

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED THERAPEUTICS CORPORATION,

Plaintiff,

v.

DIANA ESPINOSA, Acting Administrator of
U.S. Health Resources and Services
Administration, U.S. HEALTH RESOURCES
AND SERVICES ADMINISTRATION,
XAVIER BECERRA, Secretary of Health and
Human Services, and U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

Case No. 1:21-cv-1686

**JOINT MOTION TO ESTABLISH SCHEDULE FOR PLAINTIFF'S FORTHCOMING
MOTION FOR PRELIMINARY INJUNCTION OR SUMMARY JUDGMENT IN THE
ALTERNATIVE AND DEFENDANTS' CROSS-MOTION FOR SUMMARY
JUDGMENT**

The parties in the above-captioned action have conferred and respectfully request that the Court enter a stipulated schedule governing the briefing for Plaintiff's forthcoming motion for preliminary injunction or summary judgment in the alternative, and for Defendants' cross-motion for summary judgment.

Plaintiff's complaint includes claims under the Administrative Procedure Act challenging Defendant U.S. Health Resources and Services Administration's May 17 and May 28, 2021 determinations that Plaintiff United Therapeutics Corporation is violating its obligations under the 340B statute, 42 U.S.C. § 256b. The parties anticipate that this case should be decided on the basis of the administrative record and that this action most efficiently can be decided through cross-

motions presenting pure questions of law. Accordingly, the parties have conferred and respectfully request that the Court adopt the following schedule for proceedings in this case:

- Defendants will produce the administrative record on **July 9, 2021**;
- Plaintiff will move for a preliminary injunction or summary judgment in the alternative on **July 16, 2021**;
- Defendants will file a combined cross-motion for summary judgment and opposition to Plaintiff's motion for a preliminary injunction or summary judgment in the alternative on **August 10, 2021**;
- Plaintiff will file a combined reply in support of its motion for a preliminary injunction or summary judgment in the alternative and opposition to Defendants' cross-motion for summary judgment on **August 24, 2021**;
- Defendants will file a reply in support of their cross-motion for summary judgment on **August 31, 2021**;
- Defendants' obligation to file an answer to the complaint is stayed until after the Court resolves the cross-motions for summary judgment, if necessary.

The parties appreciate the Court's consideration and respectfully request entry of the attached proposed order.

Date: July 7, 2021

Respectfully submitted,

/s/ Philip J. Perry

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