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E-FILED - 7/16/09

13 Attorneys for Defendant
 14 SPINAL KINETICS, INC.

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

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

Case No. C-09-01201 RMW
**STIPULATION AND []
 ORDER SELECTING ADR
 PROCESS**

1 Counsel report that they have met and conferred regarding ADR and have
2 reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5:

3
4 The parties agree to participate in the following ADR process:

5 **Court Processes:**

6 ___ Non-binding Arbitration (ADR L.R. 4)

7 ___ Early Neutral Evaluation (ENE) (ADR L.R. 5)

8 ___ Mediation (ADR L.R. 6)

9 *(Note: Parties who believe that an early settlement conference with a*
10 *Magistrate Judge is appreciably more likely to meet their needs than any*
11 *other form of ADR, must participate in an ADR phone conference and*
may not file this form. They must instead file a Notice of Need for ADR
Phone Conference. See Civil Local Rule 16-8 and ADR L.R. 3-5)

12 **Private Process:**

13 X Private ADR (please identify process and provider):

14 Mediation through private mediator

15 The parties agree to hold the ADR session by:

16 ___ the presumptive deadline (The deadline is 90 days from the date of
17 the order referring the case to an ADR process unless otherwise
18 ordered.)

19 X other requested deadline: to be agreed upon and set after the
20 issuance of the Claim Construction Order by the Court

22 Respectfully submitted,

23 SIDLEY AUSTIN LLP

24
25 Dated: July 2, 2009

26 By: /s/ Jeffrey M. Olson

27 Jeffrey M. Olson
28 Attorneys for Plaintiffs
SYNTHES USA, LLC (f/k/a SYNTHES
(U.S.A.)); SYNTHES USA SALES, LLC; and
SYNTHES, INC.

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: July 2, 2009

By: /s/ James W. Geriak
James W. Geriak
Attorneys for Defendant
SPINAL KINETICS, INC.

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 James W. Geriak.

SIDLEY AUSTIN LLP

Dated: July 2, 2009

By: /s/ Jeffrey M. Olson
Jeffrey M. Olson

[] ORDER

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

Non-binding Arbitration

Early Neutral Evaluation (ENE)

Mediation

Private ADR

Deadline for ADR session

90 days from the date of this order.

other: to be set after the issuance of the Claim Construction Order

by the Court

IT IS SO ORDERED.

Dated: 7/16, 2009

By: *Ronald M. Whyte*
Hon. Ronald M. Whyte
United States District Judge