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May 19, 2005

VIA ECF
The Honorable Joseph J. Farnan, Jr.
United States District Court
for the District of Delaware
844 King Street
Wilmington, DE 19801

Re: *Kyphon Inc. v. Disc-O-Tech Medical Technologies, et al.*
C.A. No. 04-204

AUSTIN
BOSTON
DALLAS
DELAWARE
NEW YORK
SAN DIEGO
SILICON VALLEY
TWIN CITIES
WASHINGTON, DC

Dear Judge Farnan:

This letter, submitted on behalf of Kyphon, concerns: (i) the parties' efforts to address an expedited schedule for filing objections to Judge Poppiti's Orders; and (ii) related discussions regarding a trial date that will minimize the disruption to the witnesses that had been scheduled to testify at the June 1st trial in this matter. Unfortunately, the parties disagree on the best approach to these issues. The attached correspondence (Exhs. A & B) sets forth the parties' differing positions. Kyphon respectfully seeks the Court's guidance regarding these matters at the Court's first convenience. Counsel for Kyphon is available at any time today and understands that counsel for DOT is similarly available.

Respectfully,

/s/ Thomas L. Halkowski

Thomas L. Halkowski

TLH:sb

Attachments

cc Clerk of Court (via ECF)
Maryellen Noreika, Morris Nichols (via ECF)
Eric J. Lobenfeld, Hogan & Hartson (via facsimile)

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