



OFFICE OF THE DISTRICT ATTORNEY
MARIN COUNTY, CALIFORNIA

Prevention * Prosecution * Protection

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PRESS RELEASE

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Bausch & Lomb Incorporated Agrees to \$135,000 Settlement in Consumer Protection Case Involving Packaging of Eye Health Products

Marin County District Attorney Edward S. Berberian, along with two other California District Attorneys, announced today that Marin County Superior Court Judge Roy O. Chernus has ordered Bausch & Lomb Incorporated ("Bausch & Lomb") to pay \$135,000 as part of a settlement of a civil consumer protection prosecution alleging the company failed to fully comply with laws related to the packaging of consumer products for retail sale.

The consent judgment agreed to by Bausch & Lomb resolves allegations made in a civil enforcement lawsuit filed in Marin County, and brought by the District Attorneys of Marin, Riverside, and Yolo Counties. The lawsuit alleged that within the past four years Bausch & Lomb, a leading eye health product company, sold in California their PeroxiClear hydrogen peroxide contacts lens solution and Alaway antihistamine eye drops in oversized packaging which contained empty and nonfunctional space or slack fill. Slack fill is the difference between the actual capacity of a container and the volume of the product contained therein. Nonfunctional slack fill is empty space in a container that serves no legitimate purpose. The lawsuit further alleged that such packaging constituted false representations to the public by implying that the products filled the entire package.

District Attorney Edward S. Berberian stated, "My office brings consumer protection actions for deceptive packaging because retail packaging should enable consumers to obtain accurate information about the products they are purchasing and should facilitate value comparisons. Packaging with nonfunctional slack fill defeats the ability to do so."

Bausch & Lomb was cooperative throughout the investigation and swiftly took measures to eliminate or change any unlawful packaging for the affected products. The consent judgment is applicable to Bausch & Lomb's three fluid ounce PeroxiClear product only and the Alaway product, as well as private label versions (excluding the Equate-branded version) of the Alaway product.

Under the settlement, Bausch & Lomb must pay \$135,000 in civil penalties, costs and *cy pres* restitution. Bausch & Lomb will be also be bound under the terms of an injunction prohibiting similar future violations of law for products manufactured and packaged after the date of the consent judgment.