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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. 1961

This order memorializes the Court’s June 13, 2023, ruling with respect to an exhibit that Defendants intend to use on cross-examination of Dr. McGuire: Exhibit No. 8124. The exhibit is a report written by the Bureau of Competition which is a division within the Federal Trade Commission. The report provides an overview of pharmaceutical patent settlement agreements filed with the Federal Trade Commission in 2017 under the Medicare Prescription Drug, Improvement and Modernization Act.

During a conference held outside the presence of the jury, Defendants clarified that they would not seek to *admit* the exhibit but did intend to elicit testimony from him based on his consideration of the document in preparing his report(s). The Court shall allow Defendants to use the exhibit in examination of the witness; however, it is not to be admitted or published to the jury, and Defendants is only permitted to refer to the exhibit as a document coming from a public source, and not the Federal Trade Commission specifically. This approach is

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1 consistent with the Court's earlier rulings in which it held that there are 403 problems with either
2 side referring to Federal Trade Commission approval or disapproval of patent settlement
3 agreements.

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5 **IT IS SO ORDERED.**

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7 Dated: June 13, 2023

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EDWARD M. CHEN
United States District Judge

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