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February 17, 2026

The Honorable Laurie Selber Silverstein
United States Bankruptcy Judge
United States Bankruptcy Court for the District of Delaware
824 North Market Street
6th Floor, Courtroom 2
Wilmington, DE 19801

Re: *In re Apple Tree Life Sciences, Inc.*, et al., Case No. 25-12177 (LSS)

Dear Judge Silverstein:

We write on behalf of the above-referenced debtors and debtors in possession (the "Debtors") regarding an emergent dispute over witness testimony for the hearing scheduled for February 19, 2026 at 10:00 a.m. (ET) (the "Hearing"), and to respond to the letter, dated February 17, 2026 (their "Letter"), from Ms. Rose Selden on behalf of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP (collectively, "Rigmora").

For the reasons discussed below, we respectfully request this Court (i) preclude the purported expert testimony at the Hearing of Dr. Rimm, Dr. Strebulaev, and Mr. Phillips, first disclosed by Rigmora on Monday, February 16, 2026; and (ii) deny Rigmora's request to compel the unnecessary deposition of Mr. Pohl prior to the Hearing and quash the deposition of Mr. Pohl at Docket No. 328.

This dispute concerns at least one motion being heard on February 19, 2026 – *Debtors' Motion for Entry of Order (I) Authorizing Use of Funds to (A) Fund Portfolio Companies, (B) Pay Management Company Expenses and (C) Pay Chapter 11 Expenses, and (II) Granting Related Relief* [Docket No. 228] (the "Second Funding Motion").[1] Even before the Second Funding Motion was filed, the Debtors repeatedly asked Rigmora whether Rigmora was objecting to funding to all ten portfolio companies or whether there was any willingness to consent to funding. Rigmora has intentionally avoided answering. It immediately served burdensome discovery (including document requests, interrogatories, depositions of each witness the Debtors intends to call and, now, corporate designee depositions for all ten portfolio companies (including certain nondebtors who are separately represented and were not properly noticed)) and filed its objection.

[1] Also being heard is the Debtors' request to approve debtor-in-possession financing on an interim basis. *See* Docket No. 313. The Debtors suspect that the proffered witnesses are not going to present testimony on the DIP Motion different than what they might say in connection with the Second Funding Motion.

Despite such discovery, Rigmora has said (including in a deposition) that several of the portfolio companies have substantial value and all should be considered to be salvaged. Indeed, on Friday, February 13, 2026, Rigmora informed this Court that it would consent to limited funding for eight (8) of the ten (10) portfolio companies from the Debtors' cash-on-hand.

To fully appreciate the context of these disputes, consider the following—by February 6, 2026, the Debtors had informed Rigmora of their intention to call four (4) witnesses for the Hearing: Dr. Seth Harrison, Mr. Perry Mandarino, Dr. Paul Eisenberg, and Ms. Meenu Karson. The Debtors worked with Rigmora's counsel to arrange depositions for these individuals on an expedited schedule, with depositions occurring on Friday, February 13 (Dr. Eisenberg), Monday, February 16 (Ms. Karson), Tuesday, February 17 (Dr. Harrison), and Wednesday, February 18 (Mr. Mandarino).[2] This is in addition to producing over 64,000 pages of material in response to four (4) lengthy sets of document requests and responding to sixteen (16) different interrogatories.

The Debtors also noticed two depositions, a Rule 30(b)(6) deposition of a corporate representative of Rigmora and a deposition of Mr. Phillips, who Rigmora identified as an expert in connection with the *Amended Motion of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP for an Order Dismissing the Bankruptcy Cases of ATP Life Science Ventures L.P. and ATP III GP, Ltd.* [Docket No. 204] (the "Motion to Dismiss") and the *Motion of Rigmora Biotech Investor One LP and Rigmora Biotech Investor Two LP for Relief from the Automatic Stay* [Docket No. 125] (the "Motion for Relief from Stay").

When Rigmora filed its objection to the Second Funding Motion on February 12, 2026, it did not attach any declarations or indicate an intention to offer any witness testimony. Indeed, it identified Dr. Lu of RTW Investments, LP as their expert to assist and consult (rather than testify), which prompted its own round of letters before this Court and, ultimately, Rigmora abandoning Dr. Lu.

Then, on Monday, February 16, 2026, Rigmora identified four new witnesses for the Hearing, including three experts. One was Dr. Rimm, allegedly a replacement for the abandoned Dr. Lu, but the other two were new: Dr. Strebulaev and Mr. Phillips. Each should be precluded.

A. Expert Testimony

i. Dr. Ilona Rimm & Dr. Ilya Strebulaev

On Monday, February 16, 2026, Rigmora informed the Debtors that it would not proceed with Dr. Lu's engagement. Instead, Rigmora, for the first time, identified Dr. Ilona Rimm as a scientific expert. According to Rigmora, Dr. Rimm is traveling outside of the United States "without consistent wifi access." Rigmora seeks to introduce Dr. Rimm's *expert* testimony by (yet to be filed) declaration without a guarantee that she can attend the hearing via Zoom; such tactics aim to prevent the Debtors from testing the veracity and depth of any of her opinions, conclusions, or reasoning prior to or at the Hearing. The Debtors promptly indicated their objection. The objection

[2] In addition, the Debtors are making three (3) corporate designees for the ten (10) portfolio companies available for deposition on Wednesday, February 18, 2026.

is ***not*** that Dr. Rimm should be barred from testifying at all but that if Rigmora cannot produce her live, it is unfair for them to use a declaration as her direct testimony and then make the Debtors hope the internet service works wherever Dr. Rimm so she can be cross-examined remotely, without this Court having the opportunity to assess her credibility in person. This is particularly important because Dr. Rimm did testify live in the Chancery Court proceedings, and the court there had the opportunity to assess her testimony.

After the Debtors informed Rigmora that they would not consent to Dr. Rimm's testimony by Declaration, at 11:42 p.m. (ET) on Monday, February 16, 2026, Rigmora's counsel informed the Debtors that Rigmora would also rely on the expert testimony of Dr. Ilya Strebulaev at the Hearing. With only two (2) business days before the hearing, the Debtors have no opportunity to probe and examine Mr. Strebulaev. Indeed, the Debtors do not know on which topics he intends to opine. While he testified in the Chancery Court proceeding, this Court is not relitigating the Debtors' win but considering matters arising under the Bankruptcy Code. The presentation of such testimony, without an adequate opportunity to prepare, is precisely what the discovery process aims to avoid.

In their Letter, Rigmora casts aspersions on Debtors' counsel and asserts that Rigmora's short notice with respect to Drs. Rimm and Strebulaev is solely the Debtors' fault. Not so. It was Rigmora's decision, not the Debtors', to employ a scientific expert employed by a direct competitor. And it was Rigmora's decision, not the Debtors', to wait until Monday before notifying the Debtors of their additional expert witnesses. Rigmora has known about the Debtors' intent to file the Second Funding Motion since January 20, 2026, and the Second Funding Motion was filed by January 29, 2026. Rigmora has known about the Debtors' meritorious opposition to Dr. Lu since February 4, 2026. Rigmora's dilatory decisions should not inure to the Debtors' prejudice.

The Court has authority under rule 37(c) of the Federal Rules of Civil Procedure, applicable here through rule 7037 of the Federal Rules of Bankruptcy Procedure, to exclude witness testimony where substantial prejudice will occur from non-disclosure or related gamesmanship. *Allscripts Healthcare, LLC v. Andor Health, LLC*, C.A. No. 21-704-MAK, 2022 U.S. Dist. LEXIS 134924, at *114-16 (D. Del. July 29, 2022) (noting that Federal Rule of Civil Procedure 37(c)(1) permits exclusion of expert testimony and explaining that courts should consider "(1) the prejudice or surprise in fact of the party against whom the excluded witnesses would have testified or the excluded evidence would have been offered; (2) the ability of that party to cure the prejudice; (3) the extent to which allowing such witnesses or evidence would disrupt the orderly and efficient trial of the case or of other cases in the court; (4) any bad faith or willfulness in failing to comply with the court's order; and (5) the importance of the excluded evidence") (quoting *ZF Meritor, LLC v. Eaton Corp.*, 696 F.3d 254, 298 (3d Cir. 2012)) (citation modified). Here, Rigmora's failure to timely disclose and make its experts available to the Debtors will prejudice the Debtors' ability to prepare for the Hearing and defend their motions thereat. Moreover, given the short time until the Hearing, this prejudice cannot be cured absent the Court's exclusion of these experts. The Debtors submit that such prejudice warrants exclusion.

Accordingly, the Debtors respectfully request that the Court decline to consider such testimony.

ii. Mr. Mark Phillips, KC

The Court should not consider the testimony of Mr. Phillips in connection with the Hearing. When the Debtors identified their witnesses on February 6, 2026, the Debtors requested that Rigmora extend the same courtesy. At that time, the only witness Rigmora had identified by February 6, 2026 was Dr. Lu (as discussed above). The Debtors assumed, based on the declaration of Mr. Phillips submitted in connection with the Motion for Relief from Stay, that he would be called for that hearing. When the Debtors attempted to schedule Mr. Phillips's deposition in London for the week of February 9 (in accordance with the Scheduling Order [Docket No. 248] on the Motion to Dismiss and Motion for Relief from Stay), Rigmora apprised the Debtors of Mr. Phillips's upcoming surgery and needed recovery period. Rigmora declined the Debtors' proposal of February 13, 2026, and later February 16, 2026, and represented to the Debtors that Mr. Phillips would not be medically cleared until February 22, 2026.

To accommodate Mr. Phillips's health needs and work cooperatively with Rigmora, and on the understanding that Mr. Phillips would be unavailable at and would not testify during the Hearing, the Debtors agreed to proceed with a deposition on February 22, 2026 in advance of the February 25, 2026 hearing on the Motion to Dismiss and Motion for Relief from Stay. On Monday, February 16, 2026—three (3) days before the Hearing and one of the days the Debtors had requested to depose Mr. Phillips—Rigmora informed the Debtors that Mr. Phillips had been medically cleared and would now be testifying at the Hearing. While the Debtors are pleased that Mr. Phillips has recovered, the timing is such that a deposition of Mr. Phillips (who we understand is resident in and presumably traveling from London) is not possible prior to the Hearing, especially in light of the four (4) depositions already scheduled between now and the Hearing.

Accordingly, the Debtors request that Mr. Phillips's expert opinions be excluded.

B. Testimony of Tim Pohl

On February 9, 2026, Mr. Pohl was appointed as an Independent Director at ATP III GP, Ltd. *See* Docket No. 316-2. Despite the seven (7) depositions Rigmora has already scheduled (and the Debtors have accommodated) on an expedited timeline, Rigmora seeks to take yet another deposition. On Sunday, February 15, 2026, Rigmora filed its *Notice of Deposition*, unilaterally scheduling the deposition of Mr. Timothy Pohl for Wednesday, February 18, 2026. When Debtors' counsel attempted to coordinate with Rigmora, the Debtors explained that they did not intend to submit any declaration or testimony at the Hearing on behalf of Mr. Pohl. Despite this representation, Rigmora demanded a further representation that the Debtors will not rely on "any decision taken or judgment exercised by Mr. Pohl" at the Hearing. Rigmora cries foul, asserting that because Mr. Pohl was "consulted" in connection with the Debtors' pending DIP Motion, Rigmora should be able to depose him on shortened notice on a date when Rigmora is already conducting four (4) depositions of Debtor representatives. This cannot be countenanced. At the Hearing, the DIP Motion will be considered, if at all, only on an interim basis, and only *if* the relief requested in the Debtors' Second Funding Motion [Docket No. 228] is denied. Interim DIP hearings commonly proceed without formal or informal discovery, and Rigmora has identified no

reason why such deposition is necessary. The Debtors are ***not*** calling Mr. Pohl to testify at the Hearing. Rigmora cannot require a *fifth* deposition the day before the Hearing to oppose a conditional, interim DIP request. Such request is unduly burdensome and disproportional in light of the interim nature of the relief. Moreover, the Debtors have not, and would not, oppose a deposition of Mr. Pohl on *reasonable* notice (*i.e.* seven (7) days, *see* Del. Bankr. L.R. 7030-1(b)) in advance of a final hearing on the DIP Motion, to the extent necessary. Accordingly, the Court should deny Rigmora's request to compel a deposition of Mr. Pohl on Wednesday, February 18, 2026, and sustain the Debtors' request to quash that deposition (as currently noticed).

C. Conclusion

The motions to be considered at the Hearing are an important and necessary aspect of the Debtors' restructuring. Rigmora seeks to gain an unfair advantage at the Hearing by presenting untested expert testimony on shortened notice and by requiring burdensome, disproportionate discovery and depositions. The Court should prevent such abuse of the discovery process and ensure a fair hearing on the merits can proceed.

Respectfully submitted,

Sincerely,

/s/ L. Katherine Good
L. Katherine Good

LKG

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