

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

Ass'n for Accessible Medicines,

Eighth Circuit File No. 24-1019

Plaintiff–Appellee,

vs.

Keith Ellison, Atty. General,

**APPELLANT'S STATEMENT  
OF THE ISSUE**

Defendant–Appellant.

In 2023, after a multi-year, bipartisan study, the Minnesota Legislature passed a law prohibiting generic drug manufacturers from imposing excessive price increases on Minnesota consumers. The law only applies to a manufacturer when the manufacturer's generic drugs are sold, distributed, or dispensed to consumers in Minnesota. Before the law could take effect, the District Court partially enjoined it, barring the state from applying the law to a subset of regulated entities: only those out-of-state manufacturers who access Minnesota's market through out-of-state wholesalers. The District Court did so even though out-of-state manufacturers and wholesalers are both licensed by the Minnesota Board of Pharmacy for the privilege of selling, distributing, and dispensing generic drugs to consumers in Minnesota. And the District Court did not enjoin the law's application to in-state manufacturers or out-of-state manufacturers who sell directly into Minnesota.

The issue for this Court, then, is whether the District Court erred as a matter of law when it found that the dormant Commerce Clause exempts Minnesota-licensed out-of-state generic drug manufacturers from the Act's price-gouging prohibition if they choose to sell, distribute, or dispense drugs into Minnesota indirectly, through an out-of-state Minnesota-licensed wholesaler, but not when they sell, distribute, or dispense drugs into Minnesota directly?

Dated: January 17, 2024

Respectfully submitted,

KEITH ELLISON  
Attorney General  
State of Minnesota

/s/ Nick Pladson

NICK PLADSON  
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ATTORNEY FOR DEFENDANT

## **CERTIFICATE OF SERVICE**

I hereby certify that on January 17, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Nick Pladson  
NICK PLADSON