



## Alphatec Announces Favorable Judgment in NuVasive v. Miles Lawsuit

August 27, 2019

### Court Ruling Extinguishes All Non-competition and Non-solicitation Claims Against Miles and Alphatec

CARLSBAD, Calif., Aug. 27, 2019 (GLOBE NEWSWIRE) -- Alphatec Holdings, Inc. ("ATEC" or "the Company") (Nasdaq: ATEC), a medical device company dedicated to revolutionizing the approach to spine surgery, announced today that the Delaware Chancery Court entered summary judgment in favor of its Chairman and Chief Executive Officer, Pat Miles, terminating all non-competition and employee non-solicitation claims brought against Miles and the Company by competitor, NuVasive, Inc. (Nasdaq: NUVA).

Miles joined ATEC as its Executive Chairman on October 2, 2017, and assumed the CEO role on March 8, 2018. NuVasive sued Miles on October 10, 2017, simultaneously issuing a global press release proclaiming that, by joining ATEC, Miles had "violated his non-competition and non-solicitation obligations." NuVasive later added ATEC to the lawsuit, claiming that the Company competed unfairly by allegedly allowing Miles to solicit NuVasive employees and customers. Miles and ATEC denied any wrongdoing, asserting that NuVasive's post-employment restrictions with Miles were void as a matter of law, and that he was free to move to ATEC to lead the Company.

In a June 7, 2019 Opinion, the Delaware Court agreed with Miles and ATEC, rejecting NuVasive's non-competition claims, finding that California law applied to Miles' contract with NuVasive, and that the post-employment non-compete restrictions were contrary to "California's strong public policy interest against noncompetes." Following additional briefing challenging the legality of NuVasive's employee non-solicitation restrictions, the Delaware Court, in an Opinion dated August 26, 2019, again agreed with Miles and ATEC and concluded that NuVasive's "employee non-solicitation covenants are a restraint of trade in violation of California fundamental policy." The Court then granted summary judgment in Miles' and ATEC's favor, ending all of NuVasive's non-competition and non-solicitation claims.

"We are pleased with the Delaware Court's judgment and reasoning," said Craig Hunsaker, ATEC's Executive Vice President and General Counsel. "It confirms what we've known and said all along: NuVasive's non-compete agreement was illegal from the start, Pat was free to resign and join ATEC, and he violated no law or enforceable contract in doing so. We believe NuVasive's 2017 lawsuit and purposefully broad, public pronouncement of its specious claims against Pat were part of a calculated scheme aimed at punishing him for leaving NuVasive, tarnishing his reputation, dissuading others from leaving NuVasive and preemptively harming an emerging competitor, rather than at protecting any legitimate legal interest. This judgment represents a significant step toward setting the record straight and eliminates the vast majority of NuVasive's case. We look forward to addressing the few remaining claims, and are extremely confident that in the end, Pat and ATEC will prevail in full."

As a result of the judgment, and the termination of all causes of action related to the non-compete and non-solicitation provisions, NuVasive's basis for recovering compensation paid to Miles under his NuVasive employment agreement also is eliminated, as is any claim for damages NuVasive alleges to have suffered due to Miles' and ATEC's lawful competitive activities. There is also no longer any legal basis for NuVasive to seek to prevent Miles' employment by ATEC.

"I appreciate the Court's validation of my right to leave NuVasive to lead the New ATEC," said Miles. "It echoes what I told NuVasive when I resigned, in an attempt to dissuade prior leadership from engaging in wasteful litigation. Having said that, the success of this Company will be neither defined nor derailed by lawsuits. Our sole focus is on making spine surgery better, to the benefit of patients in the operating room. I couldn't be more confident in the team we have assembled. We are in the midst of twelve new product releases in 2019, including the highly anticipated launch of our revolutionary Alpha Informatix platform. ATEC is positioned to be *the* standard bearer in spine; we remain single-mindedly committed to that vision. We will not be distracted by legal antics as we continue to unleash this Organic Innovation Machine™."

Miles and ATEC are represented by the San Diego and New York offices of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., and in Delaware by Potter Anderson & Corroon LLP.

#### About Alphatec Holdings, Inc.

Alphatec Holdings, Inc., through its wholly-owned subsidiaries, Alphatec Spine, Inc. and SafeOp Surgical, Inc., is a medical device company that designs, develops and markets Spine Approach Technologies for the treatment of spinal disorders associated with disease and degeneration, congenital deformities and trauma. The Company markets its products in the U.S. via independent sales agents and a direct sales force.

Additional information can be found at [www.atecspine.com](http://www.atecspine.com).

#### Forward-Looking Statements

This press release contains "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995 that involve risks and uncertainty. Such statements are based on management's current expectations and are subject to a number of risks and uncertainties that could cause actual results to differ materially from those described in the forward-looking statements. The Company cautions investors that there can be no assurance that actual results or business conditions will not differ materially from those projected or suggested in such forward-looking statements as a result of various factors. A list and description of such risks and uncertainties can be found in the Company's most recent annual report, and any subsequent quarterly and current reports, filed with the Securities and Exchange Commission. ATEC disclaims any intention or obligation to update or revise any forward-looking statements, whether as a result of new information, future events, or otherwise, unless required by law.

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