## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

NOVARTIS PHARMACEUTICALS CORPORATION,

Plaintiff,

v.

No. 21-cv-1479 (DLF)

DIANA ESPINOSA,

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

Defendants.

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.

Johny L. Friedrich DABNEY L. FRIEDRICH

United States District Judge

October 31, 2022

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