

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 21-3167, 21-3379

SANOFI AVENTIS U.S. LLC,
Appellant in No. 21-3167

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; SECRETARY, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; GENERAL COUNSEL, UNITED STATES DEPARTMENT OF HEALTH HUMAN SERVICES; HEALTH RESOURCES SERVICES ADMINISTRATION; ADMINISTRATOR OF THE HEALTH RESOURCES SERVICES ADMINISTRATION,
Appellants in No. 21-3379

On Appeal from the United States District Court
for the District of New Jersey
(D.C. No. 3:21-cv-00634)
Chief District Judge: Honorable Freda L. Wolfson

Nos. 21-3168, 21-3380

NOVO NORDISK INC.; NOVO NORDISK PHARMA, INC.
Appellants in No. 21-3168

v.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; SECRETARY, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; GENERAL COUNSEL, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; HEALTH RESOURCES SERVICES ADMINISTRATION; ADMINISTRATOR OF THE HEALTH RESOURCES SERVICES ADMINISTRATION,
Appellants in No. 21-3380

On Appeal from the United States District Court
for the District of New Jersey
(D.C. No. 3:21-cv-00806)

Chief District Judge: Honorable Freda L. Wolfson

No. 22-1676

ASTRAZENECA PHARMACEUTICALS LP

v.

SECRETARY, UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; GENERAL COUNSEL, UNITED STATES DEPARTMENT OF HEALTH HUMAN SERVICES; ADMINISTRATOR OF THE HEALTH RESOURCES AND SERVICES ADMINISTRATION; UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES; HEALTH RESOURCES AND SERVICES ADMINISTRATION,
Appellants

On Appeal from the United States District Court
for the District of Delaware
(D.C. No. 1:21-cv-00027)
District Judge: Honorable Leonard P. Stark

Argued: November 15, 2022

Before: AMBRO, KRAUSE, and BIBAS, *Circuit Judges*

JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of Delaware and the United States District Court for the District of New Jersey and was argued on November 15, 2022.

On consideration whereof, it is now **ORDERED** and **ADJUDGED** that the District Court of Delaware's judgment entered on March 11, 2022, and the District of New Jersey's judgment entered on November 5, 2021, are hereby **AFFIRMED IN PART** and **REVERSED IN PART**. We **REMAND** with instructions to enjoin the agency from enforcing against these three drug makers its reading of Section 340B as requiring delivery of discounted drugs to an unlimited number of contract pharmacies. We also instruct the District Courts to enter declaratory relief to that effect. Costs will not be taxed. All of the above in accordance with the Opinion of this Court.

ATTEST:

s/ Patricia S. Dodszeit
Clerk

Dated: January 30, 2023

PATRICIA S. DODSZUWEIT

CLERK



OFFICE OF THE CLERK

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RE: Sanofi Aventis US LLC v. United States HHS, et al
Case Numbers: 21-3167, 21-3168, 21-3379, 21-3380, 22-1676
District Court Case Number: 3-21-cv-00634

ENTRY OF JUDGMENT

Today, **January 30, 2023** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

s/ Pamela Batts- Case Manager