

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

In re: Bausch & Lomb, Inc. Contact Lens Solution  
Products Liability Litigation

MDL Docket No. 1785

This Document Relates to: All Actions

**NOTICE OF DEPOSITION INCLUDING REQUEST FOR DOCUMENTS PURSUANT  
TO FED. R. CIV. P. RULE 30(B)(6) AND FED R. CIV. P. RULE 34:  
COMMUNICATIONS WITH UNITED STATES CENTERS FOR DISEASE CONTROL**

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Plaintiffs will take the oral and videotape deposition of the person or persons most knowledgeable from Defendant Bausch & Lomb Inc. (hereinafter "Defendant") regarding communications with the U.S. Centers for Disease Control (the "CDC") regarding Defendant's product ReNu® with MoistureLoc®. The deposition, which shall be taken by stenographic and videographic means before a Notary Public, or other person authorized to take oaths, shall be taken on April 26, 2007, at 9:00 a.m. at a location to be agreed upon by the parties in Rochester, New York and will continue from day to day until completed.

**DEFINITIONS**

The following definitions apply to this Notice of Deposition and are deemed to be incorporated into each subject listed below:

1. "CDC" means the Centers for Disease Control.
2. "CONCERNING" or "CONCERNS" means consisting of, relating to, referring to, embodying, summarizing, describing, discussing, or mentioning.

3. “DOCUMENTS” as used in this Request is coextensive with the meaning of the terms “documents” and “tangible things” in Fed.R.Civ.P., Rule 34, and shall have the broadest possible meaning and interpretation ascribed to the terms “documents” and “tangible things” under Fed.R.Civ.P., Rule 34. Consistent with the above definition, the term document shall include, without limitation, any written, printed, typed, photostatic, photographed, recorded, computer-generated, computer-stored, or otherwise computer-maintained or reproduced communication or representation, any data compilation in any form, whether comprised of letters, words, numbers, pictures, sounds, bytes, e-mails, electronic signals or impulses, electronic data, active files, deleted files, file fragments, or any combination thereof, including meta data, and including, without limitation, all memoranda, notes, records, letters, envelopes, telegrams, messages, studies, analyses, contracts, agreements, projections, estimates, working papers, accounts, analytical records, reports and/or summaries of investigations, opinions or reports of consultants, opinions or reports of experts, opinions or reports of accountants, other reports, trade letters, press releases, comparisons, books, diaries, articles, magazines, newspapers, booklets, brochures, pamphlets, circulars, bulletins, notices, forecasts, drawings, diagrams, spreadsheets, databases, instructions, minutes of meetings or communications of any type, including but not limited to inter- and intra-office communications, questionnaires, surveys, charts, graphs, photographs, phonographs, films, tapes, discs, data cells, drums, printouts, all other compiled data which can be obtained (translated, if necessary, through intermediary or other device into usable forms), documents maintained on, stored in or generated on any electronic transfer or storage system, any preliminary versions, drafts or revisions of any of the foregoing, and other writings or documents of whatever description or kind, whether produced or authorized by or on behalf of you or anyone else, and shall include all non-identical copies and

drafts of any of the foregoing now in the possession, custody or control of you, or the former or present directors, officers, counsel, agents, employees, partners, consultants, principals, and/or persons acting on your behalf.

4. “FDA” means the United States Food and Drug Administration.

5. “IDENTIFY” or “IDENTITY” with respect to persons, means to give, to the extent known, the person’s full name, present or last known address, and when REFERRING TO a natural person, additionally, the present or last known place of employment.

6. “PRODUCT” means the Bausch & Lomb product ReNu® with MoistureLoc® manufactured and sold by Bausch & Lomb.

7. “RELATING TO,” “REFERRING TO,” or “REFLECTING,” shall mean evidencing, regarding, concerning, discussing, embodying, describing, summarizing, containing, constituting, showing, mentioning, pertaining to, dealing with, or in any way logically or factually connecting with the matter described in that paragraph of these demands.

8. “REGULATORY AGENCY” means the United States Food and Drug Administration (“FDA”) or any of its divisions, the Centers for Disease Control (“CDC”), any other federal agency or entity similar in function or purpose to the FDA, or any state agency or entity similar in function or purpose to the FDA.

9. “YOU” and “YOUR” mean the Defendant to which this Notice is directed, and any of Defendant’s directors, officers, sales representatives, agents (including attorneys, accountants, consultants, investment advisors or bankers), employees, representatives and any other person purporting to act on its behalf. In the case of business entities, these defined terms include divisions, affiliates, subsidiaries, predecessor entities, acquired entities, related entities, or any other entity acting or purporting to act on your behalf.

10. Where the term “including” is used in a described topic, it is to provide an example of the type of material for which testimony is requested, and should not be construed as any limitation on the request.

11. Unless otherwise indicated, the relevant time period for the information sought is January 1, 2004 to present.

**TOPICS UPON WHICH EXAMINATION IS REQUESTED**

In accordance with Rule 30(b)(6) of the Federal Rules of Civil Procedure, Defendant shall designate one or more officers, directors, managing agents, employees, or other sufficiently knowledgeable persons to testify and provide all responsive documents concerning the following topics:

1. YOUR communications with the CDC regarding the PRODUCT.
2. YOUR procedures and practices regarding communications or contacts with CDC regarding the PRODUCT, including YOUR procedures and practices for obtaining approval from CDC for the marketing of any PRODUCT and YOUR procedures and practices regarding submitting information about any PRODUCT to CDC both before and after the marketing of any PRODUCT.
3. Any failure by YOU to follow YOUR procedures and practices regarding communications or contacts with CDC regarding the PRODUCT.
4. Any requests by YOU for permission from CDC to waive any applicable regulatory requirements or to report information regarding the PRODUCT less frequently or in a more summary or cursory fashion, including all the reasons for any such requests and the outcome of any such requests.
5. The organization of any of YOUR divisions or departments that communicates or has contacts with CDC regarding the PRODUCT.

6. The IDENTITY of all YOUR current and former employees or agents who, in the course of their employment or agency duties, have or had communications or contacts with CDC regarding the PRODUCT.

7. The nature of any inquiries or comments YOU have received from CDC regarding the PRODUCT, including specifics as to the basis for any such inquiry or comments, when and how the inquiry or comments were received, the context and contents of the inquiry or comments, and any response(s) YOU may have made to any such inquiries or comments.

8. The nature and scope of any investigation by CDC into the PRODUCT, including any investigation commenced as a result of advisories or recalls RELATING TO the PRODUCT.

9. The nature and scope of any investigation by CDC into YOUR manufacturing, bottling, sterilization, shipping, and or distribution practices in connection with the PRODUCT.

10. The number of units of the PRODUCT that are subject to an advisory or recall, including all information upon which YOUR representation of the number of units of the PRODUCT is based.

11. The nature of any malfunction or defect (whether a design defect or a manufacturing defect) or any other concern(s) leading to an advisory or recall of the PRODUCT that YOU communicated to CDC.

12. The bases for YOUR decisions to issue advisories or recalls RELATING TO the PRODUCT, including the specific problems, manifestations, malfunctions, defects or injuries that led to YOUR decisions to issue advisories or recalls RELATING TO the PRODUCT.

13. How YOU determined the scope and contents of any advisories or recalls RELATING TO the PRODUCT.

14. Whether and when YOU considered issuing any advisories or recalls RELATING TO the PRODUCT at any earlier time than when any advisory or recall was actually issued, the contents of any and all proposals RELATING TO any such earlier advisories or recalls, and the basis for YOUR determination not to issue advisories or recalls RELATING TO the PRODUCT at an earlier time.

15. The extent and timing of YOUR possession of information about the PRODUCT RELATING TO problems, manifestations, malfunctions, defects or injuries that were similar to the circumstances leading to YOUR decision to issue an advisory or recall with respect to the PRODUCT.

16. The cost of recalling the PRODUCT.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 30(b)(6) and Rule 34, Defendant is required to produce the following categories of documents five (5) days before the noticed deposition herein:

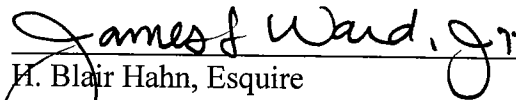
**DOCUMENTS TO BE PRODUCED**

**REQUEST FOR PRODUCTION NO. 1:**

DOCUMENTS sufficient to show the bases for the corporate designee's testimony regarding Topics 1 through 16.

Respectfully submitted,

By:



H. Blair Hahn, Esquire  
James L. Ward, Jr., Esquire  
RICHARDSON PATRICK WESTBROOK &  
BRICKMAN, LLC  
1037 Chuck Dawley Boulevard, Building A  
Mt. Pleasant, SC 29464  
(843) 727-6500

Mitchell M. Breit, Esquire  
WHATLEY, DRAKE & KALLAS, LLC  
2323 2nd Avenue North  
Birmingham, AL 35203  
(205) 328-9576

Wendy R. Fleishman, Esquire  
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
780 Third Avenue, 48th Floor  
New York, NY 10017-2024  
(212) 355-9500

Daniel E. Becnel, Jr., Esquire  
BECNEL LAW FIRM, LLC  
P.O. Drawer H  
106 West Seventh Street  
Reserve, LA 70084  
(985) 536-1186

Personal Injury Plaintiffs' Executive Committee

Dated: March 23, 2007

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **NOTICE OF DEPOSITION INCLUDING REQUEST FOR DOCUMENTS PURSUANT TO FED. R. CIV. P. RULE 30(B)(6) AND FED R. CIV. P. RULE 34: COMMUNICATIONS WITH UNITED STATES CENTERS FOR DISEASE CONTROL** has been served upon the parties to this action by sending a copy thereof via electronic mail addressed to:

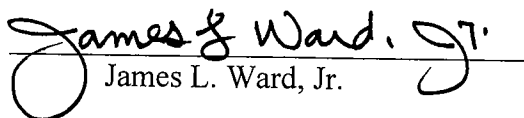
Harvey Kaplan, Esquire  
Shook Hardy & Bacon, LLP  
2555 Grand Boulevard  
Kansas City, MO 64108  
[hkaplan@shb.com](mailto:hkaplan@shb.com)

Marie Woodbury, Esquire  
SHB Bausch & Lomb, Inc.  
2555 Grand Boulevard  
Kansas City, MO 64108  
[MWOODBURY@shb.com](mailto:MWOODBURY@shb.com)

John Beisner, Esquire  
O'Melveny & Myers, LLP  
1625 Eye Street, NW  
Washington, DC 20006  
[jbeisner@omm.com](mailto:jbeisner@omm.com)

Michael T. Cole, Esquire  
Nelson Mullins Riley & Scarborough  
151 Meeting Street, Suite 600  
Charleston, SC 29401  
[mike.cole@nelsonmullins.com](mailto:mike.cole@nelsonmullins.com)

This the 23<sup>rd</sup> day of March, 2007.

  
James L. Ward, Jr.