

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

In re Revlimid & Thalomid Purchase Antitrust Litigation

No. 19-cv-07532 (MEF)(MAH) (D.N.J. Mar. 18, 2026) · No. No. 19-cv-07532 (MEF)(MAH) · Decided March 18, 2026

SUMMARY

The opinion addresses a motion to dismiss United Healthcare Services, Inc.'s Minnesota Consumer Fraud Act claim against Celgene Corporation and Bristol-Myers Squibb Company in litigation concerning alleged charitable subsidy and pharmaceutical pricing practices. The court examines whether the Minnesota Private Attorney General statute provides a private cause of action and discusses the requirement that a claim benefit the public. Before resolving the issue, the court considers soliciting the Minnesota Attorney General's views regarding the scope of the Attorney General's enforcement authority.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Michael E. Farbiarz
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	March 18, 2026
DOCKET	No. 19-cv-07532 (MEF)(MAH)
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Celgene Corporation moved to dismiss United Healthcare Services, Inc.'s claim under the Minnesota Consumer Fraud Act. Before deciding whether the Minnesota Private Attorney General Statute supplies a cause of action on the pleaded facts, the court sua sponte invited the Minnesota Attorney General to submit an amicus brief addressing the issue.
STANDARD OF REVIEW	On a motion to dismiss, the court treats the complaint's allegations as true. The availability of a cause of action is a threshold legal question; the court also applied a discretionary standard to whether to solicit amicus participation.
PRECEDENTIAL VALUE	District court opinion; precedential status not stated and no reporter citation appears.

TOPICS

motions to dismiss

civil procedure

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PRACTICE AREAS

Civil procedure

Consumer protection

Statutory interpretation

Antitrust

Health law

QUESTIONS PRESENTED

1. Whether the Minnesota Private Attorney General Statute supplies United Healthcare with a private cause of action to pursue its Minnesota Consumer Fraud Act claim on the pleaded allegations.
2. Whether a federal district court may sua sponte solicit an amicus brief from a nonparty, including a state attorney general, concerning a pending legal question.
3. Whether the court should exercise that authority here in light of the Minnesota Attorney General's interest, expertise, potentially unrepresented position, and the novelty of the state-law issues.

HOLDINGS

1. A federal district court possesses inherent authority to ask a nonparty, including a state attorney general, to submit an amicus brief on a pending legal question, even when the request is made sua sponte.
2. The court should invite the Minnesota Attorney General to submit an amicus brief addressing whether United Healthcare may use the Minnesota Private Attorney General Statute to bring its Minnesota Consumer Fraud Act claim.
3. Under *Ly v. Nystrom*, a private plaintiff proceeding under Minnesota's Private Attorney General Statute may act only within the limits of the Minnesota Attorney General's enforcement role and must demonstrate that the cause of action benefits the public.

KEY QUOTATIONS

“the role and duties of the attorney general with respect to enforcing the fraudulent business practices laws must define the limits of the private claimant under the statute.” (Part III.A)

“In short: sua sponte, a federal district court can ask a nonparty --- including a state attorney general --- to weigh in on a pending legal question.” (Part IV)

“For the reasons set out above, the Court will invite the Attorney General of Minnesota to submit an amicus brief as to whether, on the allegations in this case, the Plaintiff can use the cause of action in the Minnesota Private AG statute to bring the Minnesota Consumer Fraud Act claim that it seeks to press.” (Part VI)

FACTUAL BACKGROUND

United Healthcare Services, Inc. alleged that Celgene Corporation funded nominally independent charities that subsidized patients' deductibles, copayments, and other insurance-related costs for Revlimid, a cancer drug. According to the allegations, the subsidies increased demand for the drug and shifted costs to insurers while helping maintain artificially high prices and limiting pressure from generic competition. United Healthcare

asserted, among other claims, a Minnesota Consumer Fraud Act claim pursued through Minnesota's Private Attorney General Statute.

PROCEDURAL HISTORY

United Healthcare Services, Inc. sued Celgene Corporation in federal court on eight claims, including federal antitrust claims, a common-law claim, and two Minnesota-law claims. The opinion addresses the defendant's motion to dismiss the Minnesota Consumer Fraud Act claim, particularly the asserted absence of a private cause of action. The court deferred deciding that issue and ordered that the Minnesota Attorney General be invited to participate as *amicus curiae*.

DISPOSITION

other

CASES CITED

- *McTernan v. City of York*, 577 F.3d 521, 526 (3d Cir. 2009)
- *Kloepfer v. Honda Motors Co.*, 898 F.2d 1452, 1457 (10th Cir. 1990)
- *In re All Terrain Vehicle Litig.*, 979 F.2d 755, 756-57 (9th Cir. 1992)
- *Benitez-Allende v. Alcan Alumínio do Brasil, S.A.*, 857 F.2d 26, 35 (1st Cir. 1988)
- *Medina v. Planned Parenthood of S. Atl.*, 606 U.S. 357, 364, 385-86 (2026)
- *Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)
- *United States v. Hallinan*, 75 F.4th 148, 151 (3d Cir. 2023)
- *Vanderklok v. United States*, 868 F.3d 189, 197 (3d Cir. 2017)
- *State ex rel. McClure v. Sports & Health Club, Inc.*, 370 N.W.2d 844, 850 (Minn. 1985)
- *Marine Credit Union v. Detlefson-Delano*, 830 N.W.2d 859, 864 n.3 (Minn. 2013)
- *Martin v. Simon*, 6 N.W.3d 443, 450 (Minn. 2024)
- *Ly v. Nystrom*, 615 N.W.2d 302, 311, 313-14 (Minn. 2000)
- *In re National Arbitration Forum Trade Practices Litigation*, 704 F. Supp. 2d 832, 838-39 (D. Minn. 2010)
- *Wiegand v. Walser Automotive Groups, Inc.*, 683 N.W.2d 807, 809 (Minn. 2004)
- *Stone v. Invitation Homes, Inc.*, 986 N.W.2d 237, 250 (Minn. Ct. App. 2023)
- *Graphic Communications Local 1B Health & Welfare Fund A v. CVS Caremark Corp.*, 850 N.W.2d 682, 693 (Minn. 2014)
- *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006)
- *Chase Bank USA, N.A. v. McCoy*, 562 U.S. 195, 209 (2011)
- *Ashby v. Warrick County School Corp.*, 908 F.3d 225, 227 (7th Cir. 2018)
- *Wenger v. Frank*, 266 F.3d 218, 225 (3d Cir. 2001)
- *Dobson Mills Apartments, L.P. v. City of Philadelphia*, 2022 WL 558348, at *1 (E.D. Pa. Feb. 23, 2022)
- *Neonatology Associates, P.A. v. Commissioner*, 293 F.3d 128, 129, 131 (3d Cir. 2002)

- Kyocera Document Solutions America, Inc. v. Division of Administration, 708 F. Supp. 3d 531, 542 n.16 (D.N.J. 2023)
- Combs v. Homer-Center School District, 540 F.3d 231, 253-54 (3d Cir. 2008)
- Seminole Tribe of Florida v. Florida, 517 U.S. 44, 54 (1996)
- Alden v. Maine, 527 U.S. 706, 714 (1999)
- Calderon v. Thompson, 523 U.S. 538, 552 (1998)

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