



Client Alert



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AGG Attorneys Successfully Defend a Pair of Certificate of Need Challenges

Jason E. Bring and Robert T. Strang, III recently succeeded in repelling two lawsuits that sought to reverse a Certificate of Need (CON) granted to Vidalia Regional Cancer Center (Vidalia) to build and open a new radiation therapy cancer center. The two lawsuits, one in Fulton County and the other in Bulloch County, were brought separately by Satilla Regional Cancer Treatment Center and Statesboro Oncology Associates, respectively.

On June 30, 2008, Vidalia filed a CON application to establish a cancer center in Vidalia, Georgia to treat cancer with radiation. On November 25, 2008, the Georgia Department of Community Health granted the requested CON. The opponents challenged Vidalia's application, but Vidalia prevailed at all three levels of the administrative process.

Following their losses at the administrative level, the opponents continued their challenges by filing petitions for judicial review in the Superior Courts of Fulton and Bullock counties. On March 2, 2010, the Superior Court of Fulton County denied Satilla's petition, finding that Satilla lacked standing because it was not aggrieved by the Department's decision and concluding that the Department's interpretation of that rule is correct. Likewise, on March 22, 2010, the Superior Court of Bulloch County denied Statesboro Oncology's petition, finding that, while Statesboro Oncology enjoyed standing, its arguments were without merit.

The establishment of a cancer center in Vidalia is important for the citizens of the service area because, as noted by both courts, the region to be served currently lacks accessible radiation therapy services, and it has one of the highest cancer incidence areas in the state of Georgia.

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