

SJB #4

PRESENT:

Honorable Helen E. Freedman, J.S.C.

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

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IN RE: NEW YORK RENU WITH MOISTURELOC
PRODUCT LIABILITY LITIGATION
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Index No. 766,000/2007

**CASE MANAGEMENT
ORDER NO. 4**

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THIS DOCUMENT APPLIES TO ALL CASES
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FILED

MAR 27 2007

PRESERVATION ORDER

NEW YORK
COUNTY CLERK'S OFFICE

The Court hereby orders, effective immediately, that Bausch & Lomb, Inc., its officers, agents, employees and attorneys (collectively, Bausch & Lomb) and plaintiffs and their attorneys:

I. Document Preservation

- A. Shall not purge data, delete data, erase disks, tapes or electronic files of any kind, erase memory, or otherwise alter, change, modify or destroy information (including any meta data) stored in or by computer (regardless of whether information is created and/or stored before or after the entry of this order) relevant to plaintiffs' claims of alleged defects in the Bausch & Lomb ReNu Moisture Loc Solution. Plaintiffs shall have the same obligation for information relevant to defendants' defenses. This Order shall not prohibit the following actions:

1. E-mail

- a. Reuse of incremental and/or daily tapes as part of tape rotation where full back-up tapes are being retained for all e-mail servers worldwide which are cumulative of changes over time.
- b. Deletion of e-mail going forward by individuals whose accounts are journaled, which means that every e-mail sent or received for these people is captured and placed in a secure vault.
- c. Deletion of past e-mail by individuals whose accounts have been archived to a secure vault for discovery purposes, provided that such archiving must include not only such individuals' in-box but also any other folders or archives of saved email received or sent by such individuals.
- d. Application of normal tape retention of e-mail server tapes after the archiving has been completed, if the archiving and journaling process includes all individuals whose e-mails are encompassed by the e-mail server tapes.

2. Re-use of incremental and/or daily tapes as part of tape rotation where full backup tapes for network file shares are being retained.

3. Re-use of incremental and/or daily tapes as part of the Company's tape rotation where full back-up tapes for the directories are being retained.

4. Application(s)/System(s)

- a. Re-use of incremental and/or daily tapes where full back-up

tapes for the applicable applications/systems are being retained.

- b. Changing applications as required to conduct business (primarily adding functionality) where the application team has been contacted and is managing a log of all such changes to the application and is maintaining copies of source and object code for all versions of the applications.
- B. Shall preserve software and programs written regarding the Bausch & Lomb ReNu Moisture Loc Solution.
- C. Shall preserve information pertinent to this litigation contained on employees' personal and laptop computers.
- D. Shall not shred, change, modify, alter, remove, destroy, sanitize or otherwise dispose of documents, photographs, videotapes, or any other type of documentary evidence of information relevant to the plaintiffs' claims of alleged defects of the Bausch & Lomb ReNu MoistureLoc Solution. Plaintiffs shall have the same obligation for information relevant to defendants' defenses.
- E. May destroy or otherwise alter specified documents due to routine policy or programs after providing specific and detailed written notice to the other parties, including information as to the routine policy or program at issue and identification of the documents or categories thereof, if no other such party notifies defendants in writing, through counsel, of its objections within thirty days. If an objection is raised, the parties may raise the issue with this court or any other court with jurisdiction and

shall preserve the documents in question pending resolution by the court.

- F. May, without leave of court, agree in writing that certain documents or categories of documents or evidence need not be preserved in accordance with this Order. If such agreement is reached, such agreement is effective upon signing without further order of court.
- G. Each party shall bear its own costs for complying with this order.

SO ORDERED.

Dated: ^{March} February 26, 2007
New York, New York



Helen E. Freedman, J.S.C.

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COUNTY CLERK'S OFFICE