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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE HIV ANTITRUST LITIGATION.

Case No. [19-cv-02573-EMC](#)

**ORDER RE TRIAL WITNESS
DISCLOSURES**

Docket No. 1904

Pending before the Court are disputes related to trial witness disclosures. *See* Docket No. 1904. The Court rules as follows.

- **Exhibit 310.** The objection is sustained. Although the email may fall under the business record exception, the attached letter from the third party (Fair Pricing Coalition) does not. The attached letter is hearsay. Furthermore, even if Plaintiffs could articulate a nonhearsay use for the letter, the letter as well as the email are both excluded under Rule 403. The probative value of the evidence is minimal. Plaintiffs have other evidence to show what the price increases for the drugs at issue were. Moreover, the letter contains inflammatory statements such as a statement that some patients have stopped treatment because they cannot afford their medications. Notably, this is contrary to Plaintiffs’ opening statement where they stated that they were not claiming that anyone was prevented from getting a drug.
- **Exhibit 9424.** The Court defers ruling given that the parties’ filing indicates that the parties are continuing to meet and confer. The Court does note, however, that if

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the Rule 1006 obtained is resolved, then it would seem unlikely that there could be a Rule 403 objection – *i.e.*, because the document purports to summarize Kaiser’s damages.

- **Introductions for deposition testimony of Mr. Cannella and Mr. Hashmall.**

The Court adopts Defendants’ proposal.

IT IS SO ORDERED.

Dated: May 26, 2023



EDWARD M. CHEN
United States District Judge