

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

In re: Bausch & Lomb Contact Lens)	
Solution Products Liability Litigation)	MDL No: 1785
)	
)	C/A No. 2:06-MN-77777-DCN
)	
This Order Relates To: All Cases)	QUALIFIED PROTECTIVE
)	ORDER
)	
_____)	

Members of the Plaintiff Steering Committee (“PSC”) representing plaintiffs in the above captioned matter have retained The Garretson Law Firm (“TGLF”) to provide the Centers for Medicare and Medicaid Services (“CMS”), The Medicare Secondary Payer Department and the Medicaid programs of each state, territory and the District of Columbia (“the Single State Agencies”) with a list (“the list”) of said PSC Members’ clients/plaintiffs (a complete list of said PSC Members’ clients/plaintiffs to CMS and a list to the Single State Agencies of Members’ clients/plaintiffs residing now in each respective Agency’s state or territory), to determine which of plaintiffs are beneficiaries in the Medicare and / or Medicaid health care plans. The Single State Agencies as well as CMS have asserted, or will assert, statutory liens or reimbursement claims against the settlement proceeds of those plaintiffs in the above-captioned matter who are also Medicaid and / or Medicare eligible. The entry of a HIPAA-compliant qualified protective order is necessary in this action in order to permit the Single State Agencies and CMS to transmit protected health information, regarding the clients/plaintiffs of those specific PSC Members/attorney who have retained the services of TGLF, directly

to TGLF to assist in the resolution of the agency's interest. The Court being sufficiently advised, IT IS HEREBY ORDERED as follows:

1. This Qualified Protective Order shall apply to all "protected health information" and "individually identifiable health information", as defined by 45 CFR § 160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5 U.S.C. § 551a, the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 42 CFR Section 431 Subpart F, titled "Safeguarding Information on Applicants and Recipients" and other applicable state law, created, received or collected from Medicaid and / or Medicare-eligible Plaintiffs by Single State Agencies and CMS, including, but not limited to: (1) names and addresses, dates of birth, social security numbers, Medicaid or Medicare identification numbers and other demographic information that identifies, or could be used to identify Medicaid and /or Medicare-eligible Plaintiffs; (b) eligibility and entitlement information of Medicaid and / or Medicare-eligible Plaintiffs; (c) claims information relating to the past, present, or future health care of Medicaid and / or Medicare-eligible Plaintiffs; (d) claims information relating to the provision of healthcare to Medicaid and / or Medicare-eligible Plaintiffs; and, (e) claims information relating to the past, present, or future payment for the provision of healthcare to Medicaid and / or Medicare-eligible Plaintiffs.

2. In order to assist in the resolution of Medicaid and Medicare's interest, each individual Single State Agency and CMS is hereby authorized and directed to transmit to TGLF any information, including Medicaid and Medicare claims information and other protected health information, for those Medicaid and / or Medicare-eligible

Plaintiffs in the above-caption matter against whom they have asserted liens or reimbursement claims.

3. TGLF shall not use or disclose any protected health information or individually identifiable health information subject to this Qualified Protective Order for any purpose other than this litigation. Similarly, the Single State Agency and CMS shall only use the List for the specific purposes of transmitting to TGLF any information, including Medicaid and / or Medicare claims information and other protected health information, for those Medicaid and / or Medicare-eligible Claimants in the above-captioned matter against whom the Single State Agency and CMS has asserted liens or reimbursement claims, or in whose potential settlements the Single State Agency and CMS may have an interest. The Single State Agency and CMS shall only make the List available to those within their respective Agency who need access to the List for the specific purpose stated in this paragraph. If the Agency utilizes outside vendors or companies to perform part or all of their tort recovery practices, the outside vendors or companies shall be expressly bound by all terms and conditions of this Qualified Protective Order.

4. TGLF shall maintain any protected health information or individually identifiable health information subject to this Qualified Protective Order in a secure and safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use and/or dissemination of such protected health information as is exercised by TGLF with respect to its own confidential proprietary information.

5. At the conclusion of this litigation, TGLF shall certify to the Single State Agency and CMS that the protected health information or individually identifiable health

information, including all copies made, has been destroyed.

6. For purposes of the Qualified Protective Order, the phrase “Medicaid and/or Medicare-eligible Claimants” refers to those Claimants who are beneficiaries of said programs or were beneficiaries of said programs at any time between the date of his or her first use of Bausch & Lomb ReNu with MoistureLoc (the “Product”) up to and including the effective date of the settlement for any Claimant. In this regard, the applicable time period covered by this Qualified Protective Order begins with the date of use of Product by each Medicaid and / or Medicare-eligible Plaintiff in the above-captioned matter and ends with the effective date of any settlement for any Plaintiff.

IT IS SO ORDERED.



**HONORABLE DAVID C. NORTON
CHIEF UNITED STATES DISTRICT JUDGE**

**August 4, 2008
Charleston, South Carolina**