

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CIVIL ACTION NO.:

DEBORAH FELLNER)
)
 Plaintiff,)
)
 v.)
)
 TRI-UNION SEAFOODS, LLC d/b/a)
 CHICKEN OF THE SEA,)
)
 Defendant.)

2:06-CV-0688(DMC)(JAD)

DECLARATION OF
KENNETH A. SCHOEN
IN OPPOSITION
TO PRO HAC VICE
ADMISSION OF
STEPHEN G. GRYGIEL

Kenneth A. Schoen, Esq. declares as follows:

1. I am a partner in the law firm of Bonner Kiernan Trebach & Crociata, LLP with offices at 299 Cherry Hill Road, Parsippany, New Jersey.
2. We submit this Declaration in opposition to the Plaintiff's request for the *pro hac vice* admission of Stephen G. Grygiel, Esq.
3. The Plaintiff, Deborah Fellner first commenced this action six years ago, on both her own behalf and as representative of a class action lawsuit against the Defendant Tri-Union Seafoods, LLC.
4. After Tri-Union filed a motion to dismiss, the Plaintiff quickly withdrew, with prejudice, the class action portion of the lawsuit, but continued to prosecute her individual claim against Tri-Union.
5. Despite withdrawing the class action portion of their claim for now, it has always seemed as if counsel for the Plaintiff have been prosecuting this claim and

conducting discovery with an eye toward building a future class action case against Tri-Union. Indeed, Tri-Union has raised this concern to the Court previously during the discovery phase of this case.

6. The recent effort to add Mr. Grygiel to the litigation team is yet another effort to bolster attempts at conducting a fishing expedition for a future class action lawsuit rather than simply prosecuting the Plaintiff's claim that Tri-Union failed to warn about the purported dangers regarding the existence of methylmercury in tuna.

7. Mr. Grygiel's supporting affidavit does not establish good cause to warrant this Court granting the Plaintiff's application to admit him *pro hac vice*.

8. First, Mr. Grygiel does not allege that this case involves a complex field of law in which he is a specialist. Indeed, a review of Mr. Grygiel's law firm profile reveals that he has no specific expertise in the areas of foodborne illness, the effects of methylmercury upon the human body, warning and labeling requirements for food products under the FDA, food contamination, or even products liability (other than third party payor cost-recovery pharmaceutical litigation). In other words, nothing in this case has anything to do with the areas of practice in which he specializes. A copy of the attorney profile of Mr. Grygiel, co-chair of his law firm's Class Action Department, is annexed hereto as Exhibit A.

9. Second, Mr. Grygiel does not allege that he has a long-standing attorney-client relationship with the Plaintiff. In fact, Mr. Grygiel's Declaration makes no mention of any relationship between himself and the Plaintiff. (*Compare* Declaration of Barry R. Eichen at ¶ 10 (asserting, with no substantiation and with no allegation of a pre-existing attorney-client relationship, that the "Plaintiff requested that Mr. Grygiel represent her in

this action”).) It does not appear that there has been an attorney-client relationship between the Plaintiff and Mr. Grygiel in the past, and the Plaintiff does not explain how Ms. Fellner came to choose Mr. Grygiel to join the litigation team.

10. Third, Mr. Grygiel does not allege that there is a lack of local counsel with adequate expertise in the field involved. Frankly, counsel for the Plaintiff have handled this matter ably for the past six years. Counsel have shown that they have expertise in this field, and have done an exceptional job litigating this case. There appears to be no need to bring in yet another attorney, with no demonstrable expertise in the relevant subject matter or pre-existing relationship with the Plaintiff, and who is not admitted in the state and federal courts of New Jersey, to conduct this litigation.

11. Fourth, Mr. Grygiel does not allege that this case implicates any law from a jurisdiction where Mr. Grygiel is licensed with which he has any expertise. Mr. Grygiel is admitted to practice law in Maine, Massachusetts, Delaware, and New York. (Declaration of Stephen G. Grygiel at ¶ 3; *see also* Ex. A.) As the Court is aware, this case involves claims arising out of the New Jersey Product Liability Act. Accordingly, Mr. Grygiel does not bring with specialized knowledge of foreign law that the Court will apply to this case.

12. Fifth, Mr. Grygiel does not allege that there is need for extensive discovery or other proceedings in a foreign jurisdiction, *i.e.*, Massachusetts, Maine, Delaware, and New York, in which he is licensed to practice law.

13. In short, there appears to be no need or compelling reason supporting the Plaintiff's application for Mr. Grygiel's *pro hac vice* admission to this Court other than to spearhead the Plaintiff's fishing expedition to support a future class action case against the

tuna industry regarding warning labels about the existence and alleged dangers of methylmercury in tuna.

14. As such, we respectfully request that the court deny the Plaintiff's request for the *pro hac vice* admission of Stephen G. Grygiel, Esq.



Kenneth A. Schoen (KS-7180)