

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

ELI LILLY AND COMPANY, and
LILLY USA, LLC

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,

Defendants.

No. 1:21-cv-81-SEB-MJD

**DEFENDANTS' MOTION TO FILE OPPOSITION TO INTERVENTION NUNC
PRO TUNC**

Defendants respectfully request that they be granted leave of court to file, *nunc pro tunc*, an Opposition to Proposed Intervenors' Motion to Intervene.

On February 19, 2021, Proposed Intervenors filed their Motion to Intervene in this action. *See* ECF No. 40. Plaintiffs' and Defendants' responses were due this past Friday, March 5, 2021.

As discussed during this Court's hearing on Plaintiffs' Motion for Preliminary Injunction on February 26, 2021, undersigned counsel are handling a number of active, related cases throughout the country stemming from recent actions by Plaintiffs and with deadlines falling close in time. Specifically, Proposed Intervenors' motion was filed while undersigned counsel was preparing for oral argument in this matter and simultaneously preparing an Opposition to a Motion for Preliminary Injunction in a related case. *See Sanofi-Aventis U.S. LLC v. HHS*, No. 3:21-cv-634 (D.N.J.), ECF No. 29 (filed February 25, 2021). Unfortunately, Defendants inadvertently failed to timely file their Opposition to Intervention this past Friday, March 5. This failure was due entirely to an oversight by undersigned counsel in mis-calendaring the deadline while juggling frequent deadlines in related cases.

Defendants respectfully move the Court to permit Defendants to file their Opposition *nunc pro tunc* and effective tomorrow, March 9, 2021. Defendants are prepared to file their Opposition on that day. Although undersigned counsel apologizes to the Court for her inadvertence, because the case is still in its early stages, no party will be prejudiced by this slight delay.

A proposed order is attached for the convenience of the Court.

Dated: March 8, 2021

Respectfully submitted,

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MICHELLE R. BENNETT
Assistant Branch Director

/s/ Kate Talmor
KATE TALMOR
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PROPOSED ORDER GRANTING EXTENSION NUNC PRO TUNC

In consideration of Defendants' request *nunc pro tunc* for a two-business day extension of their deadline to oppose Proposed Intervenors' Motion for Intervention, ECF No. 40, good cause having been shown, the Court hereby GRANTS the request and orders:

- Defendants may file their opposition brief on March 9, 2021, and such brief will be deemed timely filed

Dated: _____

Signed: _____
The Honorable Sarah Evans Barker

Order served on all counsel of record via ECF