

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	)	<b>PRETRIAL ORDER NO. 16</b>
	)	
	)	

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IN THE SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In re: New York ReNu with MoistureLoc Product Liability Litigation	)	Index No. 766,000/07
	)	
	)	
	)	<b>Supplemental Case Management Order re: Fusarium Bellwether Trial</b>
This Order Relates To: All Cases	)	
	)	
	)	

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**FUSARIUM BELLWETHER TRIAL CASES**

It appears to the respective courts that representatives for the parties herein through their steering committees have, in each court, agreed to modify certain deadlines as they relate to the Fusarium Bellwether cases.

It is therefore ordered that the dates set forth in Pre-Trial Order No. 10/Case Management Order re: Bellwether Trial Cases dated November 14, 2007, hereby be amended as they related to fusarium cases. The Courts envision entering a joint supplemental order as to the non fusarium cases after further conferring with the member of the respective steering committees.

## **I. EXPERT WITNESS DISCOVERY SCHEDULE**

### **A. Plaintiffs' Expert Witnesses**

Plaintiffs in the Bellwether trial cases will identify their expert witnesses, and serve their experts' reports in compliance with Fed. R. Civ. P. 26(a)(2)(B), on or before June 20, 2008. Depositions of plaintiffs' expert witnesses will be completed on or before July 25, 2008.

### **B. Defendant's Expert Witnesses**

Defendant will identify its expert witnesses, and its experts' reports in compliance with Fed. R. Civ. P. 26(a)(2)(B), on or before July 18, 2008. Depositions of defendant's expert witnesses will be completed on or before August 26, 2008.

## **II. SCHEDULE FOR DISPOSITIVE AND *DAUBERT*/*FRYE* MOTIONS**

### **A. Motions and Briefing Schedule**

The parties shall file any dispositive and *Daubert*/*Frye* motions in all Bellwether trial cases on or before August 29, 2008. Opposition briefs and memorandum shall be filed on or before September 19, 2008. Reply briefs and memoranda shall be filed on or before Oct 3, 2008.

### **B. Hearing on Motions**

A joint Daubert/Frye hearing before Judge Norton and Justice Freedman will be held after October 3, 2008. Hearings on dispositive motions in the bellwether trial cases will be held on or before October 17, 2008. Hearings on dispositive motions in MDL bellwether trial cases will be held before Judge Norton; hearing on dispositive motions in New York bellwether trial cases will be held before Justice Freedman.

### **III. PRETRIAL SUBMISSIONS IN BELLWETHER TRIAL CASES**

In the MDL bellwether cases, final witness lists, exhibit lists, and deposition designations are due on October 17, 2008. Any motions in limine are due on October 17, 2008. Objections to deposition designations and counter-designations, oppositions to motions in limine, and proposed jury instructions are due on October 24, 2008.

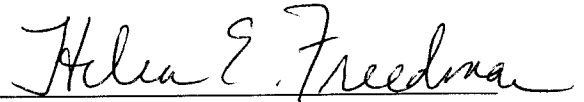
Justice Freedman will set dates for witness lists, exhibit lists, deposition submissions, motions in limine, objections to deposition designations and counter-designations, oppositions to motions in limine, and proposed jury instructions in the NY cases at her discretion.

**AND IT IS SO ORDERED.**



**DAVID C. NORTON**  
CHIEF UNITED STATES DISTRICT JUDGE  
DISTRICT OF SOUTH CAROLINA

June 6, 2008  
Charleston, South Carolina



**HELEN E. FREEDMAN**  
SUPREME COURT OF THE STATE OF  
NEW YORK, COUNTY OF NEW YORK

June 9, 2008  
New York, New York