

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 08-1205

Roger Day, M.D.,

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Appellant,

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United States of America,

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Intervenor,

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v.

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State of Minnesota; Minnesota Board
of Medical Practice; Steven J.
Altchuler, M.D., PH.D.; Alfred V.
Anderson, M.D., D.C.; Hilda
Bettermann; Kelli Johnson; Jerry
Kaplan; Ernest W. Lampe, II, M.D.;
Allen Rasmussen; Kris Sanda; Carl S.
Smith, M.D.; Jon V. Thomas, M.D.;
James Langland, M.D.; Barbara
Letourneau, M.D.; Bradley S.
Johnson, M.D.; Rebecca Hafner,
M.D., in their personal capacities and
in their official capacities as members
of the Minnesota Board of Medical
Practice,

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Appellees.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: October 22, 2009
Filed: November 5, 2009

Before MURPHY, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Roger J. Day, M.D., appeals the district court's¹ judgment dismissing his claims against Minnesota, the Minnesota Board of Medical Practice, and its members, arising out of their decision not to grant him an unrestricted medical license. Following careful review, we agree with district court that Day's discrimination and due process claims are barred by res judicata, see St. Paul Fire and Marine Ins. Co. v. Compaq Computer Corp., 539 F.3d 809, 821 (8th Cir. 2008) (law of forum that rendered first judgment controls res judicata analysis; Minnesota courts review application of res judicata de novo; setting forth res judicata criteria under Minnesota law), and we find no basis for reversal.² Accordingly, we affirm. See 8th Cir. R. 47B. Day's pending motion for oral argument is denied.

¹The Honorable Michael J. Davis, Chief Judge, United States District Court for the District of Minnesota, adopting the report and recommendations of the Honorable Raymond L. Erickson, United States Magistrate Judge for the District of Minnesota.

²We decline to address the sovereign immunity issue raised in the intervenor's brief filed by the United States.