

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

BOEHRINGER INGELHEIM
PHARMACEUTICALS, INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

No. 3:23-cv-01103-RNC

Hon. Robert N. Chatigny
Hon. Robert M. Spector

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

Pursuant to Federal Rule of Civil Procedure 7(b) and Local Rule 7, Plaintiff Boehringer Ingelheim Pharmaceuticals, Inc. (“BI”) and Defendants U.S. Department of Health and Human Services et al. (“Defendants”) jointly move to establish a briefing schedule for the above-captioned matter, and for related relief as outlined below.

1. On August 18, 2023, BI filed this action seeking declaratory and injunctive relief with respect to the Medicare Drug Price Negotiation Program established by the Inflation Reduction Act of 2022. BI served the U.S. Attorney for the District of Connecticut on August 24, 2023, and filed proof of service on August 29, 2023.

2. The parties have met and conferred, and agree that this case presents legal questions regarding the constitutionality of a federal statute (and the validity of related administrative action), which can properly be resolved through dispositive motions, without the need for discovery. The parties accordingly 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 suspend their obligation to file a report under Local Rule 26(f) and establish the following, agreed-upon schedule for summary judgment briefing:

- BI will file a memorandum in support of its forthcoming motion for summary judgment by September 27, 2023, not to exceed 45 pages.
- Defendants will file a combined memorandum in support of their own cross-motion for summary judgment, and opposing BI's motion, by December 6, 2023, not to exceed 55 pages.
- BI will file a combined reply in support of its motion and opposition to Defendants' cross-motion by January 12, 2023, not to exceed 50 pages.
- Defendants will file a reply in support of their cross-motion by February 12, 2023, not to exceed 40 pages.

4. The parties 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 complexity of this case and the consolidated briefing on two parallel motions.

5. Because this case involves legal questions regarding the constitutionality of a federal statute (and related administrative action), the parties further respectfully request that the Court dispense with the requirement under Local Rule 56(a) that motions for summary judgment be accompanied by separate statements of undisputed material facts. The parties do not believe those statements would serve a useful purpose in this matter.

6. For essentially the same reasons, the parties respectfully request that the Court also dispense with Defendants' obligation to file an Answer to the Complaint.

7. Consistent with the Court's individual practices, if the Court would find it helpful, the parties are available at the Court's convenience for a telephonic status conference regarding the issues described above.

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

Respectfully submitted,

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