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28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAFRATERNAL ORDER OF POLICE,
MIAMI LODGE 20, INSURANCE TRUST
FUND, et al.,

Plaintiffs,

v.

GILEAD SCIENCES, INC., et al.,

Defendants.

Case No. 19-cv-02573-EMC

**SECOND ORDER RE TRIAL WITNESS
DISCLOSURES**

Docket No. 1936

This order supplements the Court's prior order regarding trial witness disclosures, located at Docket No. 1940. The order memorializes the Court's oral rulings made at the morning conference on June 6, 2023.

- Exhibit 3258. The objections are **overruled**.
- Exhibits 5113, 6388. The Court **overrules** in part and **sustains** in part the objections. The objections are overruled except that, for Exhibit 5113, the statements in the chart at page 3 that "[t]hey believe this to be anticompetitive" shall be excluded/redacted on 403 grounds.
- Exhibit 6270. The 402 and 403 objections are **overruled**. The Court **defers** ruling on foundation.
- Exhibits 6271, 6272. Plaintiffs stated that they would not seek to admit Exhibit 6271 (the press release). The Court **excludes** Exhibit 6272 but does not bar Plaintiffs from asking more "generalized" questions – *e.g.*, whether regulators had scrutinized any agreement between Teva and another company in which some kind of exclusivity was a part of the agreement. The Court **reserves** ruling on whether

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Plaintiffs' line of inquiry may lead to a 403 problem.

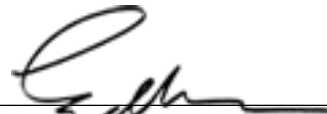
- Exhibit 9439. The Court **modifies** its prior ruling. For the years 2004-2012, there is no breakout of U.S. data; therefore, Plaintiffs may use the worldwide data. The objection is overruled. It should be made clear to the jury, however, that the only issue in this case is U.S. sales.
- PDX4. It appears this dispute was resolved as Plaintiffs revised their demonstrative. The demonstrative may be **used**.
- PDX2. The objections are **overruled**.
- PDX7, PDX8. The objections are **overruled**. Upon request, the jury will be reminded that demonstratives are not exhibits, etc.

The Court subtracted 7.5 minutes from each party's trial time because the disputes raised by the parties delayed the start of trial by 15 minutes (even though the Court began its conference 30 minutes before the start of trial).

For future disputes on exhibits, the Court directs the parties to include a column giving a brief description of what the exhibit at issue is.

IT IS SO ORDERED.

Dated: June 6, 2023



EDWARD M. CHEN
United States District Judge