

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NOVO NORDISK INC., *et al.*,

Plaintiffs-Appellants,

v.

XAVIER BECERRA, U.S. Secretary of Health &
Human Services, *et al.*,

Defendants-Appellees.

No. 24-2510

**UNOPPOSED MOTION OF THE UNITED STATES FOR 30-DAY
EXTENSION OF TIME IN WHICH TO FILE RESPONSE BRIEF**

For the reasons that follow, the United States respectfully moves the Court for a 30-day extension of time, to and including December 16, 2024, within which to file its response brief in this case. Appellants consent to this request, subject to their note on scheduling provided below. In support of this motion, the government states the following:

1. Appellants filed their opening brief on October 15, 2024. The government's response brief is due November 14, 2024. The government has not requested any prior extensions, and no oral argument date has been set.

2. The requested extension is necessary to allow the government adequate time to prepare its response. Catherine Padhi is the attorney with primary responsibility for drafting the government's response brief in this case, and she has been occupied with several other appellate matters during the briefing period, including *R.J. Reynolds Tobacco Co. v. FDA*, No. 24-189 (U.S.) (brief in opposition filed October 21, 2024); *FDA v. SWT Global Supply, Inc.*, No. 24-474 (U.S.) (petition for a writ of certiorari filed October 29, 2024); *Bristol Myers Squibb v. Becerra*, No. 24-1820 (3d Cir.) (presented oral argument on October 30, 2024); *Janssen Pharmaceuticals v. Becerra*, No. 24-1821 (3d Cir.) (presented oral argument on October 30, 2024); *Johnny Copper LLC v. FDA*, No. 24-13302 (3d Cir.) (stay opposition due November 12, 2024); *Aranda v. Social Security Administration*, No. 24-11548 (11th Cir.) (response brief due November 15, 2024); *Khalid v. Garland*, No. 24-5091 (D.C. Cir.) (response brief due November 27, 2024). In addition, one of Ms. Padhi's immediate family members was in the ICU from October 31 to November 2 due to a medical emergency.

Lindsey Powell, who shares responsibility for this case, is responsible for handling or supervising the following matters, among others:

AstraZeneca Pharmaceuticals, LP v. Becerra, No. 24-1819 (3d Cir.) (presented

oral argument on October 30, 2024); *VDX Distro v. FDA*, No. 24-60537 (5th Cir.) (stay opposition due November 12, 2024); *FDA v. R.J. Reynolds Vapor Co.*, No. 23-1187 (S. Ct.) (opening brief due November 18, 2024); and *Beitzel v. Becerra*, No. 24-3528 (9th Cir.) (response brief due November 25, 2024).

Michael S. Raab, who has supervisory responsibility over this case, is also responsible for supervising the following matters, among others:

Properties of the Villages, Inc. v. FTC, No. 24-13102 (11th Cir.) (opening brief due November 4, 2024); *Kentucky v. Federal Highway Administration*, No. 24-5532 (6th Cir.) (reply brief due November 4, 2024); *Union Pacific Railroad Co. v. U.S. Railroad Retirement Board*, No. 24-2547 (8th Cir.) (response brief due November 12, 2024); *Texas v. Garland*, No. 24-10386 (5th Cir.) (reply brief due November 13, 2024); *United States ex rel. Vanderlan v. Jackson HMA, LLC*, No. 24-60215 (5th Cir.) (response brief due November 14, 2024); *Tennessee v. Becerra*, No. 24-5220 (6th Cir.) (response to en banc petition due November 15, 2024); *Kansas v. Garland*, No. 24-3101 (10th Cir.) (response brief due November 20, 2024); *General Land Office v. Kinder*, No. 24-40447 (5th Cir.) (response brief due November 20, 2024); *America First Legal Foundation v. Dellinger*, No. 24-5168 (D.C. Cir.) (response brief due November 22, 2024); *Texas v. DOT*, No. 24-10470 (5th Cir.) (reply brief due

November 22, 2024); *Texas v. ATF*, No. 24-10612 (5th Cir.) (reply brief due December 9, 2024); *Fontana v. Attorney General*, No. 24-2526 (3d Cir.) (response brief due December 13, 2024); *Bailey v. Attorney General*, No. 24-3752 (response brief due December 16, 2024).

3. In light of these litigation matters and the upcoming Thanksgiving holiday, the government respectfully requests a 30-day extension of time to prepare the response, to and including December 16, 2024 (as December 14 is a Saturday). The requested extension will not appreciably delay the resolution of the case, and counsel will exercise diligence in preparing the response in the time requested.

4. Counsel for appellants has advised that appellants consent to this request. Appellants have asked the government to include the following note in this motion:

Novo Nordisk consents to a 30-day extension for the government to file its response brief as a professional courtesy, but emphasizes the importance of having this appeal briefed and decided as expeditiously as possible. Although Novo Nordisk's appeal raises unique facts and approaches the administrative law issues from a different perspective, there is a related case—*AstraZeneca Pharmaceuticals, LP v. Becerra*, No. 24-1819—that was recently argued and raises related legal questions regarding whether CMS has violated the Inflation Reduction Act and the Administrative Procedure Act. Because Novo Nordisk's appeal more extensively addresses the statutory claims relating to

CMS's implementation of the Inflation Reduction's Act drug-pricing provisions, Novo Nordisk respectfully suggests that the Court should consider the briefs and hear argument in this appeal before it opines on the issues raised in the AstraZeneca appeal.

CONCLUSION

For the foregoing reasons, we respectfully ask that the Court extend the deadline for filing the government's response by 30 days, to and including December 16, 2024.

Respectfully submitted,

MICHAEL S. RAAB

LINDSEY POWELL

/s/ Catherine Padhi

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NOVEMBER 2024

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Book Antiqua, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 834 words, according to the count of Microsoft Word.

/s/ Catherine Padhi
Catherine Padhi

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2024, I electronically filed the foregoing with the U.S. Court of Appeals using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Catherine Padhi
Catherine Padhi