



**TIM GRIFFIN**  
ATTORNEY GENERAL

Asher Steinberg  
Senior Assistant Solicitor General

Direct Dial: (501) 682-1051  
E-mail: asher.steinberg@arkansasag.gov

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Maureen W. Gornik  
Acting Clerk, United States Court of Appeals for the Eighth Circuit  
Thomas F. Eagleton Courthouse  
111 South 10th Street, Room 24.329  
St. Louis, MO 63102

Re: *Bio Gen, LLC, et al. v. Sarah Huckabee Sanders, et al.*,  
No. 23-3237

Dear Ms. Gornik:

I write to inform the Court of four recent district court decisions that reject preemption and vagueness challenges to four States' laws—including two in this Circuit—that regulate hemp more stringently than federal law: *HW Premium CBD, LLC v. Reynolds*, — F. Supp. 3d —, 2024 WL 3548320 (S.D. Iowa July 25, 2024); *Green Room LLC v. Wyoming*, No. 24-cv-128 (D. Wyo. July 19, 2024); *Hemp Quarters 605 LLC v. Noem*, No. 3:24-CV-03016, 2024 WL 3250461 (D.S.D. June 29, 2024); and *AK Indus. Hemp Ass'n, Inc. v. Alaska Dep't of Nat. Res.*, No. 23-cv-253, 2023 WL 8935020 (D. Alaska Dec. 27, 2023). With those decisions, a total of six district courts and one court of appeals have rejected challenges to laws like the one at issue here, with the decision below being the sole exception.

Particularly relevant here, Chief Judge Rose's opinion for the Southern District of Iowa strongly supports many of the State's arguments in this appeal. It explains that even if the Farm Bill's anti-preemption provision only disclaims preempting regulations of hemp cultivation, as Bio Gen has argued, there is still "nothing in the Farm Bill" that suggests Congress intended to preempt post-cultivation regulation, *HW Premium CBD, LLC*, 2024 WL 3548320, at \*7; that it

“is illogical that Congress would have intended for states’ authority to regulate hemp . . . to stop at the cultivation of the plant,” *id.*; that Congress’s inclusion of an express preemption provision as to hemp transportation implies that other hemp regulation is not preempted, *id.*; and that the statement in the bill’s conference report that States may not alter the definition of hemp, on which Bio Gen heavily relies, “never made its way into the language of the statute,” *id.* at \*8, and “in context . . . is clear[ly]” a reference to “less restrictive” definitions, not more restrictive ones, *id.* And with respect to vagueness, *Green Room* specifically rejects vagueness challenges to many of the same terms Bio Gen has challenged as vague, including “synthetic substance” and “psychoactive.” *Green Room*, Order at 29-30.

Respectfully submitted,

/s/ Asher Steinberg

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