

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-1103-RNC

DEFENDANTS' UNOPPOSED MOTION FOR A 14-DAY EXTENSION OF TIME

Defendants, having conferred with Plaintiff, respectfully request a 14-day extension of time to file their upcoming summary-judgment brief in this case (*i.e.*, to move the deadline from December 6 to December 20), as well as corresponding adjustments to the remaining briefing deadlines. As good cause for this request, which Plaintiff does not oppose, Defendants offer the following:

1. Plaintiff filed this lawsuit on August 18, 2023, bringing facial constitutional claims challenging the Medicare Drug Price Negotiation Program, which was created by the Inflation Reduction Act of 2022. Compl., ECF No. 1.
2. On September 13, the parties filed a joint scheduling motion, proposing a schedule for briefing cross-motions for summary judgment. ECF No. 16.
3. On September 15, the Court issued an Order granting the parties' joint motion and adopting the parties' agreed-upon schedule.
4. On September 27, Plaintiff moved for summary judgment. ECF No. 28.
5. Under the current schedule, Defendants' combined opposition and cross-motion for summary judgment is due on December 6.
6. Defendants respectfully request a 14-day extension of time—from December 6 to December 20—to file their upcoming summary-judgment brief in this case. Due to the press of other

significant and time-sensitive litigation deadlines, most of which arose after the parties submitted their joint scheduling proposal, counsel for Defendants needs a brief period of additional time to prepare and finalize Defendants' summary-judgment brief—which will address six substantive claims (five of which are facial constitutional challenges to a federal statute). The additional time will allow for sufficient deliberation and review within the government of this significant litigation filing about these important issues of nationwide significance.

7. The litigation attorneys from the Department of Justice who are assigned to this case are also assigned (among other things) to represent Defendants in eight other constitutional challenges to this program, most of which are also in the midst of active summary-judgment briefing. Granting this brief extension will align Defendants' deadlines in this case more manageably with the government's other litigation deadlines.

8. Before filing this motion, counsel for Defendants conferred with counsel for Plaintiff, who reported Plaintiff's position as follows: "Plaintiff does not oppose the requested relief, provided that all of the remaining deadlines are also extended by 14 days."

9. Defendants agree with Plaintiff that, if the Court grants this extension request, the remaining briefing deadlines should also be modified, as follows:

- Defendants will file a combined memorandum in support of their own cross-motion for summary judgment, and opposing Plaintiff's motion, by December 20, 2023.
- Plaintiff will file a combined reply in support of its motion and opposition to Defendants' cross-motion by January 26, 2024.
- Defendants will file a reply in support of their cross-motion by February 26, 2024.

10. For these reasons, Defendants respectfully request that the briefing schedule be modified as set forth above.

DATE: November 6, 2023

Respectfully submitted,

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Assistant Branch Director

/s/ Stephen M. Pezzi
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