

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

IN RE: KUGEL MESH HERNIA REPAIR PATCH LITIGATION	§ § § § § §	MDL Docket No. 07-1842-ML Chief Judge Mary M. Lisi
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**DEFENDANT DAVOL INC.’S AND DEFENDANT C.R. BARD, INC.’S MOTION
TO ENFORCE THE AMENDED CASE MANAGEMENT ORDER AND PERMIT
COMMUNICATIONS WITH CONSULTING SURGEON EXPERTS
WHO ARE ALSO TREATING PHYSICIANS**

Defendants Davol Inc. and C.R. Bard, Inc. (collectively “Defendants”) respectfully submit this Motion to Enforce the Amended Case Management Order and Permit Communications with Consulting Surgeon Experts who are also Treating Physicians. Defendants seek an Order that they may resume communications with their consulting surgeon experts, regardless of whether they may be treating physicians for a plaintiff in this litigation, in the light of plaintiffs’ position that the *ex parte* Order bars all such communications. *See In re Seroquel*, No. 6:06-md-1769-Orl-22DAB, 2008 WL 821889, at *4 (M.D. Fla. Mar. 21, 2008) (allowing retention of treating physicians as consulting experts notwithstanding bar on *ex parte* contacts). The original and Amended Case Management Order provide for defendants to retain consulting surgeon experts who are also treating physicians, and neither the *ex parte* Order itself nor any case law addressing the issue operates to prevent Defendants from continuing in their retention of these expert witnesses.

Dated: July 24, 2008

Respectfully submitted,

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