

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DANIEL HAGGART,)
)
 Plaintiff,)
)
 vs.)
)
 ENDOGASTRIC SOLUTIONS, INC.)
)
 Defendant)

Civil Action No.: 2:10-cv-00346-LPL

JURY TRIAL DEMANDED

**PLAINTIFF'S MOTION FOR
CLASS CERTIFICATION**

Filed on Behalf of Plaintiff:
Daniel Haggart

Counsel of Record for this Party:

Noah Paul Fardo
Pa. I.D. # 83848

Shawn T. Flaherty
Pa. I.D. # 43697

William F. Rogel, Esquire
Pa. I.D. # 203348

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JURY TRIAL DEMANDED

Plaintiff's Motion for Class Certification
Civil Action No.: 2010 – 000346 – LPL

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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| DANIEL HAGGART, |) | |
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| Plaintiff, |) | |
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| ENDOGASTRIC SOLUTIONS, INC. |) | PLAINTIFF'S MOTION FOR |
| |) | CLASS CERTIFICATION |
| Defendant |) | |

PLAINTIFF'S MOTION FOR CLASS CERTIFICATION

AND NOW comes the Plaintiff, Daniel Haggart, by and through his undersigned counsel Noah Paul Fardo, Esquire and Shawn T. Flaherty, Esquire of Flaherty Fardo, LLC and files the within Motion for Class Certification:

1. Plaintiff filed a complaint, commencing the instant action on or about March 16, 2010.
2. Plaintiff thereafter filed an Amended Class Action Complaint (hereinafter "Complaint") on or about May 18, 2010.
3. Now, pursuant to the Order of Court dated September 12, 2011, Plaintiff files the instant Motion for Class Certification.
4. Plaintiff seeks to define and certify the class as follows:
 - (a) all individuals who have undergone the EsophyX TIF procedure in the United States since September 24, 2007, or, in the alternative
 - (b) all individuals who have undergone the EsophyX TIF procedure in the United States since September 24, 2007, and who have relied upon representations that was/is "reversible," "revisable," and "adjustable;" that it "can be undone; that it "Does not limit

Plaintiff's Motion for Class Certification
Civil Action No.: 2010 – 000346 – LPL

future treatment options” and “Leaves future options open;” and that it is “Effective, long-term solution to GERD.”

5. Plaintiff furthermore seeks appointment of Flaherty Fardo, LLC, as class counsel for such class as is certified.
6. Plaintiff attached hereto a Brief in Support of the instant motion, together with exhibits thereto, which are incorporated herein by reference.

WHEREFORE, Plaintiff requests that this court enter an order certifying the instant case as a class action, appointing the undersigned as class counsel, and defining the class as follows:

(a) all individuals who have undergone the EsophyX TIF procedure in the United States since September 24, 2007, or, in the alternative

(b) all individuals who have undergone the EsophyX TIF procedure in the United States since September 24, 2007, and who have relied upon representations that was/is “reversible,” “revisable,” and “adjustable;” that it “can be undone; that it “Does not limit future treatment options” and “Leaves future options open;” and that it is “Effective, long-term solution to GERD.”

Respectfully submitted,

FLAHERTY FARDO, LLC

DATE: November 16, 2011

BY: /s/: Noah Paul Fardo, Esq.

Noah Paul Fardo, Esq.
Shawn T. Flaherty, Esq.
William F. Rogel, Esq.
Attorneys for Plaintiff