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United States District Court
For the Northern District of California

E-FILED on 03/03/2011

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SYNTHES USA, LLC (f/k/a SYNTHES
(U.S.A.)); SYNTHES USA SALES, LLC; and
SYNTHES, INC.,

Plaintiffs,

v.

SPINAL KINETICS, INC.,

Defendant.

No. C-09-1201 RMW

ORDER DENYING SPINAL KINETIC,
INC.'S AMENDED ADMINISTRATIVE
MOTION TO FILE UNDER SEAL (1) ITS
REPLY BRIEF IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT OF
INVALIDITY AND (2) OBJECTIONS TO
THE DECLARATION OF DAVID KOCH IN
SUPPORT OF SYNTHES' OPPOSITION TO
SPINAL KINETICS' MOTION FOR
SUMMARY JUDGEMENT OF INVALIDITY

[Re Docket No. 144]

On February 2, 2011, Spinal Kinetics requested administrative leave to file the following documents under seal pursuant to Civil Local Rules 7-11 and 79-5: (1) its reply brief in support of its motion for summary judgment of invalidity and (2) objections to the declaration of David Koch in support of Synthes' opposition. Synthes has designated material cited therein as "Confidential-

ORDER DENYING SPINAL KINETIC, INC.'S AMENDED ADMINISTRATIVE MOTION TO FILE UNDER SEAL (1) ITS REPLY BRIEF IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT OF INVALIDITY AND (2) OBJECTIONS TO THE DECLARATION OF DAVID KOCH IN SUPPORT OF SYNTHES' OPPOSITION TO SPINAL KINETICS' MOTION FOR SUMMARY JUDGEMENT OF INVALIDITY—No. C-09-1201 RMW


JLR

1 Attorneys' Eyes Only." However, Synthes has not filed a declaration establishing that the designated
2 information is sealable as required by Civil Local Rule 79-5(d):

3 Within 7 days [after the submitting party has filed the motion to seal], the designating
4 party must file with the Court and serve a declaration establishing that the designated
5 information is sealable, and must lodge and serve a narrowly tailored proposed
6 sealing order, or must withdraw the designation of confidentiality. If the designating
7 party does not file its responsive declaration as required by this subsection, the
8 document or proposed filing will be made part of the public record.

9 Accordingly, Spinal Kinetic's request to file under seal is denied. Within four days from the
10 date of this order, defendant shall file underacted versions of the subject documents in the public
11 record. *See* Civil Local Rule 79-5(e).

12 DATED: 03/03/2011



RONALD M. WHYTE
United States District Judge