

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ASTRAZENECA PHARMACEUTICALS LP,

Plaintiff,

v.

XAVIER BECERRA, et al.,

Defendants.

C.A. No. 21-27-LPS

JOINT STATUS REPORT

The undersigned counsel respectfully submit this joint status report pursuant to the Court's oral order that the parties provide the Court with "any updates that the parties would like to share with the Court." (D.I. 109). Plaintiff respectfully reiterates its request for an expeditious ruling from this Court on the parties' cross-motions for summary judgment (D.I. 90, 92), in view of the ongoing harms Plaintiff believes it is suffering. *See* D.I. 104 at 4-5 (AstraZeneca's statement of harm).

1. Other Court Proceedings

As noted in the parties' prior status reports and notice of supplemental authority (D.I. 104, 106, 107, 108), other district courts have ruled on challenges similar to the one at issue here:

- *Eli Lilly and Company v. Becerra*, No. 21-cv-81 (S.D. Ind.) - issued Oct. 29, 2021
- *Sanofi-Aventis U.S., LLC v. HHS*, No. 21-cv-634 (D.N.J.) - issued Nov. 5, 2021
- *Novo Nordisk, Inc. v. HHS*, No. 21-cv-806 (D.N.J.) - issued Nov. 5, 2021
- *Novartis Pharma. Corp. v. Espinosa*, No. 21-cv-1479 (D.D.C.) - issued Nov. 5, 2021
- *United Therapeutics Corp. v. Espinosa*, No. 21-cv-1686 (D.D.C.) - issued Nov. 5, 2021

Those decisions have now been appealed by both sides:

Third Circuit

- *Sanofi-Aventis U.S., LLC v. HHS*, No. 21-3167 (manufacturer appeal)
- *Novo Nordisk Inc. v. HHS*, No. 21-3168 (manufacturer appeal)
- *Sanofi-Aventis U.S. LLC v. HHS*, No. 21-3379 (government cross-appeal)
- *Novo Nordisk Inc. v. HHS*, No. 21-3380 (government cross-appeal)

Seventh Circuit

- *Eli Lilly & Co. v. Becerra*, No. 21-3128 (manufacturer appeal)
- *Eli Lilly & Co. v. HHS*, No. 21-3405 (government cross-appeal)

District of Columbia Circuit

- *Novartis Pharma. Corp. v. Espinosa*, No. 21-5299 (government appeal)
- *United Therapeutics Corp. v. Espinosa*, No. 21-5304 (government appeal)

Appeals within the same circuit have been consolidated. The respective appellate courts have not yet established briefing schedules for the merits of the appeals.

2. Administrative Dispute Resolution (ADR)

As the Court is aware, four separate ADR petitions have been filed against AstraZeneca and have been assigned to panels for formal proceedings. On December 20, 2021, and January 4, 2022, AstraZeneca filed motions to stay those proceedings pending (*inter alia*) the decision in this case and any subsequent appeal as of right to the Third Circuit, arguing that the resolution of this case is likely to directly affect the issues presented in the ADR proceedings. The ADR petitioners have not yet filed their oppositions to AstraZeneca's stay motions, which are due January 10 and January 25.

3. Civil Monetary Penalties (CMPs)

As the Court is aware, HRSA has referred AstraZeneca to the Office of the Inspector General for CMP proceedings based on AstraZeneca's contract pharmacy policy. AstraZeneca has not had further communication with the Office of Inspector General subsequent to the conversation of November 8, 2021, on which AstraZeneca reported in the last status report, *see* D.I. 108 at 5-6.

Dated: January 7, 2022

MCCARTER & ENGLISH, LLP

/s/ Daniel M. Silver

Michael P. Kelly (#2295)
Daniel M. Silver (#4758)
Alexandra M. Joyce (#6423)
Renaissance Centre
405 N. King St., 8th Floor
Wilmington, DE 19801
Tel.: (302) 984-6300
Fax: (302) 984-6399
mkelly@mccarter.com
dsilver@mccarter.com
ajoyce@mccarter.com

Of Counsel:

Allon Kedem
Jeffrey L. Handwerker
Sally L. Pei
Stephen K. Wirth
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Tel.: (202)942-5000
Fax: (202) 942-5999
allon.kedem@arnoldporter.com
jeffrey.handwerker@arnoldporter.com
sally.pei@arnoldporter.com
stephen.wirth@arnoldporter.com

*Attorneys for Plaintiff AstraZeneca
Pharmaceuticals LP*

UNITED STATES DEPARTMENT OF JUSTICE

BRIAN M. BOYNTON
Acting Assistant Attorney General

MICHELLE BENNETT
Assistant Branch Director

/s/ Kate Talmor

Kate Talmor
Jody Lowenstein
United States Department of Justice
Civil Division
Federal Programs Branch
1100 L Street NW
Washington, DC 20005
(202) 305-5267
kate.talmor@usdoj.gov

Attorneys for Defendants