

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED THERAPEUTICS
CORPORATION,

Plaintiff,

v.

DIANA ESPINOSA, *et al.*,

Defendants.

No. 21-cv-1686 (DLF)

JOINT NOTICE REGARDING THE COURT'S ORDER OF JULY 9, 2021

The parties, by and through their undersigned counsel, respectfully submit this joint notice pursuant to the Court's July 9, 2021 Minute Order, which requested the parties' views with respect to: (i) whether either party consents to consolidating consideration of Plaintiff's motion for a preliminary injunction with an expedited ruling on the parties' cross-motions for summary judgment, under Federal Rule of Civil Procedure 65(a)(2); and (ii) whether the current briefing schedule should be modified in the event the Court consolidates the parties' motions. The parties have conferred, and their respective views are set forth below.

Plaintiff's Position

UT agrees with the Court's determination that it would be most efficient in this matter to address cross motions for summary judgment on an expedited schedule. In light of the Court's Minute Order and based on Court's inclination to hear cross motions on an expedited schedule, UT anticipates filing its motion for summary judgment and supporting brief in accordance with the current schedule for this case on Friday, July 16, without filing a separate motion for preliminary injunction at this time. Under those circumstances, consolidation under 65(a)(2) would not be necessary. However, if it appears at some point during the expedited period in which cross motions are being resolved that

the United States intends take action against UT based on Defendants' May 17, 2021 or May 28, 2021 letters, UT would anticipate seeking an emergency temporary restraining order.

UT does not seek modification of the current briefing schedule in this case. UT does not object to an expedited joint hearing on cross-motions for summary judgment, and defers to the Court on the appropriate timing of such a hearing.

Defendants' Position

Defendants agree with the Court's determination that the parties' forthcoming motions in the above-captioned matter and the pending motions in *Novartis Pharmaceuticals Corp. v. Espinosa*, 1:21-cv-1479-DLF (D.D.C.), can be resolved most efficiently if the Court were to consider these motions simultaneously. Defendants therefore consent both to the consolidation of Plaintiff's forthcoming motion for a preliminary injunction and the parties' forthcoming cross-motions for summary judgment, *see* ECF No. 10 at 2, and to an expedited ruling on the merits. Defendants respectfully suggest, however, that modification of the current briefing schedule in this case is not warranted. The schedule to which the parties jointly stipulated already provides for an extraordinarily expedited schedule for briefing cross-motions for summary judgment that raise complex statutory and administrative law issues that must be resolved on review of a voluminous record under the Administrative Procedures Act. Therefore, in the interest of an efficient and expeditious resolution of this case and the *Novartis* case, Defendants respectfully request that the Court set a hearing to jointly consider the motions submitted by the parties in both cases at a date and time most convenient to the Court after the current briefing schedule in this matter is completed.

Additionally, Defendants request that their obligation to answer Plaintiff's complaint be stayed until after the Court resolves the parties' cross-motions for summary judgment, if necessary.

Dated: July 14, 2021

Respectfully submitted,

/s/ Philip J. Perry

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