

**UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND**

**IN RE: KUGEL MESH HERNIA           §  
PATCH PRODUCTS LIABILITY       §  
LITIGATION                           §  
   § MDL DOCKET NO. 07-1842-ML  
**THIS DOCUMENT RELATES TO:       §  
ALL ACTIONS                           § JUDGE LISI**  
\_\_\_\_\_ §**

**AFFIDAVIT OF ATTORNEY JOHN E. DEATON**

I, John E. Deaton, under oath, depose and say:

1. I currently reside at 17 Morra Way, Rumford, RI 02916.
2. I am over twenty-one years of age, licensed to practice law in the State of Rhode Island, as well as admitted in the Rhode Island Federal District Court, Commonwealth of Massachusetts, State of Connecticut, and the State of Iowa, and I certainly understand the obligations of an oath.
3. I have personal knowledge of the facts hereinafter set forth.
4. I have owned and operated my own law firm, The Deaton Law Firm, since March 1, 2006, located at One Richmond Square, Suite 163W, Providence, Rhode Island, 02906.
5. I was hired as local counsel by Attorney Steve Johnson, and as of today's date, I have filed seventy-five (75) Kugel Mesh personal injury lawsuits in the Superior Court of Rhode Island. To my knowledge, Attorney Jonson and myself are the only attorneys in Rhode Island State Court, with Kugel Mesh cases, that are not on the Plaintiffs' Steering Committee (PSC).
6. When I learned that the PSC and Motley Rice, as Plaintiffs' Liaison Counsel, was seeking an extraordinary common benefit fee (CBF) of twelve percent (12%) of each and every gross settlement or judgment amount regarding the Kugel Mesh litigation, I filed an objection and argued the motion before the Honorable Alice B. Gibney.
7. Upon information and belief, Attorney Steve Johnson has filed a similar motion objecting to the twelve percent (12%) CBF in the Federal District Court of Rhode Island. I have read the reply brief to said objection filed by Motley Rice and the PSC.
8. Prior to the litigation of my objection in the Superior Court, Attorney Steve Johnson and myself had a telephone conference with attorneys Don Migliori and

Vincent Greene of the Law Firm Motley Rice, acting in their capacity as Plaintiffs' Liaison Counsel, in their reply brief to Attorney Steve Johnson's filed objection, made misleading and/or inaccurate averments apparently stemming from this telephonic conference.

9. In the Motley Rice reply brief, they claim that an offer was made to myself and/or Attorney Steve Johnson to offset "any costs" incurred by the twelve percent (12%) CBF (*See The PSC's Memorandum in Further Support of the Proposed Assessment Order at page 4, ¶ 2*). Additionally, Motley Rice asserts that either myself or Attorney Steve Johnson declined to perform any Common Benefit Work (CBW). Both of these statements are untrue.

10. First, what was offered by Motley Rice was that Attorney Steve Johnson and/or myself could perform CBW that would eventually help our own cases and we could submit for payment out of the Common Benefit Fund. However, it was specifically stated that these payments would not amount to the twelve percent (12%) gross tax on our cases.

11. Second, at no time did I or Attorney Steve Johnson decline to perform CBW. We simply stated that the twelve percent (12%) was unfair, whether we performed CBW or not. In fact, I stated that if all plaintiffs in state court were only going to be allowed one deposition of a particular corporate representative, I would rather conduct the deposition myself.

12. Finally, although Motley Rice makes the claim that, in Rhode Island State Court, my firm along with Attorney Steve Johnson represent only six percent (6%) of the cases filed (although this percentage has increased since the filing of my objection and is expected to continue to increase), Attorney Steve Johnson and myself represent one hundred percent (100%) of the lawyers not receiving compensation from the proposed CBF.

*Elizabeth Fauspoint*  
Witness

*John E. Deaton*  
John E. Deaton

STATE OF:  
ss:  
COUNTY OF:

Then came John E. Deaton before me on this 1<sup>st</sup> day of September 2009, and declared the foregoing to be his free act and deed.

*Melanie Fraser*  
Notary Public  
My Commission Expires:



MELANIE FRASER  
NOTARY PUBLIC - RHODE ISLAND  
Appointment #750350  
My Term Expires 3-20-2013