No. 26A_____

In the Supreme Court of the United States

ASTRAZENECA PHARMACEUTICALS, L.P.,

Applicant,

v.

LIZ MURRILL, IN HER OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE STATE OF LOUISIANA, ET AL.

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

To the Honorable Samuel A. Alito, Jr., Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. Pursuant to Supreme Court Rule 13.5 and 28 U.S.C. § 2101(c), Applicant AstraZeneca Pharmaceuticals, L.P. (AstraZeneca) respectfully requests a 60-day extension of time, to and including December 3, 2026, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Fifth Circuit issued an opinion on February 9, 2026. The Court then withdrew the February 9 opinion, issued a substitute opinion, and denied a timely petition for rehearing en banc on July 6, 2026. A copy of the substitute opinion is attached as Exhibit A. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on October 4, 2026. This application is being filed more than ten days before that date, and no prior application has been made in this case.

3. AstraZeneca is a world-leading pharmaceutical company that creates medicines to treat serious diseases. It aims both to provide patients with access to its products today and to sustain the investments needed to develop innovative treatments for tomorrow. Consistent with that mission, AstraZeneca is a proud participant in the federal 340B Drug Pricing Program, and has provided billions of dollars in discounts to program beneficiaries.

4. Congress created the 340B Program by statute, which is codified at 42 U.S.C. § 256b. Under the program, manufacturers that participate in Medicaid and Medicare Part B must "offer" certain outpatient drugs to be purchased by certain statutorily defined healthcare providers, known as covered entities, at no more than a federally prescribed ceiling price. 42 U.S.C. § 256b(a)(1). Congress assigned administration and enforcement of that federal program to the Department of Health and Human Services. *See Astra USA, Inc. v. Santa Clara County*, 563 U.S. 110, 120 (2011).

5. Congress originally intended for the 340B program to benefit underserved communities by allowing covered entities to pass on the low prices required by Section 340B to "low-income and rural" patients. *Sanofi Aventis U.S. LLC v. HHS*, 58 F.4th 696, 699 (3d Cir. 2023). When Section 340B was enacted, manufacturers provided discounted drugs directly to covered entities, who in turn provided them to their patients for free or at cost, with limited involvement from external pharmacies. *Id.* at 703-05. In 1996, HHS permitted

each covered entity to access 340B-discounted pricing by contracting with an unaffiliated pharmacy (known as a "contract pharmacy"). Then, in 2010, the agency permitted covered entities to access discounted pricing through an unlimited number of contract pharmacies. *Id.* at 700. After that administrative change, covered entities began to multiply their 340B revenues by partnering with a large number of for-profit pharmacies to dispense drugs purchased at steep discounts—while simultaneously collecting ordinary commercial reimbursements for the same drugs—with the covered entities and their pharmacy partners dividing the resulting spread. *See Novartis Pharmaceuticals Corp. v. Johnson*, 102 F.4th 452, 457 (D.C. Cir. 2024). Contract-pharmacy use consequently "increased twentyfold." *Sanofi*, 58 F.4th at 700.

6. In 2020, several drug manufacturers, including AstraZeneca, responded to the proliferation of abuse of the 340B program by adopting policies under which they limit their offer of 340B pricing to sales made directly to the covered entity or at a single contract pharmacy. HHS declared such policies unlawful and sought to compel manufacturers to make 340B pricing available for unlimited contract-pharmacy sales. *Sanofi*, 58 F.4th at 701-02. The manufacturers challenged HHS's actions, and twenty-four States and the District of Columbia supported HHS's position that federal law required manufacturers to offer discounted pricing for unlimited contract pharmacy sales. Br. of Amici Curiae States, *Sanofi Aventis U.S. LLC v. HHS*, No. 21-3167 (3d Cir. 2023), 2022 WL 1617655. The Third and D.C. Circuits agreed with the manufacturers, holding that Section 340B does not require manufacturers to make discounted sales available through an unlimited number of contract pharmacies. *See Sanofi*, 58 F.4th at 706; *Novartis*, 102 F.4th at 459.

7. In response, after failing to establish that Section 340B itself requires manufacturers to make discounted sales available through an unlimited number of contract pharmacies, more than twenty States enacted laws purporting to impose that obligation as a matter of state law. Louisiana's Act 358 is one such regulation. It prohibits a manufacturer from "deny[ing], restrict[ing], prohibit[ing], or otherwise interfer[ing] with" either "the acquisition of a 340B drug by," or "delivery of a 340B drug to," a covered entity's contract pharmacy. La. Stat. Ann. § 40:2884(A). Under that prohibition, AstraZeneca must make 340B pricing available for sales through each and every contract pharmacy selected by a covered entity. In practical effect, Louisiana has required participants in the federal 340B program to undertake the very same obligation that the Third and D.C. Circuits held Congress *did not* impose (or authorize HHS to impose) under Section 340B itself.

8. Louisiana's attempt to add new terms to the 340B program violates the Supremacy Clause. Act 358 imposes additional obligations on manufacturers solely because they participate in a federal program; the Act also regulates relationships that Congress created, defined, and entrusted to federal supervision. But this Court has held that States may not regulate unfavorably "those with whom [the Federal Government] deals" based on their governmental status, *United States v. Washington*, 596 U.S. 832, 838-39 (2022), nor may state law intrude upon relationships that "originate[] from, [are] governed by, and terminate[] according to federal law," *Buckman Co. v. Plaintiffs' Legal Committee*, 531 U.S. 341, 347 (2001). Whether understood as a discriminatory regulation of federal-program participants, or as a state-law enlargement of obligations imposed by Congress under

federal law, Act 358 impermissibly rewrites the terms of a federal program that belongs under the exclusive control of federal law.

9. The Fifth Circuit rejected AstraZeneca's Supremacy Clause challenge because it accepted Louisiana's characterization of Act 358 as regulating only "delivery logistics," rather than 340B pricing or manufacturers' obligations under the federal program. Ex. A at 14. The court reasoned that the Act imposes obligations on a manufacturer only *after* a covered entity has already purchased a discounted drug and directs its delivery to a contract pharmacy. But that characterization overlooks how AstraZeneca's policy and Act 358 actually operate. Under AstraZeneca's policy, a covered entity cannot place a 340B-priced order for sales through a non-designated contract pharmacy, but the same product remains available for purchase on commercial terms. By prohibiting manufacturers from restricting the "acquisition" of a 340B drug, the Act overrides the policy limitation and compels AstraZeneca to *offer* the federal discount for an additional category of drug sales (unlimited contract pharmacy sales). La. Stat. Ann. § 40:2884(A). Louisiana cannot avoid the Supremacy Clause merely by recasting its pricing obligation as a regulation governing the delivery of discounted drugs.

10. This case presents an exceptionally important question: Whether a State may add to the obligations that Congress imposed on participants in the federal 340B program by requiring manufacturers participating in the program to offer federally prescribed discounts for sales through an unlimited number of contract pharmacies, even though federal law imposes no such requirement.

11. The answer to that question has profound nationwide implications. More than twenty States have enacted contract-pharmacy laws that impose additional obligations on 340B-participating manufacturers, and other States continue to consider similar legislation. If each State may independently enlarge the obligations attached to participation in the 340B program, the uniform bargain offered by federal law will be subject to an ever-expanding patchwork of differing state-law requirements and additional costs. The cumulative burdens may ultimately make continued participation in the program economically untenable for some manufacturers, depriving beneficiaries of Medicaid and Medicare Part B of access to necessary medications. *See* 42 U.S.C. §§ 256b(a)(1), 1396r-8(a)(1), (5)(A). These state laws thus threaten to upset the careful balance that Congress struck across several interlocking federal healthcare programs.

12. The lower courts are already divided on the issue. The Fifth and Eighth Circuits have sustained state contract-pharmacy mandates, while courts in Oklahoma and North Dakota have held similar laws to be preempted. *See* Ex. A; *AbbVie, Inc. v. Fitch*, 152 F.4th 635 (5th Cir. 2025); *PhRMA v. McClain*, 95 F.4th 1136 (8th Cir. 2024); *AbbVie Inc. v. Drummond*, 808 F. Supp. 3d 1266 (W.D. Okla. 2025); *AbbVie Inc. v. Wrigley*, 2026 WL 1133457 (D.N.D. Apr. 27, 2026) (stayed pending appeal). In addition, a divided Fourth Circuit panel agreed that West Virginia's law was preempted, before the court vacated that decision and granted rehearing en banc (which remains pending). *PhRMA v. McCuskey*, 171 F.4th 675 (4th Cir. 2026), *reh'g en banc granted*, 176 F.4th 830 (4th Cir. 2026). Meanwhile, after an Eighth Circuit panel sustained Missouri's law, an en banc petition was filed, and the court has called for a response to that petition. *Novartis Pharmaceuticals*

Corp. v. Hanaway, 2026 WL 1892141 (8th Cir. July 1, 2026); Order, Hanaway (8th Cir. Aug. 11, 2026). These decisions show that the legal issues presented are well-developed, recurring, and significant.

13. AstraZeneca respectfully requests a 60-day extension of time to file its petition for a writ of certiorari. The extension would allow counsel sufficient time to assess the Fifth Circuit's decision and its consequences, to research and analyze the substantial Supremacy Clause issues presented, to address the differential treatment of those issues in courts across the country, to coordinate with counsel handling related litigation on behalf of other manufacturers, and to prepare the petition for filing. Additionally, the undersigned counsel has numerous other pending matters before this Court and other federal courts that would interfere with counsel's ability to file the petition on or before October 4, 2026.

14. *Wherefore*, AstraZeneca respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including December 3, 2026.

Dated: September 9, 2026

Respectfully submitted,

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicant makes the following disclosure: AstraZeneca Pharmaceuticals LP is a Delaware limited partnership. AstraZeneca Pharmaceuticals LP's general partner is AstraZeneca AB, a Swedish corporation. AstraZeneca Pharmaceuticals LP's sole limited partner is Zeneca Inc., a Delaware corporation. AstraZeneca PLC (NYSE: AZN), a publicly-held company, is the ultimate parent company of AstraZeneca Pharmaceuticals LP, AstraZeneca AB, and Zeneca, Inc. No other publicly held company owns 10% or more of the voting interest in AstraZeneca Pharmaceuticals LP or AstraZeneca AB.

Dated: September 9, 2026

Allon Kedem

Counsel for Applicant