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13 Attorneys for Defendant
 SPINAL KINETICS, INC.

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA
 16 SAN JOSE DIVISION

18 SYNTHES USA, LLC (f/k/a SYNTHES
 19 (U.S.A.)); SYNTHES USA SALES, LLC;
 and SYNTHES, INC.,
 20 Plaintiffs,
 21 v.
 22 SPINAL KINETICS, INC.,
 23 Defendant.
 24

CASE NO. 5:09-CV-01201 RMW
**STIPULATION AND
 ORDER RE BRIEFING SCHEDULE
 AND HEARING FOR SPINAL
 KINETICS' MOTION FOR
 SUMMARY JUDGMENT OF NON-
 INFRINGEMENT**

Hon. Ronald M. Whyte

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1 On September 13, 2010, Defendant Spinal Kinetics, Inc. ("Spinal Kinetics") filed a
2 Motion for Summary Judgment of Non-infringement of Claims 29-31 of U.S. Patent No.
3 7,429,270 by Lumbar Disc of Defendant Spinal Kinetics. [Dkt. No. 98].

4 The parties have discussed and agreed to a briefing schedule and hearing date for Spinal
5 Kinetics' Motion that should accommodate the various discovery activities presently ongoing.

6 IT IS HEREBY STIPULATED by and between the parties, through their counsel, that:


7 (1) Spinal Kinetics shall file its Reply to Synthes' Opposition by December 23, 2010;

8 and

9 (2) The hearing date for Spinal Kinetics' Motion, presently scheduled for December 3,
10 2010, is continued to January 14, 2011.

11 IT IS SO ORDERED.

12 Dated: November 24, 2010

13 
14 The Honorable Ronald M. Whyte
United States District Judge

15 Agreed to and submitted by:

16 Dated: November 16, 2010

17 Respectfully submitted,

18 ORRICK, HERRINGTON & SUTCLIFFE LLP

19 By: /s/ Andre De La Cruz

20 André De La Cruz
21 Attorneys for Defendant
SPINAL KINETICS, INC.

22 Dated: November 16, 2010

23 SIDLEY AUSTIN LLP

24 By: /s/ Jeffrey M. Olson

25 Jeffrey M. Olson
26 Attorneys for Plaintiffs
SYNTHES USA, LLC, SYNTHES USA SALES,
27 LLC, AND SYNTHES, INC.

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Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from Jeffrey M. Olson.

Dated: November 16, 2010

Respectfully submitted,
ORRICK, HERRINGTON & SUTCLIFFE LLP

By: /s/ Andre De La Cruz
André De La Cruz
Attorneys for Defendant
SPINAL KINETICS, INC.