

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

NOVAMEDIX LIMITED, and)
NOVAMEDIX DISTRIBUTION LIMITED,)
)
Plaintiffs,)
)
vs.)
)
KINETIC CONCEPTS, INC., and)
KCI USA, INC.,)
)
Defendants.)

CIVIL ACTION NO. SA-92-CA-177-FB

ADVISORY

Before the Court are pending summary judgment and Markman issues. As is well known, this case was transferred to this docket in 1994, when it was already two years old. It is time for this matter to be resolved. These business entities should move on to more productive pursuits.

If a lengthy jury trial is necessary to reach a conclusion, the Court will accommodate that need subject to the Court's criminal docket with the resultant likely delays. Moreover, a multi-week jury trial will add even more expense to the parties and will further burden an already overtaxed jury fee- fund and, like trying to teach a pig to sing, will frustrate the Court and irritate the jurors.

Accordingly, the parties and counsel are encouraged to consider the possibility of a three or four day summary jury trial in order to give the parties an outside view by citizens of the merits and demerits of their claims, their defenses and their lawyers. This objective perspective should lead to an earlier and less expensive resolution of this long running controversy. While the Court hopes the parties will agree to this procedure, the Court may order a summary jury trial over which Magistrate Judge Primomo, who is familiar with this case, or I will preside.

Counsel are ORDERED to have the chief executive officers of the parties read this Advisory in order to receive their input and so they may be further reminded that without an earlier agreed resolution, the chief executive officers will receive an invitation to spend four or five weeks of their valuable time with the jurors and me while we resolve their dispute for them. No RSVP will be necessary to the invitation because the United States Marshal's Service will provide door to door transportation service to the event in one of its handsomely appointed wire-meshed vans should the invitation not be accepted.

It is so ORDERED.

SIGNED this _____ day of September, 2004.

FRED BIERY
UNITED STATES DISTRICT JUDGE