

***Rutledge v. PCMA*, No. 18-540 (U.S.):  
One-Pager on Oral Argument**

- On Oct. 6, 2020, the Supreme Court heard oral argument in *Rutledge v. PCMA*, No. 18-540 (U.S.), which draws back the curtain on some of the abuses committed by pharmacy benefit managers (PBMs)—or prescription-drug middlemen. At issue is whether a federal law, the Employee Retirement Income Security Act of 1974 (ERISA), invalidates an Arkansas law that places reasonable regulations on PBMs. The Pharmacy Care Management Association (PCMA), the lobbying arm of the PBM industry, has argued that ERISA preempts Arkansas’s Act 900, which ensures that PBMs compensate pharmacists fairly for the medications they dispense to patients.
- In an 80-minute argument, the Justices pressed PCMA’s counsel to defend its claims of ERISA preemption. Many of the Justices noted that the main effect of Arkansas’s law is simply to regulate what pharmacists are paid for drugs, and Chief Justice Roberts described PBMs as having “byzantine procedures that affect drug prices.”
- Both the State of Arkansas and the federal government argued in defense of Act 900. They noted that PCMA’s argument lacked any limiting principle, because countless State laws have some effect on cost—from medical-practice standards to wage laws—and, thus, could be said to affect ERISA plans. The Supreme Court expressly rejected that argument in its prior decision in *N.Y. State Conference of Blue Cross & Blue Shield Plans v. Travelers Insurance Co.*, 514 U.S. 645 (1995).
- Following argument, the Justices will deliberate privately before issuing a written opinion deciding the case. Although there is no set timetable for a ruling, the Justices typically resolve all cases before the end of the Court’s term, which is set to conclude by the end of June 2021.
- The Supreme Court case is the culmination of a years’ long effort led by the National Community Pharmacists Association (NCPA) and the Arkansas Pharmacists Association (APA) to hold PBMs accountable for their abusive practices, which have needlessly restricted patient access to life-saving medications and added billions of dollars annually in unnecessary costs that are ultimately borne by hard-working Americans.
- NCPA and APA helped secure the passage of the Arkansas law that the Supreme Court is reviewing, and they have provided support to the State throughout the litigation—at the trial court, the intermediate appellate court, and now the Supreme Court. NCPA and APA also helped secure briefs from a wide range of *amici curiae* (“friends of the Court”)—from the American Medical Association to AARP—defending Arkansas’s law. In addition, NCPA and APA filed an *amici curiae* brief—on behalf of pharmacists throughout the country—educating the Court on abusive PBM practices.
- For all these reasons, it is no surprise that nearly every State—red and blue—has enacted laws regulating PBMs. And it is also why the federal government and nearly every State—from Texas to California—argued in defense of Arkansas’s law in the Supreme Court.
- PBMs are middlemen who have secretly put their own interests—and record-breaking profits—above the patients and plans that they are supposed to serve. State laws like Arkansas’s represent an important step in policing PBMs’ abusive behavior and protecting patient access to affordable medications.