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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 NUVASIVE, INC.,
12 Plaintiff,
13 v.
14 ALPHATEC HOLDINGS, INC. et al.,
15 Defendants.
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Case No.: 3:18-CV-347-CAB-MDD
CLAIM CONSTRUCTION ORDER

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18 On March 20, 2019, the Court held a hearing to construe certain disputed terms and
19 phrases of the patents at issue in this lawsuit. Having considered the submissions of the
20 parties, the arguments of counsel, and for the reasons set forth at the hearing, the Court
21 enters the claim constructions listed below.

22 Claim Term	U.S. Patent No.	Court's Construction
23 rigidly coupled	7,819,801	fixed and immovably connected
24 distraction assembly	8,439,832	collection or group of components that 25 operate together to create a tissue distraction corridor
26 slidably engageable	8,355,780	slides to contact


1 In addition the Court adopts the parties' agreed upon constructions of the following
2 terms:

3 Claim Term	U.S. Patent No.	Construction
4 plurality of sequential dilators	7,819,801	two or more sequential dilators
5 trajectory	9,833,227	direction or path
6 plurality of dilators / 7 plurality of sequential 8 dilators	9,974,531	two or more dilators
9 Wherein the first, 10 second, and third 11 retractor blades are 12 adjacent to one another 13 in the closed position 14 the first, second, and 15 third retractor blades 16 abut one another	9,974,531	wherein when the first, second, and third retractor blades are adjacent to one another in the closed position such that the first, second, and third retractor blades abut one another

17 As for the term "**lateral, transpoas path**", as used in many of the patents at issue
18 in this case, the Court understands that the parties agree that it means "approach to the
19 lumbar spine that (1) approaches from the patient's lateral aspect (or side); and (2) goes
20 through the psoas muscle," *see In re NuVasive, Inc.*, 693 F. App'x 893, 900-01 (Fed. Cir.
21 2017), but that the parties dispute whether this term is limiting. The Court takes this issue
22 under submission and will issue a ruling in due course.

23 It is **SO ORDERED**.

24 Dated: March 20, 2019

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27 Hon. Cathy Ann Bencivengo
28 United States District Judge