

In the  
**Supreme Court of The United States**

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LESLIE RUTLEDGE, in her official capacity  
as Attorney General of the State of Arkansas,

*Petitioner,*

v.

PHARMACEUTICAL CARE MANAGEMENT ASSOCIATION,

*Respondent.*

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**APPLICATION TO EXTEND FURTHER THE TIME TO FILE A PETITION  
FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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To the Honorable Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit:

Pursuant to Supreme Court Rule 13.5, Petitioner Leslie Rutledge, Attorney General of the State of Arkansas, hereby makes application for a further extension of fourteen days (14) within which to file a Petition for a Writ of Certiorari to the Court of Appeals for the Eighth Circuit. Based upon the Court's earlier grant of a thirty-day extension, a Petition for a Writ of Certiorari is currently due to the Court in this case on or before October 8, 2018. This Application is being filed more than ten days before that date.

The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

The judgment sought to be reviewed is *Pharmaceutical Care Management Association v. Leslie Rutledge*, No. 17-1609, issued on June 8, 2018. A copy of the opinion has been previously filed with the Clerk. The decision below deepened a circuit split on a substantial and important question of federal law: Whether state laws regulating pharmacy benefit managers (“PBMs”) are, as a categorical matter, preempted by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1001–1461. Compare *Pharm. Care Mgmt. Ass’n v. Rowe*, 429 F.3d 294, 302–04 (1st Cir. 2005) (holding that regulations of PBMs categorically are not preempted) with *Pharm. Care Mgmt. Ass’n v. Dist. of Columbia*, 613 F.3d 179, 188–90 (D.C. Cir. 2010) (holding, on review of “a nearly identical” statute to the one reviewed by the First Circuit in *Rowe*, that regulations of PBMs categorically are not preempted).

Good cause exists for granting this application. A petition is currently due on October 8, 2018. Counsel of record recently succeeded to the office of Arkansas Solicitor General from his previous position as Deputy Solicitor General. A replacement has not yet been named, and the Solicitor General’s department is consequently understaffed. Counsel of record has supervisory responsibility over all filings and oral arguments in this Court, the Court of Appeals for the Eighth Circuit, the Arkansas Supreme Court, and the Arkansas Court of Appeals. He is responsible for supervising five attorneys preparing for five oral arguments in the Eighth Circuit and Arkansas appellate courts in the next two weeks, in addition to

reviewing and revising numerous appellate briefs due to be filed on or before October 8. These factors justify granting this application for an extension. Petitioner makes this request in good faith and believes that the requested extension of time is necessary. Respondent does not object to the granting of this Application for an extension of time.

Wherefore, Petitioners respectfully request that an order be entered extending the time to file a Petition for a Writ Certiorari to and including October 22, 2018.

Respectfully submitted,

LESLIE RUTLEDGE  
*Arkansas Attorney General*

NICHOLAS J. BRONNI\*  
*Arkansas Solicitor General*

/s/ Shawn J. Johnson  
SHAWN J. JOHNSON  
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September 26, 2018