

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

)	
In re: Bausch & Lomb Contact Lens)	MDL No: 1785
Solution Products Liability Litigation)	
)	C/A No. 2:06-MN-77777-DCN
)	
This Order Relates To: All Cases)	CASE MANAGEMENT ORDER
)	NO. 1: Liaison Counsel, Committees,
)	and Lead Counsel
)	
_____)	

This order addresses the organizational structure and appointments for all matters that are part of, or will be part of, this consolidated action. **IT IS HEREBY ORDERED:**

I. LIAISON COUNSEL

A. Plaintiffs' Liaison Counsel

The Court designates the following counsel to serve as Plaintiffs' Liaison Counsel:

Gedney M. Howe, III
P.O. Box 1034
Charleston, South Carolina 29402
(843) 722-8048
(843)-722-2140 (fax)
cgear@gedneyhowe.com

Plaintiffs' Liaison Counsel shall:

1. Serve as intermediary between plaintiffs' counsel and the Court;
2. Maintain and distribute to co-counsel and to Defendant's Liaison Counsel an up-to-date service list;
3. Receive and, as appropriate, distribute to co-counsel orders from the Court and documents from opposing parties and counsel; and

4. Maintain and make available to co-counsel at reasonable hours a complete file of all documents served by or upon each party except such documents as may be available at a document depository.

B. Defendant's Liaison Counsel

The Court designates the following counsel to serve as Defendant's Liaison Counsel:

Michael T. Cole
Nelson Mullins Riley & Scarborough
151 Meeting Street
Charleston, South Carolina 29401
(843) 720-4325
(843) 720-4355 (fax)
mike.cole@nelsonmullins.com

Defendant's Liaison Counsel shall:

1. Serve as intermediary between defense counsel and the Court;
2. Maintain and distribute to co-counsel and to Plaintiffs' Liaison Counsel an up-to-date service list;
3. Receive and, as appropriate, distribute to co-counsel orders from the Court and documents from opposing parties and counsel; and
4. Maintain and make available to co-counsel at reasonable hours a complete file of all documents served by or upon each party except such documents as may be available at a document depository.

II. PLAINTIFFS' STEERING COMMITTEES

A. Structure

The plaintiffs pretrial activities in this case shall be managed by two steering committees. First, the personal injury plaintiffs' activities shall be managed by the Personal Injury Plaintiffs' Steering Committee and Executive Committee. Second, the economic loss plaintiffs' activities shall be managed by the Economic Loss Plaintiffs'

Steering Committee.¹

B. Responsibilities of the Plaintiffs' Executive and Steering Committees

The members of plaintiffs' executive and steering committees shall from time to time consult with plaintiffs' lead counsel in coordinating the plaintiffs' pretrial activities and planning for trial.

C. Personal Injury Plaintiffs' Executive Committee

The Court designates the following counsel to serve as members of Executive Committee to the Personal Injury Plaintiffs' Steering Committee:

Daniel E. Becnel, Jr.
Becnel Law Firm, LLC
106 West Seventh Street
P.O. Drawer H
Reserve, Louisiana 70084

Mitchell M. Breit²
Whatley Drake & Kallas
75 Rockefeller Plaza, 19th Floor
New York, New York 10019

¹The court recognizes that there have been numerous state claims filed against defendant. In the future, if these state claims are included in this court's management, the court will entertain the appointment of a state case steering committee and state case lead counsel.

²The Court notes that Mr. Breit was formerly a partner in the firm of Milberg Weiss Bershad & Shulman LLP. In May 2006, that firm and two of its partners were indicted on charges of conspiracy to commit perjury, bribery, fraud, as well as obstruction of justice. See First Superseding Indictment, United States v. Milberg Weiss Bershad & Schulman LLP, et al., No. CR 05-587(A) (C.D. Cal. May 18, 2006). Mr. Breit was not named in the indictment, nor is there any indication that he was in any way involved in the alleged wrongdoing. If any party wishes to object to his service on the committee, the objection should be filed within 15 days of the date of this order.

Wendy R. Fleishman
Lieff, Cabraser, Heimann & Bernstein, LLP
780 Third Avenue, 48th Floor
New York, New York 10017

H. Blair Hahn
Richardson, Patrick, Westbrook & Brickman, LLC
P.O. Box 1007
Mount Pleasant, South Carolina 29465

D. Personal Injury Plaintiffs' Steering Committee

The Court designates the following counsel to serve as members of the Personal Injury Plaintiffs' Steering Committee:

Daniel E. Becnel, Jr. (Exec. Committee)
Becnel Law Firm, LLC
106 West Seventh Street
P.O. Drawer H
Reserve, Louisiana 70084

Mitchell M. Breit (Exec. Committee)
Whatley Drake & Kallas
75 Rockefeller Plaza, 19th Floor
New York, New York 10019

Wendy R. Fleishman (Exec. Committee)
Lieff, Cabraser, Heimann & Bernstein,
LLP
780 Third Avenue, 48th Floor
New York, New York 10017

H. Blair Hahn (Exec. Committee)
Richardson, Patrick, Westbrook &
Brickman, LLC
P.O. Box 1007
Mount Pleasant, South Carolina 29465

Tim Balducci
Langston Law Firm
P.O. Box 787
Booneville, MS 38829

Howard Bushman
Harke & Clasby
155 S. Miami Avenue, Suite 600
Miami, Florida 33130
Ernie Cory
Cory, Watson, Crowder & DeGaris
2131 Magnolia Avenue, Suite 200
Birmingham, Alabama 35205

John E. Mudd
Law Offices of John E. Mudd
P.O. Box 194134
San Juan, Puerto Rico 00919

Eric Quetglas
Quetglas Law Offices
1021 Ashford Avenue, 2nd Floor
Condado, Santurce
Puerto Rico 00908

Jennifer Sherrill
Federman & Sherwood
10205 N. Pennsylvania
Oklahoma City, OK 73120

Gary K. Smith
Law Offices of Gary K. Smith
100 Peabody Place, Suite 1300
Memphis, TN 38103

E. Economic Loss Plaintiffs' Steering Committee

The Court designates the following counsel to serve as members of the Economic Loss Plaintiffs' Steering Committee:

Gordon Ball (Lead Counsel)
Ball & Scott Law Office
550 W. Main Avenue, Suite 750
Knoxville, Tennessee 37902

Isaac Diel
135 Oak Street
Bonner Springs, Kansas 66012

John Felder and Chad McGowen
McGowan, Hood, Felder & Johnson
1539 Health Care Dr.
Rock Hill, South Carolina 29732

Melissa Harnett
Wasserman, Comden & Casselman LLP
5567 Reseda Boulevard, Suite 330
Tarzana, California 91357

Daniel R. Karon
Goldman Scarlato & Karon
55 Public Square, Suite 1500
Cleveland, Ohio 44113

Patrick N. Keegan
Keegan, Macaluso & Baker
4370 La Jolla Village Drive, Suite 640
San Diego, California 92122

Jeffrey Keller
Keller Grover LLP
425 Second Street, Suite 500
San Francisco, California 94107
Krishna B. Narine
7839 Montgomery Avenue, 3rd Floor
Elkins Park, Pennsylvania 19027

Robert Rikard
Whetstone Myers Perkins & Young
601 Devine Street
Columbia, South Carolina 29201

R. Frederick Walters and
Karen Renwick
Walters Bender Strohbehn Vaughn, PC
P.O. Box 26188
Kansas City, Missouri 64196

III. LEAD COUNSEL

A. Structure

The plaintiffs shall be represented by two attorneys who will serve as co-lead counsel. One lead counsel will represent the personal injury plaintiffs and one lead counsel will represent the economic loss plaintiffs. Co-lead counsel shall coordinate with each other as required by the course of pretrial proceedings.

B. Personal Injury Plaintiffs' Lead Counsel

The Personal Injury Plaintiffs' Executive Committee shall elect the Personal Injury Plaintiffs' Lead Counsel. The Committee shall notify the court of its election within 10 days following issuance of this Order. If the Committee is unable to make an election, the Court will designate lead counsel by considering the applications already submitted and to be submitted by those desiring to serve as Personal Injury Plaintiffs' Lead Counsel.

C. Economic Loss Plaintiffs' Lead Counsel

It is the Court's understanding that Gordon Ball has been elected as the Economic Loss Plaintiffs' Lead Counsel. Therefore, the court designates him to serve in that position:

Gordon Ball
Ball & Scott, PA
550 Main Avenue, Suite 750
Knoxville, Tennessee 37902
(865) 525-7028
(854) 525-4679 (fax)
gball@ballandscott.com

D. Defendant's Lead Counsel

The Court recognizes that Defendant has selected the following as its lead counsel, and therefore designate them to serve in that position:

Harvey Kaplan
Shook Hardy & Bacon, LLP
2555 Grand Boulevard
Kansas City, Missouri 64108

Marie Woodbury
SHB Bausch & Lomb, Inc.
2555 Grand Boulevard
Kansas City, Missouri 64108

John Beisner
O'Melveny & Myers, LLP
1625 Eye Street, NW
Washington, D.C. 20006

Michael T. Cole
Nelson Mullins Riley & Scarborough
151 Meeting Street, Suite 600
Charleston, South Carolina 29401

E. Responsibilities of Lead Counsel

Both plaintiffs' lead counsel shall be generally responsible for coordinating the activities of his group of plaintiffs during pretrial proceedings and shall:

1. determine (after such consultation with other members of his Plaintiffs' Steering Committee and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of his plaintiffs on all matters arising during pretrial proceedings;
2. coordinate the initiation and conduct of discovery on behalf of his group of plaintiffs consistent with the requirements of Fed. R. Civ. P. 26(b)(1), 26(b)(2), and 26(g), including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions;
3. conduct settlement negotiations on behalf of plaintiffs, but not enter

- binding agreements except to the extent expressly authorized;
4. delegate specific tasks to other counsel or committees of counsel, as authorized by the court, in a manner to ensure that pretrial preparation for the plaintiffs is conducted efficiently and effectively;
 5. enter into stipulations with opposing counsel as necessary for the conduct of the litigation;
 6. prepare and distribute periodic status reports to the parties;
 7. maintain adequate time and disbursement records covering services as lead counsel;
 8. monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
 9. perform such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or authorized by further order of the court; and
 10. establish and maintain a web site dedicated to this litigation.

Counsel for plaintiffs who disagree with lead counsel (or those acting on behalf of lead counsel) or who have individual or divergent positions may present written and oral arguments, conduct examinations of deponents, and otherwise act separately on behalf of their clients as appropriate, providing that in doing so they do not repeat arguments, questions, or actions of lead counsel.

IV. CASE MANAGEMENT ORDER

Plaintiffs, acting through their lead counsel, shall consult with defendant to agree upon a proposed second case management order. The proposed order shall be submitted to the court by December 4, 2006. Any issues on which the parties cannot agree will be addressed at a hearing to be held on December 18, 2006.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', written over a horizontal line.

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

November 6, 2006
Charleston, South Carolina