupation: Retired Orthopaedic Spine Surgeon

Date: 11 September 2012

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5	<b>Exhibit HVC-4</b> being a copy of Crock, "Anterior Lumbar Interbody Fusion – Indications for its Use and Notes on Surgical Technique," in <u>Clinical Orthopaedics and Related Research</u> , No. 165, May 1982	16	
6	<b>Exhibit HVC-5</b> being a copy of Fujimaki, et. Al. "The Results of 150 Anterior Lumbar Interbody Fusion Operations Performed by Two Surgeons in Australia," in <u>Clinical Orthopaedics and Related Research</u> , No. 165, May 1982	16	
7	<b>Exhibit HVC-6</b> being a copy of Crock, <u>A Practice of Spinal Surgery</u> , Springer-Verlag Wein New York, Revised 1 <sup>st</sup> Edition, 1983	16	

*Henry V. Crock*

1 I have been engaged by NuVasive, Inc. to review and provide comment on a number of publications in the field of spinal surgery. I have been advised that the disclosures and teachings in these publications have been put into issue in a patent lawsuit pending in the United States between NuVasive, Inc. and a subsidiary of Medtronic, Inc., namely, Warsaw Orthopedic, Inc. I have also been engaged to provide comment on certain testimony and contentions arising in connection to this lawsuit.

2 I am being compensated for my time actually spent in working on this matter at my customary rate for consulting matters, and have received no compensation for this declaration from NuVasive, Inc., its representatives, or otherwise beyond that. In addition, I will not receive any added compensation based on the outcome of any proceedings in which my prior work is at issue. Finally, I am not, and never have been, an employee of NuVasive, Inc.

3 I have been provided with a copy of the Federal Court of Australia Practice Note CM7 entitled "Expert Witnesses in Proceedings in the Federal Court of Australia" by a representative of NuVasive, Inc. Now shown to me and marked **Exhibit HVC-1** is a copy of Practice Note CM7. In considering the matters put to me and making this affidavit, I have complied with Practice Note CM7.

#### **Experience and Qualifications**

4 I have been asked me to provide details of my background and experience, particularly in relation to spinal interbody fusion procedures, in other words, surgical procedures



titles including Senior Orthopaedic Surgeon. In 1986, I moved to London, England and practiced spinal surgery at various hospitals and held various appointments including Honorary Senior Lecturer and Consultant Spinal Surgeon in the Department of Orthopaedic Surgery at the Royal Postgraduate Medical School, Hammersmith Hospital, and Director of the Spinal Disorders Unit at Cromwell Hospital. I retired in 2001 and moved back to Melbourne.

6 I obtained a Doctor of Medicine and Doctor of Surgery (M.B.B.S.) from the University of Melbourne in 1953, a Medical Doctorate (M.D.) from the University of Melbourne in 1967, and a Masters of Surgery (M.S.) from the University of Melbourne in 1977.

7 In terms of specialised training in surgery, I was made a Fellow of the Royal College of Surgeons in London in 1957 and a Fellow of the Royal Australasian College of Surgeons in 1961.

8 I have received numerous awards and honours during my career, including Officer of the Order of Australia (A.O.) in 1984 for services to medicine, especially in the field of orthopaedic surgery, Corresponding Fellow of the Japanese Orthopaedic Association in 1990, Honorary Fellow of the Royal College of Surgeons, Edinburgh in 1997, Honorary Member Spine Society of Australia in 2006, and Honorary Doctorate of Science from the University of Melbourne in 2009, the highest honorary award given by a university. In addition, I was elected President of the International Society for the Study of the Lumbar Spine in 1985, and have been awarded the LO Betts Medal by the

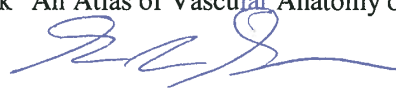


Henry V. Leong

once or twice a year from 1966 until my retirement in 2001 visiting Europe, Russia, Scandinavia, Canada, Japan, USA, Peoples' Republic of China, Hong Kong, India, Singapore, Indonesia, the Philippines, India, Great Britain, and Saudi Arabia.

10 I pride myself on being a teacher. Following my appointment at St. Vincent's Hospital, Melbourne in 1961, I became actively involved in undergraduate and post-graduate teaching of orthopaedic surgery and, in particular, spinal surgery. I continued training post-graduate fellows in spine surgery after moving to London in 1986. I have trained at least 26 post-graduate fellows from countries ranging from Indonesia, India, Canada, USA, Japan, Scotland, and Pakistan. In terms of teaching positions, I was also Lecturer in Orthopaedic Surgery at Oxford University from 1959-1961, Professorial Associate at St. Vincent's Hospital, Melbourne from 1961-1986, Visiting Lecturer in the Department of Anatomy at the Royal College of Surgeons of England, Senior Lecturer in the Department of Orthopaedics at the Royal Postgraduate Medical School at Hammersmith Hospital, and Director of Spinal Disorders Unit at Cromwell Hospital.

11 I have written a multitude of publications regarding spine surgery and served on the editorial boards of the British Journal of Bone and Joint Surgery, The European Spine Society Journal, Neuro-Orthopaedics (now ceased), and The Journal of Orthopaedic Science from the Japanese Orthopaedic Association. Among my publications include 6 books, 26 book chapters, and at least 35 papers, all of which were peer-reviewed. My book "An Atlas of Vascular Anatomy of the Skeleton and Spinal Cord" won the British



Henry V. Cook

setting out my experience and publications.

13 I was born on Sept 14, 1929 and am currently 82 years of age. I am of sound mind and able to understand completely and fully the contents of the materials I have reviewed and the statements I am making below. Although I am retired, I continue to receive and read various medical journals in my field of expertise, and attend medical conferences and collaborate with others in the field of spinal orthopaedics. For example, I still receive and regularly read publications including the Journal of Orthopaedic Science from the Japanese Orthopaedic Association, the Journal of the British Orthopaedic Association, the Australia and New Zealand Journal of Surgery, and the Journal of the Royal College of Surgeons of Edinburgh. I am also still a member of a variety of spine surgery associations, including the Australia Orthopaedic Association, the British Orthopaedic Association, the Japanese Orthopaedic Association, and am currently President of DISCS – The Diagnostic Investigation of Spine Conditions and Sciatica in London – a charitable trust established in 1993.

14 Currently, my physical health is such that I am not able to handle undue stress, and I am not able to travel long distances to the United States to participate in legal proceedings.

15 I have voluntarily agreed to provide this Affidavit and the evidence contained therein of my own free will. The information contained in this Affidavit comes from my own recollection or from the documents that I identify as having consulted.



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