

United States Court of Appeals

For The Eighth Circuit

Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329

St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
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www.ca8.uscourts.gov

October 10, 2023

4:23-cv-00718-BRW

Jordan Broyles
ATTORNEY GENERAL'S OFFICE
200 Catlett-Prien Building
323 Center Street
Little Rock, AR 72201-0000

RE: 23-3237 Bio Gen LLC, et al v. Sarah Huckabee Sanders, et al

Dear Counsel:

The district court clerk has transmitted a notice of appeal and docket entries in this matter, and we have docketed them under the caption and case number shown above. Please include the caption and the case number on all correspondence or pleadings submitted to this court.

Counsel in the case must supply the clerk with an Appearance Form. Counsel may download or fill out an [Appearance Form](#) on the "Forms" page on our web site at www.ca8.uscourts.gov.

We note the docketing fee is pending. Please pay the \$505 docket and filing fees to the district court clerk immediately. Failure to pay the fee will result in issuance of an order to show cause why the appeal should not be dismissed.

The court has established a briefing schedule for the case, a copy of which will be forwarded under separate notice of docket activity. Please refer to the schedule and note the key filing dates. You should also review [Federal Rules of Appellate Procedure](#) 28 and 32, as well as Eighth Circuit Rules 28A and 32A. Sample briefs may be obtained by contacting the St. Louis Clerk's office.

Within 14 days of today's date, counsel for appellant must: (1) file a verification that any transcripts needed for the appeal have been ordered and that satisfactory arrangements have been made for payment, and (2) file a notice of the method of appendix preparation selected for the case. [Eighth Circuit Rule](#) 30A contains detailed information on appendix preparation.

The court has directed the clerk's office to monitor and enforce compliance with the briefing schedule. Failure to file your brief will result in issuance of a show cause order and may lead to dismissal of the appeal. Requests for extensions of time must be timely and should establish good cause. Overlength briefs are strongly discouraged.

Please note the provisions of Eighth Circuit Rule 32A governing briefs and reply briefs responding to multiple briefs.

On June 1, 2007, the Eighth Circuit implemented the appellate version of CM/ECF. Electronic filing is now mandatory for attorneys and voluntary for pro se litigants proceeding without an attorney. Information about electronic filing can be found at the court's web site www.ca8.uscourts.gov. In order to become an authorized Eighth Circuit filer, you must register with the PACER Service Center at <https://www.pacer.gov/psco/cgi-bin/cmecf/ea-regform.pl>. Questions about CM/ECF may be addressed to the Clerk's office.

If you have any questions about the schedule or procedures for the case, please contact our office

Michael E. Gans
Clerk of Court

CMH

Enclosure(s)

cc: Clerk, U.S. District Court, Eastern District of Arkansas
Valarie Flora
Abtin Mehdizadegan
Allison Lynn Tschiemer Scott
Joseph Charles Stepina
Justin Swanson
Paul D. Vink

District Court/Agency Case Number(s): 4:23-cv-00718-BRW

Caption For Case Number: 23-3237

Bio Gen LLC; Drippers Vape Shop LLC; Cigarette Store LLC, doing business as Smoker Friendly; Sky Marketing Corporation, doing business as Hometown Hero

Plaintiffs - Appellees

v.

Sarah Huckabee Sanders, Governor; in her official capacity; Tim Griffin, Attorney General; in his official capacity; Todd Murray, in his official capacity as prosecuting attorney for the State of Arkansas; Sonia Eileen Fonticiella, in her official capacity as prosecuting attorney for the State of Arkansas; Devon Holder, in his official capacity as prosecuting attorney for the State of Arkansas; Matt Durrett, in his official capacity as prosecuting attorney for the State of Arkansas; Jeff Phillips, in his official capacity as prosecuting attorney for the State of Arkansas; Will Jones, in his official capacity as prosecuting attorney for the State of Arkansas; Teresa Howell, in her official capacity as prosecuting attorney for the State of Arkansas; Ben Hale, in his official capacity as prosecuting attorney for the State of Arkansas; Connie Mitchell, in her official capacity as prosecuting attorney for the State of Arkansas; Dan Turner, in his official capacity as prosecuting attorney for the State of Arkansas; Jana Bradford, in her official capacity as prosecuting attorney for the State of Arkansas; Frank Spain, in his official capacity as prosecuting attorney for the State of Arkansas; Tim Blair, in his official capacity as prosecuting attorney for the State of Arkansas; Kyle Hunter, in his official capacity as prosecuting attorney for the State of Arkansas; Daniel Shue, in his official capacity as prosecuting attorney for the State of Arkansas; Jeff Rogers, in his official capacity as prosecuting attorney for the State of Arkansas; David Ethredge, in his official capacity as prosecuting attorney for the State of Arkansas; Tom Tatum, II, in his official capacity as prosecuting attorney for the State of Arkansas; Drew Smith, in his official capacity as prosecuting attorney for the State of Arkansas; Rebecca Reed McCoy, in her official capacity as prosecuting attorney for the State of Arkansas; Michelle Lawrence, in her official capacity as prosecuting attorney for the State of Arkansas; Debra Buschman, in her official capacity as prosecuting attorney for the State of Arkansas; Tony Rogers, in his official capacity as prosecuting attorney for the State of Arkansas; Nathan Smith, in his official capacity as prosecuting attorney for the State of Arkansas; Carol Crews, in her official capacity as prosecuting attorney for the State of Arkansas; Kevin Holmes, in his official capacity as prosecuting attorney for the State of Arkansas; Chris Walton, in his official capacity as prosecuting attorney for the State of Arkansas; Chuck Graham, in his official capacity as prosecuting attorney for the State of Arkansas; Jim Hudson, in his official capacity as director of the Arkansas Department of Finance and Administration (originally named as Arkansas Department of Finance and Administration); Greg Sled, in his official capacity as director of the Arkansas Tobacco Control Board (originally named as Arkansas Tobacco Control Board); Wes Ward, in his official capacity as secretary of the Arkansas Department of Agriculture (originally named as Arkansas Department of Agriculture); Matthew Marsh, in his official capacity as chair of the Arkansas State Plant Board (originally named as Arkansas State Plant Board)

Defendants - Appellants

Addresses For Case Participants: 23-3237

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John Hibbs

From: ca08ml_cmecf_Notify@ca8.uscourts.gov
Sent: Tuesday, October 10, 2023 2:48 PM
Subject: 23-3237 Bio Gen LLC, et al v. Sarah Huckabee Sanders, et al "CIVIL case docketed" (4:23-cv-00718-BRW)

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Eighth Circuit Court of Appeals

Notice of Docket Activity

The following transaction was filed on 10/10/2023

Case Name: Bio Gen LLC, et al v. Sarah Huckabee Sanders, et al
Case Number: [23-3237](#)
Document(s): [Document\(s\)](#)

Docket Text:

Civil case docketed. [5324495] [23-3237] (Crystal Henderson)

Notice will be electronically mailed to:

Jordan Broyles: jordan.broyles@arkansasag.gov
Ms. Clerk, U.S. District Court, Eastern District of Arkansas, Clerk of Court: ared_appeals@ared.uscourts.gov
Ms. Valarie Flora, Court Reporter: Valarie_Flora@ared.uscourts.gov
Mr. Abtin Mehdizadegan: abtin@hallboothsmith.com, bschoening@hallboothsmith.com
Ms. Allison Lynn Tschiermer Scott: allisonscott@hallboothsmith.com
Mr. Joseph Charles Stepina: jstepina@hallboothsmith.com
Justin Swanson: jswanson@boselaw.com
Paul D. Vink: pvink@boselaw.com

The following document(s) are associated with this transaction:

Document Description: Civil Docketing Letter

Original Filename: /opt/ACECF/live/forms/CrystalHenderson_233237_5324495_CivilDocketingLetters_104.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1105112566 [Date=10/10/2023] [FileNumber=5324495-0]

[b5509570e0e81ea5e02f2887076b965691d8942284813d3ab04cbb6f60446b0b45a9df91e1b1b8d6f64f716d221276fb1e7faaee079962d39bc3dd269acfd0d7]]

Recipients:

- [Jordan Broyles](#)

- [Ms. Clerk, U.S. District Court, Eastern District of Arkansas, Clerk of Court](#)
- [Ms. Valarie Flora, Court Reporter](#)
- [Mr. Abtin Mehdizadegan](#)
- [Ms. Allison Lynn Tschiemer Scott](#)
- [Mr. Joseph Charles Stepina](#)
- [Justin Swanson](#)
- [Paul D. Vink](#)

The following information is for the use of court personnel:

DOCKET ENTRY ID: 5324495

RELIEF(S) DOCKETED:

DOCKET PART(S) ADDED: 7376059, 7376060

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

APPEAL BRIEFING SCHEDULE ORDER

Appeal No. 23-3237 Bio Gen LLC, et al v. Sarah Huckabee Sanders, et al

Date: October 10, 2023

APPEAL REQUIREMENTS

1. Complete and file immediately:
 - A. Corporate Disclosure Statement. See 8th Cir. R. 26.1A.
 - B. Entry of Appearance Form.
Forms are available at: www.ca8.uscourts.gov/all-forms
2. Prepare the Record on Appeal:
 - A. Within 10 days, confer with opposing counsel and determine the method of Appendix preparation. See FRAP 30 and 8th Cir. R. 30A.
 - B. Within 14 days, order any transcripts required for the appeal and arrange for payment. If no transcript is required, file a certificate of waiver. See FRAP 10(b). Appellee should order any additional transcripts within 14 days of appellant's order.
 - C. Review the "Record on Appeal" at: www.ca8.uscourts.gov/appeal-preparation-information .
3. Review "Briefing Checklist" and "Pointers on Preparing Briefs" at: www.ca8.uscourts.gov/appeal-preparation-information .

GENERAL INFORMATION

The following filing dates are established for the appeal. The dates will only be extended upon the filing of a timely motion establishing good cause for an extension of time. An extension of time automatically extends the filing date for the responding or replying party's brief. Dates are advanced if a party files its brief before the due date. Please refer to FRAP 25, FRAP 26 and FRAP 31 for provisions governing filing and service, as well as computing and extending time.

The Federal Rules of Appellate Procedure and the Eighth Circuit's Local Rules may be found at www.ca8.uscourts.gov/rules-procedures

The Practitioner's Handbook and the Court's Internal Operating Procedures may also be found at the same address.

**APPEAL BRIEFING SCHEDULE
FILING DATES:**

Method of Appendix Preparation Notification. **14 days from today**

Designation & Statement of Issues-Appellant **14 days from today**

Designation of Record-Appellee. **10 days from service of appellant's designation**

Transcript **11/20/2023**
(Valarie Flora)

Appendix (3 copies) **11/29/2023**
(Sarah Huckabee Sanders, et al.)

Appellant Brief with addendum **11/29/2023**
(Sarah Huckabee Sanders, et al.)

Appellee Brief. **30 days from the date the court issues
the Notice of Docket Activity filing the brief.**

Reply Brief **.21 days from the date the court issues
the Notice of Docket Activity filing the brief.**

**ALL BRIEFS AND APPENDICES SHOULD BE
FILED WITH THE ST. LOUIS OFFICE**

John Hibbs

From: ca08ml_cmecf_Notify@ca8.uscourts.gov
Sent: Tuesday, October 10, 2023 3:05 PM
Subject: 23-3237 Bio Gen LLC, et al v. Sarah Huckabee Sanders, et al "Civil Briefing Schedule Set" (4:23-cv-00718-BRW)

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing.

Eighth Circuit Court of Appeals

Notice of Docket Activity

The following transaction was filed on 10/10/2023

Case Name: Bio Gen LLC, et al v. Sarah Huckabee Sanders, et al
Case Number: [23-3237](#)
Document(s): [Document\(s\)](#)

Docket Text:

BRIEFING SCHEDULE SET AS FOLLOWS:

Transcript due on or before 11/20/2023. Appendix due 11/29/2023. BRIEF APPELLANT Sarah Huckabee Sanders, et al. due 11/29/2023

Appellee brief is due 30 days from the date the court issues the Notice of Docket Activity filing the brief of appellant. [5324524] [23-3237] (Crystal Henderson)

Notice will be electronically mailed to:

Jordan Broyles: jordan.broyles@arkansasag.gov
Ms. Clerk, U.S. District Court, Eastern District of Arkansas, Clerk of Court: ared_appeals@ared.uscourts.gov
Ms. Valarie Flora, Court Reporter: Valarie_Flora@ared.uscourts.gov
Mr. Abtin Mehdizadegan: abtin@hallboothsmith.com, bschoening@hallboothsmith.com
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Mr. Joseph Charles Stepina: jstepina@hallboothsmith.com
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The following document(s) are associated with this transaction:

Document Description: Briefing Schedule

Original Filename: /opt/ACECF/live/forms/CrystalHenderson_233237_5324524_AppealBriefingSchedule_172.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1105112566 [Date=10/10/2023] [FileNumber=5324524-0]

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9eb0382c991169d02691c91791a]]

Recipients:

- [Jordan Broyles](#)
- [Ms. Clerk, U.S. District Court, Eastern District of Arkansas, Clerk of Court](#)
- [Ms. Valarie Flora, Court Reporter](#)
- [Mr. Abtin Mehdizadegan](#)
- [Ms. Allison Lynn Tschiemer Scott](#)
- [Mr. Joseph Charles Stepina](#)
- [Justin Swanson](#)
- [Paul D. Vink](#)

The following information is for the use of court personnel:

DOCKET ENTRY ID: 5324524

RELIEF(S) DOCKETED:

DOCKET PART(S) ADDED: 7376129, 7376130