

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NOVARTIS PHARMACEUTICALS
CORPORATION,

Plaintiff,

v.

DIANA ESPINOSA,
Acting Administrator, Health Resources and
Services Administration, *et al.*,

Defendants.

No. 21-cv-1479 (DLF)

UNITED THERAPEUTICS
CORPORATION,

Plaintiff,

v.

DIANA ESPINOSA,
Acting Administrator, Health Resources and
Services Administration, *et al.*,

Defendants.

No. 21-cv-1686 (DLF)

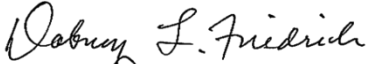
ORDER

The case is before the Court on a remand from the U.S. Court of Appeals for the District of Columbia Circuit “for the limited purpose of explaining whether it contemplates any further proceedings on the claim for injunctive relief or whether the district court’s decision is final.” D.C. Cir. Order at 3, Dkt. 35. The Court’s decision was final. It contemplated no additional proceedings.

In its November 5, 2021 Memorandum Opinion, Dkt. 32, and accompanying Order, Dkt. 31, the Court granted in part and denied in part the plaintiffs' Motions for Summary Judgment. The Court also stated that it denied the defendants' Motions for Summary Judgment. Order, Dkt. 31. This was incorrect. The Court should have framed its order as one denying in part *and granting in part* the defendants' Motions for Summary Judgment.

The Court denied the manufacturers certain declaratory and injunctive relief that they requested. Namely, the Court declined to declare either that Section 340B permits the manufacturers' *specific* conditions on offers of 340B-priced drugs, or that HRSA can never initiate a successful future enforcement action against the manufacturers. *See* Compl. at 25, Dkt. 1 (*Novartis*); Compl. at 51, Dkt. 1 (*United Therapeutics*). In doing so, the Court necessarily granted in part the defendants' motions for summary judgment, but it did not reach the merits of either issue. When the Court stated that it would not issue this requested relief "at this time," Mem. Op. at 20, Dkt. 32, the Court merely intended to leave open the possibility that, in a future case, the parties could persuade a court that Section 340B either permits or prohibits the specific conditions at issue.

For the above reasons, as corrected, the Court's November 5, 2021 Memorandum Opinion, Dkt. 32, and Order, Dkt. 31, are the Court's final decision in this case.


DABNEY L. FRIEDRICH
United States District Judge

October 31, 2022