

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ELI LILLY AND COMPANY, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:21-cv-00081-SEB-MJD
	)	
UNITED STATES DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES, et al.,	)	
	)	
Defendants.	)	

**ORDER**

In our October 29, 2021 Order addressing the parties' cross-motions for summary judgment, we ruled on Plaintiffs' claims brought pursuant to the Administrative Procedures Act ("APA") challenging the HHS's General Counsel's December 30, 2020 Advisory Opinion (Counts I, II, III, and IV) and HRSA's May 17, 2021 Enforcement Letter (Counts X, XI, XII, and XIII). Our rulings with regard to those claims have been cross appealed by the parties, which appeals are currently pending before the Seventh Circuit.

Pursuant to the parties' agreement that a final decision on Plaintiffs' claims challenging Defendants' December 14, 2020 Administrative Dispute Resolution Regulation published at 85 Fed. Reg. 80,632 and codified at 42 C.F.R. §§ 10.20–24 (the "ADR Rule") could be issued by separate order at a later date, we stated in our October 29, 2021 summary judgment order that we would "address the parties' cross-motions for summary judgment as to Plaintiffs' APA claims challenging the ADR Rule (Counts V,

VI, VII, VIII, and IX) in due course." Dkt. 144 at 61. Defendants are currently enjoined from enforcing the ADR Rule as to Plaintiffs pursuant to our prior ruling granting Plaintiffs' motion for preliminary injunctive relief. *See* Dkt. 81.

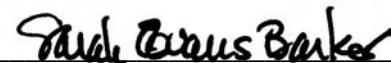
To date we have refrained from ruling on the parties' cross-motions for summary judgment regarding Plaintiffs' ADR claims in light of the parties' pending cross-appeals at the Seventh Circuit. Given the length of time since our summary judgment order was issued, and the continued uncertainty of the timing of an appellate ruling, the parties are hereby ORDERED to meet and confer and submit to the Court a joint status report replying to the following questions:

- (1) Have Defendants promulgated and/or issued any revised and/or amended ADR procedures since the issuance of the preliminary injunction in this case; if so, does the administrative record in the case at bar require supplementation?
- (2) Should the Court address the parties' cross-motions for summary judgment as to Plaintiffs' ADR claims prior to a resolution of the parties' pending cross-appeals? If not, could those motions be administratively closed pending the Seventh Circuit's decision?

The parties shall file their joint status report within twenty-one (21) days of the date of this order.

IT IS SO ORDERED.

Date: 4/20/2023



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

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Nicholas Blake Alford  
FAEGRE DRINKER BIDDLE & REATH LLP (Indianapolis)  
Nicholas.Alford@faegredrinker.com

Joseph Neal Bowling  
LEWIS WAGNER, LLP  
nbowling@lewiswagner.com

Ronald S. Connelly  
POWERS PYLES SUTTER & VERVILLE, P.C.  
ron.connelly@powerslaw.com

Kathryn Elias Cordell  
KATZ KORIN CUNNINGHAM, P.C.  
kcordell@kkclegal.com

Dina M. Cox  
LEWIS WAGNER, LLP  
dcox@lewiswagner.com

Margaret M. Dotzel  
ZUCKERMAN SPAEDER LLP  
mdotzel@zuckerman.com

Matthew Sidney Freedus  
FELDESMAN TUCKER LEIFER FIDELL LLP  
mfreedus@ftlf.com

Rosie Dawn Griffin  
FELDESMAN TUCKER LEIFER FIDELL LLP  
rgriffin@ftlf.com

Casey Trombley-Shapir Jonas  
ZUCKERMAN SPAEDER LLP  
cjonas@zuckerman.com

Andrew A. Kassof  
KIRKLAND & ELLIS LLP - Chicago  
akassof@kirkland.com

Jody D. Lowenstein  
United States Department of Justice  
jody.d.lowenstein@usdoj.gov

Alice McKenzie Morical  
HOOVER HULL TURNER LLP  
amorical@hooverhullturner.com

John C. O'Quinn  
KIRKLAND & ELLIS LLP  
john.oquinn@kirkland.com

Matthew S. Owen  
KIRKLAND & ELLIS LLP  
matt.owen@kirkland.com

Brian J. Paul  
FAEGRE DRINKER BIDDLE & REATH LLP (Indianapolis)  
brian.paul@faegredrinker.com

Andrea Roberts Pierson  
FAEGRE DRINKER BIDDLE & REATH LLP (Indianapolis)  
andrea.pierson@faegredrinker.com

William B. Schultz  
ZUCKERMAN SPAEDER LLP  
wschultz@zuckerman.com

Kate Talmor  
U.S. DEPARTMENT OF JUSTICE (Washington DC)  
kate.talmor@usdoj.gov

Brendan Michael Tyler  
FELDESMAN TUCKER LEIFER FIDELL LLP  
btyler@ftlf.com

Christopher D. Wagner  
HOOVER HULL TURNER LLP  
cwagner@hooverhullturner.com

Diana M. Watral  
KIRKLAND & ELLIS LLP - Chicago  
diana.watral@kirkland.com