

MINUTE ORDER. Upon consideration of the 18 Joint Motion for Briefing Schedule, it is hereby ORDERED that the motion is GRANTED. It is further ordered that Plaintiff shall file its motion for summary judgment and memorandum in support of that motion, not to exceed 45 pages, on or before April 28, 2026; Defendants shall file their motion to dismiss and cross-motion for summary judgment and a single memorandum in support of those motions and opposing Plaintiff's motion, not to exceed 55 pages, on or before June 12, 2026; Plaintiff shall file a combined reply in support of its motion and opposition to Defendants' cross-motion, not to exceed 50 pages, on or before July 13, 2026; Defendants shall file a reply in support of their motions, not to exceed 35 pages, on or before August 5, 2026. Defendants need not file the administrative record or an answer to the complaint. The requirement to provide separate statements of material facts, L. Civ. R. 7(h)(1), shall not apply to the parties' cross-motions for summary judgment in this matter. So ORDERED by Judge Carl J. Nichols on 4/3/2026. (lccjn1) (Entered: 04/03/2026)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ABBVIE INC.,

Plaintiff,

v.

U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES, *et al.*,

Defendants.

Case No. 1:26-cv-00431 (CJN)

JOINT MOTION TO SET BRIEFING SCHEDULE AND FOR OTHER RELIEF

Pursuant to Local Civil Rule 7 of the Rules of the United States District Court for the District of Columbia, Plaintiff and Defendants respectfully move jointly to set a briefing schedule governing the parties' forthcoming dispositive motions, and for related relief outlined below.

1. On February 11, 2026, Plaintiff filed this action seeking declaratory and injunctive relief. Dkt. 1.

2. Defendants seek to extend their time to answer or otherwise respond to the complaint by 60 days, from April 13, 2026, to June 12, 2026, due to the press of other significant litigation deadlines. The parties have met and conferred, and Plaintiff consents to the requested extension without prejudice to Plaintiff's ability to seek emergency relief, if necessary, on a later date.

3. The parties agree that this case presents legal questions about the lawfulness of certain agency action and the constitutionality of a federal statute, which can properly be resolved through dispositive motions, without the need for discovery or an administrative record. The parties accordingly intend to file cross-motions for summary judgment pursuant to Federal Rule of Civil Procedure 56. Defendants also intend to file a motion to dismiss, but the parties agree that

briefing on that motion can be combined with the briefing on the parties' cross-motions for summary judgment.

4. The parties jointly propose the following schedule for those cross-motions:
 - Plaintiff will file a memorandum in support of its forthcoming motion for summary judgment by April 28, 2026, not to exceed 45 pages.
 - Defendants will file a combined motion to dismiss and cross-motion for summary judgment and a combined memorandum in support of their motions and opposing Plaintiff's motion by June 12, 2026, not to exceed 55 pages.
 - Plaintiff will file a combined reply in support of its motion and opposition to Defendants' cross-motion by July 13, 2026, not to exceed 50 pages.
 - Defendants will file a reply in support of their motions by August 5, 2026, not to exceed 35 pages.

5. The additional pages are necessary to fully and adequately brief the parties' multiple motions, including the merits of Plaintiff's various statutory and constitutional claims, as well as jurisdictional arguments that Defendants are likely to raise.

5. Plaintiff's position is that, absent action by this or another Court, Defendant the Centers for Medicare and Medicaid Services will be required by statute to publish the "maximum fair price" for BOTOX® by November 30, 2026. 42 U.S.C. § 1320f-4(a)(1). To avoid the need for seeking emergency relief, Plaintiff thus respectfully requests that the Court expedite the scheduling of any oral argument on the motions and issue a decision by November 1, 2026. Defendants do not believe expedition is necessary, do not join in Plaintiff's request, and do not join in Plaintiff's characterization of the statutory scheme, above. Defendants defer to the Court on the timing of any argument and a decision.

6. Because this case involves challenges to agency action as in excess of statutory authority under Section 706(2)(C) of the Administrative Procedure Act (or, alternatively, as *ultra vires*) and to the constitutionality of a federal statute, the parties further respectfully request that the Court dispense with Local Civil Rule 7(h)(1)'s requirement that motions for summary judgment be accompanied by separate statements of material facts.

7. The parties further agree that an administrative record is not necessary to adjudicate Plaintiff's claims and that Defendants will not submit an administrative record in this matter. To the extent any party intends to reference any administrative documents not already publicly available, the party will submit them to the Court by attaching the documents as exhibits to its briefs or supporting declarations. Each party reserves the right to object to any documents submitted in this way.

8. For essentially the same reasons, the parties respectfully request that the Court also dispense with Defendants' obligation to file an answer to the complaint.

CONCLUSION

For the foregoing reasons, the parties respectfully request that the Court (1) order the above agreed-upon schedule and page limits for briefing on the parties' forthcoming cross-motions for summary judgment; (2) dispense with the parties' obligations to file statements of material fact with the motions; and (3) dispense with Defendants' obligations to file the administrative record or an answer to the complaint.

Dated: April 1, 2026
Washington, DC

Respectfully submitted,

By: /s/ Kannon K. Shanmugam

Kannon K. Shanmugam (D.C. Bar 474304)
Eleanor K. Ritter (D.C. Bar 90041795)*
PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
2001 K Street, N.W.
Washington, DC 20006-1047
Tel: (202) 223-7300
Fax: (202) 204-7397

S. Conrad Scott (D.C. Bar 1685829)*
Joshua A. Altman (N.Y. Bar 6006019)*
PAUL, WEISS, RIFKIND,
WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019
(212) 373-3000

*Admitted *pro hac vice*

Counsel for Plaintiff AbbVie Inc.

BRETT A. SHUMATE
Assistant Attorney General
Civil Division

ELIZABETH J. SHAPIRO
Deputy Director
Federal Programs Branch

/s/ Stephen M. Pezzi
STEPHEN M. PEZZI (D.C. Bar 995500)
Senior Trial Counsel
PARDIS GHEIBI (D.C. Bar 90004767)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, DC 20005
Tel: (202) 305-8576
Email: stephen.pezzi@usdoj.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 2026, a true and correct copy of the foregoing was electronically filed and served via this Court's CM/ECF system upon any parties or counsel of record registered with the CM/ECF system.

/s/ Kannon K. Shanmugam
Kannon K. Shanmugam

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U.S. DEPARTMENT OF HEALTH AND HUMAN
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Case No. 1:26-cv-00431 (CJN)

**[PROPOSED] ORDER GRANTING JOINT MOTION
TO SET BRIEFING SCHEDULE AND FOR OTHER RELIEF**

Good cause appearing, the Court hereby ORDERS:

1. Plaintiff shall file its motion for summary judgment and memorandum in support of that motion, not to exceed 45 pages, by April 28, 2026.
2. Defendants shall file their motion to dismiss and cross-motion for summary judgment and a single memorandum in support of those motions and opposing Plaintiff's motion, not to exceed 55 pages, by June 12, 2026.
3. Plaintiff shall file a combined reply in support of its motion and opposition to Defendants' cross-motion, not to exceed 50 pages, by July 13, 2026.
4. Defendants shall file a reply in support of their motions, not to exceed 35 pages, by August 5, 2026.
5. Defendants need not file the administrative record or an answer to the complaint.
6. The requirement to provide separate statements of material facts, L. Civ. R. 7(h)(1), shall not apply to the parties' cross-motions for summary judgment in this matter.

SO ORDERED.

The Honorable Carl J. Nichols
United States District Judge