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NOTE: The accounts of recent trials, verdicts and settlements contained in this newsletter are intended to illustrate the experience of the firm in a variety of litigation areas. Each case is unique, and the results in one case do not necessarily indicate the quality or value of any other case. Omitting clients' names and/or defendants' names are the result of requests for anonymity.

## Defective Component Is Responsible for Eye Infections

As trial attorneys, we are taught to investigate all sides of the issues when reviewing cases for our clients. The Bausch and Lomb litigation is an example of how that thinking can be useful to our clients. Back in April, we began receiving calls from folks nationwide to discuss their problems with Bausch & Lomb's ReNu with MoistureLoc. What we noted, upon our internal review of all calls received, was the fact that we were getting a high number of calls from folks who had contracted the fusarium fungal infection, but also a significant number of calls from folks who had contracted bacterial infections. As such, when we initiated our investigations into this eye solution, we kept alert to the possibility that Bausch's ReNu with MoistureLoc may not have been tainted by a contaminant in the factory at Greenville, South Carolina, but rather that the product itself had component defects that were defeating its ability to protect the eye from infections. In fact, we hypothesized, the product's components may have been attracting or creating a breeding site for fungal or bacterial infections by virtue of some defective chemical component within the solution.

In recent weeks, through discussions with biochemical experts and expert optometrists and ophthalmologists, and as more facts have become available, our earlier gut feeling has been to a large degree confirmed. First, word started spreading that the company was being alerted to a higher incidence of infections in Europe than was normal. The ReNu with MoistureLoc which is sold in Europe is not manufactured in Greenville, South Carolina, but in Milan, Italy. It would be highly unlikely that contaminants of the same type would be found in both these factories at the same time. Moreover, the United States Center for Disease Control (CDC) recently completed its investigation of Bausch's Greenville plant with no findings of a fusarium contaminant.

Research and news reports from the CDC and Bausch itself have all surfaced in the last couple of weeks with evidence supporting the fact that this product has a defective component or components which may cause not only trauma to the eye where fungus can breed, but also create a trap or sealing effect that disallows the introduction of disinfectant to the afflicted area.

This combination of chemical events has caused blindness and the need for complex surgical procedures, including corneal transplants, in our clients' cases. We have now spoken with over 220 people who have, in some manner, been affected by this product; we currently represent 23 seriously injured clients, and have 22 additional cases we are reviewing for prospective clients. In two of our clients' cases, lawsuits have already been filed, with more being prepared for filing.

We do not intend to involve our clients' cases in a class action. We have worked over 27 years representing individual clients in such cases where they have been seriously injured, and intend to fight for each individual client's fair measure of justice from Bausch and Lomb. The fact that Bausch and Lomb may have knowingly placed our clients and millions of other contact lens wearers in harm's way is exceedingly troublesome to us and we intend to ensure they do not escape the sword of justice. ■

***If you or someone you love has contracted an eye infection as a consequence of using the Bausch and Lomb product ReNu with MoistureLoc, you may have a case warranting review. If you would like to discuss the facts of your use of this product, please contact Cal Warriner or Kevin Walsh, at 800-780-8607.***

