

Bond Case Briefs

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TELECOM - ARKANSAS

City of Ashdown, Arkansas v. Netflix, Inc.

United States Court of Appeals, Eighth Circuit - November 8, 2022 - F.4th - 2022 WL 16754392

City filed putative class action lawsuit seeking declaratory judgment that online video streaming service providers had to comply with Arkansas Video Service Act (VSA) and damages for their failure to pay required fee.

The United States District Court for the Western District of Arkansas dismissed complaint, and city appealed.

The Court of Appeals held that VSA did not create implied right of action for city to bring suit against providers.

Under Arkansas law, Arkansas Video Service Act (VSA) did not create implied right of action for city to bring suit against online video streaming service providers for alleged failure to pay applicable franchise fees, even though city was owed fees and had other rights under VSA; VSA expressly conferred right of action onto Public Service Commission, but limited Commission to mandamus and injunction proceedings, which did not allow relief in form of compelling payment of past-due fees, and municipalities were not special class that legislature intended to protect through VSA.