

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

ASTRAZENECA PHARMACEUTICALS)
LP and ASTRAZENECA AB,)

Plaintiffs,)

v.)

Civil Action No. 23-931-CFC

XAVIER BECERRA, in his official)
capacity as SECRETARY OF HEALTH)
AND HUMAN SERVICES,)

and)

CHIQUITA BROOKS-LASURE,)
in her official capacity as)
ADMINISTRATOR OF THE)
CENTERS FOR MEDICARE &)
MEDICAID SERVICES,)

Defendants.)

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs AstraZeneca Pharmaceuticals LP and AstraZeneca AB respectfully move for summary judgment against Defendants Xavier Becerra and Chiquita Brooks-LaSure and in favor of Plaintiffs on all counts in the Amended Complaint. The grounds for this motion are set forth in the accompanying opening brief filed contemporaneously.

Dated: September 26, 2023

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Respectfully submitted,

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AstraZeneca Pharmaceuticals LP

and AstraZeneca AB

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Defendants.)

**[PROPOSED] ORDER GRANTING PLAINTIFFS’
MOTION FOR SUMMARY JUDGMENT**

Upon consideration of Plaintiffs’ Motion for Summary Judgment, the briefs in support thereof and in opposition thereto, arguments of counsel, and the entire record in this case, it is hereby

ORDERED, this _____ day of _____, 2024, that Plaintiffs’ Motion for Summary Judgment is **GRANTED**.

The Court further **ORDERS** that CMS’s definition of “Qualifying Single Source Drug” under the Inflation Reduction Act **BE**, and hereby **IS, DECLARED** to be contrary to law, arbitrary and capricious, and an abuse of discretion.

The Court further **ORDERS** that CMS’s “bona fide marketing” standard under the Inflation Reduction Act **BE**, and hereby **IS, DECLARED** to be contrary to law, arbitrary and capricious, and an abuse of discretion.

The Court further **ORDERS** that CMS’s Guidance Documents be **SET ASIDE** and **VACATED**.

The Court further **ORDERS** that the Inflation Reduction Act’s Drug Price Negotiation Program **BE**, and hereby **IS, DECLARED** to violate the Fifth Amendment’s Due Process Clause.

The Court further **ORDERS** that Defendants and their officers, agents, servants, employees, and attorneys, and other persons who are in active concert or participation with the foregoing persons, are **PERMANENTLY ENJOINED** from implementing or enforcing the Drug Price Negotiation Program and/or related Guidance Documents against AstraZeneca.

The Clerk is directed to enter **JUDGMENT** in favor of Plaintiffs and to close the case. This is a final, appealable order.

Dated: _____

The Honorable Colm F. Connolly
Chief United States District Judge