

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NOVO NORDISK INC. and
NOVO NORDISK PHARMA, INC.,

Plaintiffs,

v.

XAVIER BECERRA,
U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, CHIQUITA BROOKS-
LASURE, and CENTERS FOR MEDICARE
AND MEDICAID SERVICES,

Defendants.

No. 3:23-cv-20814-GC-JBD

**JOINT MOTION TO ESTABLISH
BRIEFING SCHEDULE AND FOR RELATED RELIEF**

Pursuant to Federal Rule of Civil Procedure 7(b) and Local Rules 7.1 and 7.2, plaintiffs Novo Nordisk Inc. and Novo Nordisk Pharma, Inc. (collectively, “Novo”) and defendants the U.S. Department of Health and Human Services, et al. (collectively, “Defendants”) jointly move to establish a briefing schedule for this matter and for the related relief described below.

1. On September 29, 2023, Novo filed this action seeking declaratory and injunctive relief with respect to both (1) certain administrative actions taken by Defendants as applied to Novo in connection with implementing the “Drug Price Negotiation Program” established by the Inflation Reduction Act of 2022, and (2) the constitutionality of that federal statute.

2. The parties have conferred and agree that this case raises legal questions that are properly resolved through dispositive motions, without the need for discovery or trial. Accordingly, the parties intend to file cross-motions for summary judgment pursuant to Federal Rule of Civil Procedure 56.

3. The parties therefore respectfully request that the Court establish the following, agreed-upon schedule for summary judgment briefing.

- Novo will file a memorandum in support of its forthcoming motion for summary judgment by December 8, 2023, not to exceed 60 pages.
- Defendants will file a combined memorandum in support of their own cross-motion for summary judgment, and opposing Novo's motion, by January 26, 2024, not to exceed 80 pages.
- Novo will file a combined reply in support of its motion and opposition to HHS's cross-motion by February 23, 2024, not to exceed 40 pages.
- Defendants will file a reply in support of their cross-motion by March 22, 2024, not to exceed 30 pages.

4. To avoid the need for seeking emergency relief, and to ensure that the parties are heard on their respective positions before negotiations conclude, Plaintiffs respectfully request that the Court schedule oral argument and issue a decision as promptly as possible after the conclusion of briefing. Defendants defer to the Court regarding the timing of a decision and any oral argument.

5. The parties believe there is good cause to grant leave to file reply briefs, on the schedule proposed above, under Local Rule 7.1(h). The parties also respectfully request that the Court allow each brief described above to exceed this Court's default page limitations as set forth above, in view of the nature of this case and consolidated briefing on two parallel motions.

6. Because this case involves legal questions regarding administrative actions taken by Defendants and the constitutionality of a federal statute, the parties further respectfully request that the Court dispense with (a) the requirement under Local Rule 56.1(a) that motions for summary judgment be accompanied by separate statements of undisputed material facts, (b) Defendants' obligation to file an Answer to the Complaint, and (c) Defendants' obligation (if any) to prepare or file an administrative record.

7. The parties do not believe that separate statements of undisputed materials facts or an Answer would serve a useful purpose in this matter. The parties also believe that the claims raised in this case can be effectively briefed without Defendants producing an administrative record, although the parties reserve their right to revisit that issue if, in the course of this litigation, a dispute over the administrative record materializes. To the extent the parties intend to reference any administrative documents, they will submit them by attaching or linking to them in their briefs. The parties reserve the right to object to any submitted documents.

8. There is good cause to grant the relief requested because the parties' joint proposal would conserve both the Court's and the parties' resources by consolidating all of the issues into a single round of briefing.

Dated: November 1, 2023

Respectfully submitted,

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