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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HANGER PROSTHETICS & ORTHOTICS, INC.,)	
)	2:06-CV-02879-GEB-KJM
Plaintiff,)	
)	<u>DRAFT CLOSING JURY</u>
v.)	<u>INSTRUCTIONS AND</u>
)	<u>TRIAL INFORMATION</u>
CAPSTONE ORTHOPEDIC, INC.;)	
SANTIAGO ROSALES; GLEN S. ELLIS;)	
DAVID KIMZEY; ANGELA FULTON,)	
Defendants.)	

The trial will commence at 1:30 p.m. on February 10, 2009, instead of 9:00 a.m. because the Judge has agreed to participate in a high school mock court program from 9:00 a.m. to noon. Draft closing jury instructions are attached.

I will not read the parties' "Stipulations of Fact" on proposed Joint Jury Instruction No. 15, since certain stipulations appear to require explanation which is not provided. However, the parties can decide which counsel will read those stipulations to the jury before opening statements are given.

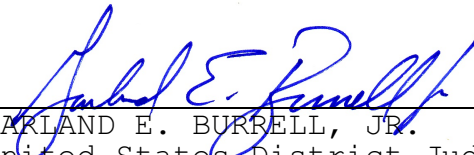
The parties' dispute concerning Instruction 24 has not been resolved. It is questioned whether this dispute needs to be

1 resolved in light of other undisputed proposed joint instructions
2 on the principal and agency issues.

3 I have tentatively decided to use a modified version of
4 Hanger's proposed conspiracy instruction, but have removed the
5 breach of fiduciary duty element from the instructions. This
6 element is undefined and it is questionable whether it applies to
7 all defendants.

8 Preliminary Jury Instruction No. 13 will not be given as
9 a preliminary jury instruction. This expert opinion instruction
10 has been placed in the attached closing instructions. The parties
11 should again meet and confer on closing jury instructions and the
12 verdict form with the aim of submitting joint proposals.

13 Dated: January 23, 2009

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GARLAND E. BURRELL, JR.
United States District Judge