

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

**RECEIVED**  
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IN RE: BAUSCH & LOMB )  
MDL LITIGATION )

2:06-77777

Charleston,  
South Carolina  
January 24, 2007

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE DAVID C. NORTON,  
UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical shorthand,

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1 THE COURT: ALL RIGHT. WE'VE GOT 14 PEOPLE ON THE  
2 LINE, SO --

3 THE CLERK: THE PEOPLE ON LINE SHOULD BE ABLE TO  
4 HEAR. CRYSTAL, CAN YOU HEAR US?

5 THE OPERATOR: YES, MA'AM.

6 THE CLERK: THANK YOU.

7 THE COURT: ALL RIGHT. I'VE GOT THE LETTERS WITH  
8 WITH THE POSITIONS OF EACH SIDE, AND I'M READY TO GO OVER  
9 THEM RIGHT NOW, OR WHATEVER YOU WANT TO DO.

10 ALL RIGHT. FIRST THING ON THE AGENDA IS THE STATUS  
11 OF CASES FILED IN FEDERAL COURT AND THEN TRANSFERRED TO MDL,  
12 WHATEVER THAT MEANS. THERE IS A LOT OF CASES FILED AND THERE  
13 IS A LOT OF CASES IN MDL, AND I'VE GOT ALL OF THEM SO FAR.

14 ALL RIGHT. AND I WANTED TO LET YOU KNOW THAT I HAVE  
15 BEEN IN TOUCH WITH JUSTICE FREEDMAN IN NEW YORK AS LATE AS  
16 YESTERDAY. EVERYTHING THAT Y'ALL SEND TO ME I AUTOMATICALLY  
17 SEND TO HER, E-MAIL IT TO HER. I TALKED TO HER YESTERDAY,  
18 AND SO SHE'S AWARE OF THIS HEARING AND AWARE OF WHAT THE  
19 ISSUES ARE BECAUSE SHE'S GOT A COPY OF WHAT Y'ALL SENT TO ME,  
20 PLUS THE CMO AND THE FACTS SHEET. SO WE ARE STILL WORKING  
21 TOGETHER.

22 BUT THE SECOND THING ON THE AGENDA IS A STATE AND  
23 FEDERAL COORDINATION. I JUST TOLD YOU WHAT I'M DOING TO  
24 COORDINATE.

25 WHAT ARE Y'ALL DOING?

1 MR. HAHN: THANK YOU, YOUR HONOR. BLAIR HAHN FOR THE  
2 PLAINTIFFS.

3 AS TO THE FIRST ITEM ON THE AGENDA, THE PLAINTIFFS  
4 WERE HOPING THAT WE COULD HAVE SOME TYPE OF A SCHEDULE, AN  
5 UPDATE OF CASES FILED IN THE MDL. WE TRIED TO PICK THEM UP  
6 ON THE MDL DOCKET, BUT IT'S DIFFICULT TO DO SOMETIMES. AND  
7 THE BEST PLACE FOR THAT TO COME FROM IS FROM THE DEFENDANTS.  
8 AND I THOUGHT THAT WE HAD TALKED ABOUT THAT AND THEY WERE  
9 JUST GOING TO LET EVERYBODY KNOW HOW MANY DAYS THEY NEEDED TO  
10 FILE. BUT PERHAPS THAT FELL THROUGH THE CRACK.

11 MR. CAPLAIN: YOUR HONOR, HARVEY CAPLAIN FOR BAUSCH &  
12 LOMB. BLAIR, I THINK THAT WE WERE GOING TO JUST GIVE YOU  
13 UPDATED LISTS AS WE GOT THEM. IF WE HAVEN'T DONE THAT, THEN  
14 SOMETHING FELL THROUGH THE CRACKS AND WE'LL FIX IT.

15 MR. HAHN: OKAY. VERY GOOD.

16 MR. CAPLAIN: AND I THINK THE NUMBER, TO THE BEST OF  
17 OUR KNOWLEDGE IN FEDERAL COURT, IS ABOUT 100, 90 SOME. IS  
18 THAT ABOUT RIGHT? AND IN NEW YORK I THINK THE NUMBER IS  
19 ABOUT 80. SIXTY? ABOUT 60. SIXTY IN NEW YORK.

20 THE COURT: OKAY.

21 MR. HAHN: AS TO STATE AND FEDERAL COORDINATION, WE  
22 HAVE AN ORDER. MITCHELL BREIT FROM THE BEXTRA LITIGATION, DO  
23 YOU WANT TO ADDRESS THE COURT ON THAT?

24 MR. BREIT: I CAN IF YOU WOULD LIKE.

25 MR. HAHN: MITCHELL BREIT, WHO IS ON THE EXECUTIVE

1 COMMITTEE.

2 MR. BREIT: GOOD MORNING, YOUR HONOR.

3 THE COURT: GOOD MORNING.

4 MR. BREIT: IF THE COURT WOULD LIKE, I HAVE A COPY  
5 OF AN ORDER THAT WAS FILED IN THE BEXTRA CELEBREX LITIGATION  
6 BY JUDGE BREYER. I THINK THE COURT IS ALREADY CONTEMPLATING  
7 COORDINATING WITH THE STATE COURTS. JUDGE BREYER HAS REDUCED  
8 THAT TO AN ORDER. IF THE COURT WOULD LIKE TO SEE IT, IT'S A  
9 SAMPLE OF WHAT WE MIGHT --

10 THE COURT: SURE. DO YOU HAVE ANY PROBLEM? YOU'VE  
11 SEEN THEM, MR. COLE, MR. CAPLAIN?

12 MR. COLE: WE'VE NOT SEEN THEM, YOUR HONOR, SO --

13 MR. BREIT: IT WAS JUST HANDED TO ME AND I'LL BE  
14 HAPPY TO GIVE IT TO MR. COLE.

15 THE COURT: WHY DON'T YOU GO AHEAD AND E-MAIL ME A  
16 COPY OR WHATEVER, FAX ME A COPY, OR GIVE ME A COPY, IF YOU'VE  
17 GOT IT HERE, AND GIVE A COPY TO MR. COLE AND LET THEM TAKE A  
18 LOOK AT IT AND MAKE ANY SUGGESTIONS THEY WANT TO, DOCTOR OR  
19 CHANGE IT.

20 NOW, HAVE YOU TALKED TO THE STATE LAWYERS ABOUT THE  
21 ORDER THAT YOU ARE GIVING ME?

22 MR. BREIT: I HAVE NOT, BUT I'M ABOUT TO GET TO  
23 THAT, YOUR HONOR.

24 THE COURT: OKAY.

25 MR. BREIT: WHAT WE PROPOSED AND WE'VE DISCUSSED

1 WITH THE DEFENDANTS IS A STATE/FEDERAL LIASON COUNSEL.

2 THE COURT: UM-HUM.

3 MR. BREIT: AND WHAT WE WOULD SUBMIT TO THE COURT,  
4 AND I HAVE AN ORDER TO THAT EFFECT, IS THAT HUNTER SHKOLNIK  
5 OF THE RHEINGOLD, VALET, RHEINGOLD, KNOWLICK & MCCARTNEY FIRM  
6 IN NEW YORK BE DESIGNATED AS LIASON COUNSEL BETWEEN THE MDL  
7 AND THE STATE COURT PROCEEDINGS IN NEW YORK.

8 I'VE KNOWN MR. SHKOLNIK FOR QUITE SOME TIME. HE HAS  
9 BEEN AN ATTORNEY FOR 22 YEARS. HE'S IN GOOD STANDING IN NEW  
10 YORK AND IN NEW JERSEY. HE'S A MEMBER OF THE PLAINTIFF  
11 STEERING COMMITTEE IN THE GUIDANT AND MEDTRONIC LITIGATION.

12 AND WE HAVE, AS I SAID, WE'VE DISCUSSED THIS WITH  
13 THE DEFENDANTS, AND I DON'T THINK THERE IS AN OBJECTION.

14 AND, IN FACT, MR. SHKOLNIK IS HERE TODAY AND I WOULD  
15 LIKE TO INTRODUCE HIM TO THE COURT, IF I MAY.

16 THE COURT: SURE.

17 MR. SHKOLNIK: GOOD MORNING, YOUR HONOR.

18 THE COURT: WELCOME, MR. SHKOLNIK.

19 MR. SHKOLNIK: THANK YOU.

20 MR. BREIT: SO WITH THAT, YOUR HONOR, IF YOU WOULD  
21 LIKE, MR. SHKOLNIK HAS SAID HE'S PREPARED TO SUBMIT WHATEVER  
22 YOUR HONOR WOULD NEED BY WAY OF BACKGROUND, IF THE COURT  
23 WOULD LIKE THAT. AND I ALSO HAVE A PROPOSED ORDER. AND  
24 PERHAPS THE ORDER SHOULD AWAIT WHATEVER SUBMISSION YOU WOULD  
25 LIKE.

1 THE COURT: YOU CAN JUST GIVE IT TO ME AND  
2 MR. SHKOLNIK CAN SEND ME WHATEVER HE NEEDS TO SEND ME.

3 MR. BREIT: MAY I APPROACH, YOUR HONOR?

4 THE COURT: SURE.

5 MR. BREIT: THANK YOU VERY MUCH.

6 THE COURT: THANK YOU.

7 NOW, THE ONLY QUESTION I WOULD HAVE IS I NOTED FROM  
8 THE NEW YORK LITIGATION, AND I NOTED THERE WAS ONE FIRM THAT  
9 HAD THE MAJORITY OF THOSE CASES. HAVE YOU TALKED TO THAT  
10 FIRM?

11 MR. BREIT: WE HAVE NOT, YOUR HONOR.

12 MR. SHKOLNIK: HAVE YOU TALKED TO THEM ABOUT THAT?

13 UM, I HAVE SPOKEN TO MOST OF THE LAW FIRMS.

14 THE COURT: SO THEY ARE ON BOARD WITH THAT?

15 MR. SHKOLNIK: YES.

16 THE COURT: OKAY. GOOD.

17 MR. BREIT: THANK YOU, YOUR HONOR.

18 THE COURT: OKAY. THANKS.

19 MR. HAHN: ONE OTHER THING WITH STATE AND FEDERAL  
20 COORDINATION, JUDGE, WE WILL ENDEAVOR TO PROVIDE YOU A LIST,  
21 AS FAR AS COORDINATION WITH OTHER STATE COURTS, AS WELL.

22 WE ARE AWARE THAT THERE ARE A FEW CASES FILED IN  
23 FLORIDA, TEXAS AND I BELIEVE LOUISIANA. AND AS WE IDENTIFY  
24 THOSE CASES, WE'LL GIVE YOU A LIST, JUST SO THAT YOU KNOW  
25 WHAT THEY ARE OUT THERE, AND YOU HAVE THE OPTION THEN TO

1 REACH OUT TO THOSE JUDGES.

2 MR. COLE: YOUR HONOR, ACTUALLY, WE ARE IN THE  
3 PROCESS OF GETTING THAT LIST AND THE FEDERAL COURT LIST  
4 TOGETHER AND SHARE WITH THE PLAINTIFFS STEERING COMMITTEE.  
5 WE JUST DIDN'T GET IT BEFORE THE HEARING TODAY, BUT WE ARE  
6 AWARE THAT WE NEED TO GET EVERYONE ON THAT LIST.

7 THE COURT: SOUNDS GOOD. YES, MR. CAPLAIN?

8 MR. CAPLAIN: WE AGREE THAT IT'S IN EVERYONE'S BEST  
9 INTERESTS TO HAVE FEDERAL AND STATE COURT LITIGATION.

10 I JUST WANTED TO MENTION TO YOUR HONOR IN ONE OF THE  
11 FEDERAL MDLS THAT'S PENDING RIGHT NOW, THE NEURONTIN  
12 LITIGATION THAT'S PENDING BEFORE JUDGE PATTI SARIS IN BOSTON,  
13 THE NEW YORK CONSOLIDATED PROCEEDINGS ARE IN THAT CASE  
14 PENDING BEFORE JUDGE MARCY FRIEDMAN, SPELLED DIFFERENTLY THAN  
15 HELEN FREEDMAN, IT'S F R I E D M A N INSTEAD OF F R E E D M A  
16 N.

17 AND I UNDERSTAND THAT NOT ONLY DO THEY COORDINATE  
18 CLOSELY, ACTUALLY JUDGE MARCY FRIEDMAN COMES TO BOSTON FOR  
19 FEDERAL COURT HEARINGS AND SITS WITH JUDGE SARIS, SO THAT  
20 THEY ARE ABSOLUTELY IN SYNCH. AND WE SUGGEST THAT, YOU KNOW,  
21 YOUR HONOR CONSIDER REACHING OUT TO JUDGE HELEN FREEDMAN AND  
22 PERHAPS DOING THE SAME THING IN THIS LITIGATION.

23 THE COURT: I CONTEMPLATED THAT BECAUSE WHEN I FIRST  
24 TALKED TO HER, SHE DIDN'T KNOW WHO WAS GOING TO BE IN CHARGE  
25 OF THIS LITIGATION IN NEW YORK. AND FROM WHAT I UNDERSTAND,

1 IT HAS BEEN ASSIGNED TO HER. I DON'T KNOW WHETHER THAT'S --  
2 SO SHE IS, RIGHT AS WE SPEAK RIGHT NOW, CHARGING A JURY, OR I  
3 WOULD HAVE INVITED HER DOWN.

4 BUT I ANTICIPATE IF WE HAVE ANY SUBSTANTIVE -- I  
5 ANTICIPATE INVITING HER EVERY TIME WE HAVE A HEARING, AND  
6 WELCOME HER WHEN SHE WANTS TO COME AND WHEN SHE DOESN'T WANT  
7 TO COME, ESPECIALLY IF WE HAVE A *DAUBERT* HEARING OR SOMETHING  
8 LIKE THAT, I ANTICIPATE BRINGING HER, AS WELL AS ANY OTHER  
9 STATE JUDGE THAT WANTS TO COME.

10 MR. CAPLAIN: GOOD. THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT. AND EXCEPT IN THE  
12 WINTERTIME, MAYBE I'LL GO UP THERE.

13 MR. HAHN: JUDGE, NEXT ON THE AGENDA IS THE PROPOSED  
14 PRE-TRIAL ORDER NUMBER SEVEN. I BELIEVE BOTH SIDES HAVE  
15 PROVIDED YOU A SUBMISSION OF OUR SUBMISSIONS. IT IS THE  
16 SUPPLEMENTAL CASE MANAGEMENT ORDER.

17 MR. COLE: JUDGE NORTON, WE REALIZED THIS MORNING  
18 THAT DEPENDING ON WHO IS SUBMITTING THE VARIOUS CASE  
19 MANAGEMENT ORDERS AND PRE-TRIAL ORDERS, THAT THEY ARE  
20 HORRIBLY OUT OF SYNCH, IN TERMS OF NUMBERING AND ORDERING,  
21 AND THEY MAKE NO SENSE WHATSOEVER.

22 THE COURT: JUDGE HOWELL, WHO USED TO BE THE CHIEF  
23 JUDGE OF OUR APPELLATE COURT HERE IN SOUTH CAROLINA, USED TO  
24 SAY, "IN CONFUSION, THERE IS PROFIT."

25 MR. COLE: WE WOULD SUGGEST THAT PERHAPS WE GET A

1 REPRESENTATIVE FROM PLAINTIFFS' SIDE AND MAYBE YOUR LAW CLERK  
2 AND ELI TO SIT DOWN AND SORT OF FIGURE THIS OUT AND COME UP  
3 WITH A CONVENTION, AND THEN WE'LL ALL ABIDE BY THAT  
4 CONVENTION FROM THIS POINT ON. BUT WE KNOW WHAT WE ARE  
5 TALKING ABOUT IN TERMS OF ISSUES, BUT REFERRING TO THEM BY  
6 NUMBERS IS TENTATIVE, AT BEST.

7 THE COURT: THAT SOUNDS GOOD.

8 MR. HAHN: THE ONLY POINT THAT WE DID NOT AGREE ON  
9 ON THE ORDER WAS THE NUMBER OF DEPOSITIONS TO BE TAKEN.

10 AND WE WANTED TO POINT OUT TO THE COURT FROM THE  
11 PLAINTIFFS' PERSPECTIVE THAT WE AGREED TO 20 DEPOSITIONS  
12 BECAUSE WE DIDN'T KNOW HOW BIG THE FACT DISCOVERY WAS GOING  
13 TO BE. WE THOUGHT THAT WAS A GOOD STARTING PLACE. WE ARE  
14 HAPPY TO DO THE 20 DEPOSITIONS. IF THAT'S ALL WE NEED,  
15 GREAT. IF WE NEED MORE, WE WOULD COME TO THE COURT AND ASK  
16 FOR LEAVE TO TAKE ADDITIONAL DEPOSITIONS.

17 THE DEFENDANTS HAVE ASKED THAT WE LIMIT THE  
18 DEPOSITIONS TO THREE PER MONTH. WE HAVE BEEN WORKING VERY  
19 WELL WITH THE DEFENDANTS TO DATE. MIKE COLE AND I HAVE A  
20 GOOD RELATIONSHIP, AND WE WOULD HOPE THAT WE WOULD BE ABLE TO  
21 WORK OUT DEPOSITION SCHEDULING. SO THAT IF WE HAVE LARGE  
22 DEPOSITIONS, WE WOULD, IN FACT, LIMIT THAT. IF WE HAD A  
23 NUMBER OF SMALL DEPOSITIONS IN GREENVILLE, WE MIGHT BE ABLE  
24 TO KNOCK ALL THOSE OUT IN A SHORT PERIOD OF TIME.

25 SO THAT'S THE ONLY THING THAT WE OBJECT TO WITH THE

1 THREE DEPOSITIONS PER MONTH IN THIS PARTICULAR DOCUMENT.

2 THE COURT: OKAY.

3 YES, SIR?

4 MR. BEISNER: YOUR HONOR, I'M JOHN BEISNER. I JUST  
5 WANTED TO BRIEFLY RESPOND ON THE OTHER POINT.

6 THE REASON WE WERE PROPOSING A LIMIT ON A NUMBER OF  
7 DEPOSITIONS PER MONTH, WHICH IS TO ENSURE PROPER PACING OF  
8 THOSE. WE ARE NOT GOING TO BE ABLE TO DO ALL THE DEPOSITIONS  
9 IN THE FIRST MONTH BECAUSE WE ARE GOING TO BE DOING  
10 DEPOSITION -- I'M SORRY -- DOCUMENT DISCOVERY AND SO ON THAT  
11 WE NEEDED. WE THOUGHT THAT KIND OF GUIDELINE WOULD BE  
12 HELPFUL.

13 I'M SURE THAT IF THERE IS A NEED TO ACCELERATE THAT  
14 OR MOVE THAT AROUND, WE ARE HAPPY TO WORK WITH THE PLAINTIFFS  
15 ON THAT. AND WE THOUGHT THAT SORT OF GUIDELINE FROM THE  
16 COURT MIGHT BE BENEFICIAL TO ENSURE PROPER PACING ON THE  
17 DEPOSITION. AND IT'S BEEN DONE IN OTHER, WE'VE NOTED IN THE  
18 BRIEF, IN OTHER MDLS, AS WELL.

19 THE COURT: ALL RIGHT. WELL, I GUESS THE NUMBER OF  
20 DEPOSITIONS WOULD SEEM TO BE A FUNCTION OF THE LENGTH OF THE  
21 DEPOSITION. BECAUSE, YOU KNOW, THREE DEPOSITIONS PER MONTH  
22 WHICH ARE LIMITED TO SEVEN HOURS, OR THREE DEPOSITIONS A  
23 MONTH WHICH ARE LIMITED TO 14 HOURS, OR THREE DEPOSITIONS A  
24 MONTH WHICH ARE LIMITED TO 21 HOURS, IS THREE DIFFERENT  
25 THINGS. AND I DON'T THINK -- I HAVEN'T HEARD A RESPONSE AS

1 TO HOW LONG THE DEPOSITIONS ARE OR INTENDED TO BE.

2 MR. BEISNER: THEY ARE LIMITED TO SEVEN HOURS. WE  
3 DO HAVE THAT THERE.

4 I WOULD NOTE, YOUR HONOR, THAT SOME OF THOSE  
5 DEPOSITIONS, THERE WILL NEED TO BE SOME DISCUSSION WITH STATE  
6 COURT COUNSEL, AS WELL, ABOUT THEIR PARTICIPATION OF THOSE  
7 DEPOSITIONS. AND THAT REMAINS TO BE, TO BE WORKED OUT. SO  
8 THEY MAY BE SOMEWHAT LONGER THAN SEVEN HOURS, BUT THAT IS THE  
9 BASIC GUIDELINE THAT WE'VE AGREED TO ON THIS ALREADY.

10 I THINK THE MAIN THING, YOUR HONOR, THE PACING ON  
11 THIS, IS THE PREPARATION TIME WITH THE WITNESSES, BUT ALSO  
12 MAKING SURE THAT WE ARE NOT TAKING DEPOSITIONS PREMATURELY,  
13 THAT EVERYONE IS THINKING ABOUT THE NEED.

14 THE OTHER ADMONITION THAT'S IN THE ORDER ALREADY  
15 THAT TALKS ABOUT NOT TAKING DEPOSITIONS BEFORE SUBSTANTIAL  
16 DOCUMENT DISCOVERY BEING COMPLETED WITH RESPECT TO A WITNESS.  
17 SO THAT WE ARE SURE THAT WE ARE NOT TAKING THESE DEPOSITIONS  
18 OVER AND OVER AGAIN DURING THE COURSE OF THE DEPOSITION OR  
19 THE LITIGATION.

20 THE COURT: OKAY. BUT THE CMO THAT Y'ALL GAVE ME IN  
21 SUBSECTION (D) SAYS, DOESN'T HAVE ANY LIMITATION AS TO THE  
22 NUMBER OF HOURS. IT JUST SAYS, "SHALL MEET AND CONFER."

23 MR. BEISNER: I BELIEVE, YOUR HONOR, THAT WAS THE  
24 PRIOR ORDER.

25 THE COURT: IT'S THE ONE I GOT THIS WEEK.

1 MR. HAHN: THAT'S CORRECT, YOUR HONOR.

2 THE REASON FOR THAT IS BECAUSE UNDER THE CROSS  
3 LITERACY PROVISION, WE DIDN'T KNOW YET BECAUSE WE DON'T KNOW  
4 ABOUT COORDINATION WITH STATE AND FEDERAL CASES, HOW A CROSS  
5 SOMETHING IS GOING TO WORK.

6 THE MDL FEELS STRONGLY THAT WE SHOULD HAVE, IF WE  
7 NOTICE A DEPOSITION FIRST BEFORE EVERYBODY ELSE DOES, AND WE  
8 ALSO FEEL STRONGLY THAT IF THERE IS A STAND-ALONE CASE IN  
9 IDAHO, AND THEY NOTICE THE PRESIDENT OF THE COMPANY, THAT WE  
10 WOULD NOT BE BOUND BY THE DEPOSITION. THOSE ARE ISSUES THAT  
11 WE ARE GOING TO HAVE TO WORK THROUGH.

12 SO WE DIDN'T KNOW HOW TO DEAL WITH THE TIME LIMIT AT  
13 THIS TIME, WHICH IS ANOTHER REASON WE THOUGHT WE COULD WORK  
14 TOGETHER. WE'VE GOT HUNDREDS OF LAWYERS AVAILABLE ON BOTH  
15 SIDES OF THIS CASE. AND I THINK WE OUGHT TO BE ABLE TO WORK  
16 IT OUT.

17 MR. BEISNER: YOUR HONOR, I STAND CORRECTED. WE HAD  
18 TALKED ABOUT THE SEVEN-HOUR THING, BUT COUNSEL IS CORRECT,  
19 THAT WE LEFT THAT OPEN, SO WE COULD WORK THROUGH THE STATE  
20 ISSUE.

21 SO IN RESPONSE TO YOUR QUESTION, WHAT WE HAD TALKED  
22 ABOUT WAS THE LIMITATION OF SOME SORT, BUT WE LEFT OPEN THAT  
23 ISSUE, SO THAT WE CAN TAKE A COUNT OF WHAT THE STATE COURT  
24 ATTORNEYS WISH TO HAVE IN MIND, SO THAT THE DEPOSITION MAY BE  
25 LONGER THAN WHAT I WAS INDICATING.

1 THE COURT: OKAY. WELL, I'LL BRING THAT UP WITH  
2 JUSTICE FREEDMAN AND SEE IF WE CAN GET HER INPUT ON THAT, AND  
3 THEN I'LL LET YOU KNOW. YOU MAY WANT TO CONSIDER, FOR  
4 EXAMPLE, STARTING SLOWLY, LIKE THREE THE FIRST MONTH OR THREE  
5 THE SECOND MONTH, AND THEN YOU CAN ACCELERATE, BECAUSE  
6 EVERYBODY IS GOING TO KNOW WHERE WE ARE GOING BY THAT TIME,  
7 BECAUSE I THINK YOU COULD DO MORE THAN THAT AFTER THAT.

8 AND MR. HAHN'S LETTER SAID, YOU KNOW, GETTING ALL  
9 THIS CROWD TO GREENVILLE ONE DAY A WEEK OR TWO DAYS A MONTH  
10 OR SOMETHING LIKE THAT, IT SEEMS TO BE RELATIVELY INEFFICIENT  
11 AND EXPENSIVE FOR THE PARTIES, BUT THAT'S JUST AN  
12 OBSERVATION, AS OPPOSED TO A RULING.

13 MR. HAHN: THANK YOU, JUDGE.

14 AND I THINK AS THE LITIGATION MATURES, YOU ARE  
15 EXACTLY RIGHT, THAT IT WILL BE ABLE TO SPEED UP.

16 THE PLAINTIFFS DO HAVE, WE BELIEVE, SOME DEPOSITIONS  
17 WE ARE GOING TO WANT TO TAKE QUICKLY, BECAUSE WE ARE  
18 CONCERNED ABOUT THE SPOILATION OF EVIDENCE. AND THESE ARE  
19 WITH, WE BELIEVE, SOME FOLKS THAT HAVE LEFT BAUSCH & LOMB WHO  
20 MIGHT HAVE SOME RELEVANT INFORMATION FOR US.

21 AS TO ITEM FIVE ON THE AGENDA, THE PLAINTIFFS' FACT  
22 SHEET.

23 THE COURT: ALL RIGHT.

24 MR. HAHN: MR. COLE AND I MET AGAIN THIS MORNING AND  
25 WE HAVE A FEW ADDITIONAL CHANGES TO MAKE TO THE DOCUMENT.

