

**IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI
NO. 2008-CA-02073**

DIALYSIS SOLUTION, LLC

APPELLANT/PLAINTIFF

VS.

**MISSISSIPPI STATE DEPARTMENT OF
HEALTH; ED THOMPSON, IN HIS OFFICIAL
CAPACITY AS THE EXECUTIVE DIRECTOR
OF THE DEPARTMENT OF HEALTH; STATE
OF MISSISSIPPI AND RCG-MONTGOMERY, LLC**

APPELLEES/DEFENDANTS

**APPEAL FROM THE CHANCERY COURT OF THE
FIRST JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI
HONORABLE J. DEWAYNE THOMAS, CHANCERY JUDGE; CAUSE NO. G2007-1990 T/I**

BRIEF OF APPELLANT

ORAL ARGUMENT REQUESTED

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OF MISSISSIPPI AND RCG-MONTGOMERY, LLC**

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of the Supreme Court and/or the judges of the Court of Appeals may evaluate possible disqualification or recusal:

A. Plaintiff:

- Dr. Walter Roberts; Dialysis Solution, LLC

B. Plaintiff's Counsel:

- Robert G. Clark, III; Bryant W. Clark; Clark & Clark, PLLC

C. Defendants:

- Mississippi State Department Of Heath; Ed Thompson, In His Official Capacity

As The Executive Director Of The Department Of Health; State Of Mississippi and RCG-Montgomery, LLC

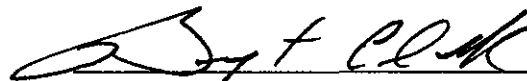
D. Defendant's Counsel:

- Barry Cockrell; Baker Donleson, P.A.
- Sondra McLemore, Mississippi Attorney General's Office

E. Chancery Court Judge:

- Honorable J. Dewayne Thomas, Hinds County Chancery Court Judge

DATED, this the 15th day of April, 2009.

A handwritten signature in black ink, appearing to read "Bryant W. Clark", is written over a horizontal line.

BRYANT W. CLARK

Attorney of Record for Dialysis Solution, LLC

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STATEMENT OF ISSUES PRESENTED

- 1) Whether the Chancery Court erred in finding that the Department of Health has the legal authority to grant an extension of a Certificate of Need, after the expiration of the time period stated on the Certificate of Need has expired.
- 2) Whether the Chancery Court erred in failing to find that the Certificate of Need issued to RCG for an End Stage Renal Disease facility in Montgomery County is revoked as a matter of law
- 3) Whether the Chancery Court erred in finding that a Certificate of Need is only valid for a maximum of eighteen (18) months.

STATEMENT OF THE CASE

A. Introduction.

This is an appeal that addresses a case where the Mississippi Department of Health (MSDH) issued a Certificate of Need for a End Stage Renal Disease facility in Montgomery County to RCG-Montgomery, LLC. (Record at 304) The Certificate of Need issued by the Department of Health was for a period of one (1) year. (R. at 310 & 312) After the expiration of RCG's Certificate of Need Dialysis Solution, LLC applied for the Certificate of Need for a End Stage Renal Disease facility in Montgomery County. (R. at 305) Ten (10) days after Dialysis Solution, LLC filed its application and Two (2) years and twenty-three days after the Certificate of Need was issued, RCG- Montgomery, LLC (RGC) made its first request for an extension to the Department of Health. One (1) year and Thirty-three (33) days after RCG's Certificate of Need had expired, the Department of Health made an attempt to grant RCG a six (6) month extension on its Certificate of Need.(R. at 305) On

October 23, 2007, Dialysis Solution, LLC filed a Petition for Declaratory Judgment and Injunctive Relief, for the court to determine whether the Department of Health has the authority to extend an expired Certificate of Need and whether the Department of Health can grant extension(s) that exceed six (6) months.(R. at 01 & 305) On October 26, 2007, the Department of Health issued an official notice of Temporary Rule Change effective October 29, 2007. (R. at 305, 323 & 324) The Chancery Court found that the Department of Health has the authority to issue an extension after a Certificate of Need has expired. (R. at 365)

B. Certificate of Need Process and Background

The Mississippi Health Care Certificate of Need Law of 1979 (*Miss. Code Ann.* §§ 41-7-173, *et seq.*) designated the MSDH as the sole and official agency of the State of Mississippi to administer and supervise all state health planning responsibilities of the State. The intention of health planning and health regulatory activities is to prevent unnecessary duplication of health resources, provide cost containment, improve the health of Mississippi residents, and increase the accessibility, acceptability, continuity and quality of health services. The regulatory mechanism to achieve these results is the Certificate of Need (CON). (R. at 303)

A CON must be obtained from the MSDH before undertaking any of the activities described in *Miss. Code Ann.* § 41-7-191(1), which includes the establishment of End-Stage Renal Disease (“ESRD”) facilities. No final arrangement or commitment for financing such activity may be made by any person unless a CON for such arrangement or commitment has been issued by the MSDH. *Id.* Pursuant to its statutory authority, the MSDH routinely

promulgates rules and regulations **necessary** for the administration and enforcement of the Mississippi CON Program. No CON shall be issued unless the project proposed in the application for such CON has **been** reviewed for consistency with the specifications and criteria established by the MSDH **and** substantially complies with the projection of need as reported in the State Health Plan **which** is in effect at the time the application is received by the MSDH. (R. at 304) In the *Fiscal Year 2005 Mississippi State Health Plan*, the Mississippi State Board of Health **authorized** the MSDH to issue CONs for the construction or expansion of ESRD facilities **having** a need in the following Mississippi counties: Humphreys, Jefferson, Montgomery, and Tallahatchie Counties. (R. at 305)

C. Factual Background

In 2004, through its Mississippi State Health Plan, the Mississippi State Board of Health **authorized** the Department of Health to issue a CON for the construction or expansion of an end stage renal facilities **having** a need in Montgomery County. *Id.* On September 1, 2004, Mississippi State Department of Health received a Certificate of Need application from RCG Montgomery County, LLC, a Mississippi Limited Liability Company. The herein mentioned application was for an End Stage Renal Disease facility in Montgomery County. On December 16, 2004, Department of Health issued a Certificate of Need to RCG for a 6 station ESRD facility in Montgomery County. *Id.* The expiration date on said Certificate of Need was December 16, 2005. (R. at 310) On November 17, 2005, the Department of Health received a Notice of Change of Ownership. Pursuant to that notice, Fresenius

Medical Care, Inc., a Mississippi corporation, was acquiring RCG Montgomery County, LLC. (R. at 305) On March 8, 2006, Department of Health made a request for a Progress Report from RCG. On March 31, 2006, RCG Montgomery County, LLC was acquired by Fresenius Medical Care, Inc. On December 11, 2006, the Department of Health received a Progress Report from RCG's counsel. *Id.*

On December 29, 2006, after the expiration of RCG's Certificate of Need, the Department of Health received a Certificate of Need application for establishment of a 12 station ESRD facility in Montgomery County from Plaintiff Dialysis Solution, LLC, a Mississippi limited liability company. *Id.* On January 8, 2007, **one year and twenty-three days AFTER the stated expiration date on the Certificate**, Defendant RCG made a request for a six (6) month extension on the Certificate of Need. (R. at 305 & 310) On January 18, 2007, then State Health Officer, Dr. Brian Amy, granted an extension, which expired on July 18, 2007. (R. at 305). On February 2, 2007, RCG finally purchased the property for the Montgomery facility (R. at 333). On August 30, 2007, Defendant Dr. Ed Thompson, current State Health Officer, granted another extension, (R. at 305). On September 27, 2007, Plaintiff, Dialysis Solution, LLC, made a request for a public hearing for revocation of RCG's Certificate of Need. (R. at 305). On October 13, 2007, Plaintiff received a letter from Defendant Ed Thompson denying its request for a revocation hearing. (R. at 306).

On October 23, 2007, Plaintiff filed suit in the Chancery Court of the First Judicial District of Hinds County, Mississippi seeking a Declaratory Judgment and Injunctive relief.

On October 26, 2007 , MSDH issued and notice that it had received an Attorney General's Opinion (issued October 12, 2007), regarding an interpretation of Miss. Code Ann § 41-7-195, governing the validity and duration of a CON. In response to this Attorney General's Opinion, the MSDH adopted a Temporary Rule, effective on October 29, 2007, in an attempt to develop a clear, consistent and legal process for the review and extension of outstanding CONs. (R. at 306 & 323)

On January 14, 2008, the Department of Health granted RCG another six (6) month extension. (R. at 307) On January 23, 2008, the Mississippi State Board of Health approved Final Adoption of changes to the Mississippi Certificate of Need Review Manual, in order to make the Temporary Rule a permanent regulation. *Id.* The rule change was filed with the Secretary of State on January 24, 2008, and became effective on February 23, 2008. *Id.* On May 20, 2008, the State Health Officer granted RCG's request for an additional six month extension of the CON. (R. at 308)

D. The Proceedings Below.

On December 29, 2006, Dialysis Solution filed an application with the Department of Health seeking a CON for an ESRD facility in Montgomery County. (R. at 305) On September 27, 2007, Dialysis Solution, LLC, made a request for a public hearing for revocation of RCG's Certificate of Need, on the basis that the time stated in the CON had lapsed making the CON voided. (R. at 305 & 320) On October 13, 2007, Plaintiff received a letter from Defendant Ed Thompson denying its request for a revocation hearing. (R. at 306 & 014) On October 23, 2007, Plaintiff filed suit in the Chancery Court of the First Judicial

District of Hinds County, Mississippi seeking a Declaratory Judgment and Injunctive relief. Specially seeking the Chancery Court to declare that RCG's CON was voided by operation of law, to enjoin MSDH from granting additional extension and to enjoin the MSDH from issuing a license to RCG on a voided CON. (R. at 307, 01 & 07) On February 20, 2008, Dialysis Solution filed a Motion for Temporary Restraining Order and/or Preliminary Injunction to enjoin RCG from constructing a ESRD facility in Montgomery County and enjoin the MSDH from issuing a license to RCG until the Chancery Court had ruled on this matter. (R. at 66) On March 03, 2008, Dialysis Solution filed an Amended Complaint (R. at 142) On March 27, 2008, the Chancery Court issued an Order denying Dialysis Solution's Motion. (R. at 175) All parties agreed to stipulate to the facts of the case and to submit briefs for the Court's consideration. (R at 303) On December 8, 2008, Judge Thomas issued an Order finding in favor of Defendants/Appellees. (R. at 365) The plaintiff/appellant Dialysis Solution timely filed its Notice of Appeal of the decision of the Hinds County Chancery Court. (R. at 372)

SUMMARY OF THE ARGUMENT

Mississippi Code Ann. § 41-7-195 (1972) expressly provides that a CON is valid only for the time period stated therein. That any extensions of a CON granted by MSDH must be done before the stated expiration and once the time stated in the CON has lapsed, the CON is void and no extensions can be granted. MSDH does not have the legal authority to extend a lapsed CON and must reissue the CON in accordance with CON statutory provisions.

The plaintiff/appellant also contends that Mississippi Code § 41-7-195 (1972) forbids the MSDH from granting an extension for any amount of time that exceeds six months. That the maximum time a CON may be outstanding is a total of 18 months.

ARGUMENT

This court has held that its review of decisions by administrative agencies is limited. “We will reverse only when an agency's decision is (1) unsupported by substantial evidence, (2) arbitrary and capricious, (3) beyond the powers of the Board to make, or (4) in violation of a statutory or constitutional right of the complaining party.” *Sprouse v. Mississippi Employment Sec. Comm'n*, 639 So.2d 901, 902 (Miss.1994). This case turns on whether the Mississippi Department of Health exceeded its powers and violated state statute. More specifically, the Dialysis Solution’s Petition for Declaratory Judgment raises two issues of judicial interpretation of the Mississippi Certificate of Need statute and the authority of the Mississippi Department of Health. Specifically, does the Department of Health have the legal

authority to grant an extension of a Certificate of Need, after the expiration of the time period stated on the Certificate of Need has expired; and, whether section 41-7-195 and Department Regulations limit the extension of a Certificate of Need to a maximum of six (6) months. (R. at 5, 6, 7, 146 & 147)

Whether the Chancery Court erred in failing to determine the Department of Health does not have the legal authority to grant an extension of a Certificate of Need, after the expiration of the time period stated on the Certificate of Need had expired.

Whether the Chancery Court erred in failing to find that the Certificate of Need issued to RCG for an End Stage Renal Disease facility in Montgomery County is revoked as a matter of law.

Section 41-7-195 states in relevant part the following

- (1) *** A Certificate of Need shall be valid for the period of time specified therein.
- (2) A certificate of need shall be issued for a period of twelve (12) months, or such other lesser period as specified by the State Department of Health.
- (3) The State Department of Health may define by regulation, not to exceed six (6) months, the time for which a certificate of need may be extended.

Section 41-7-195(1) clearly and unambiguously states that a Certificate of Need shall be valid for the period of time specified therein. Once the time period stated in the CON has lapsed, the CON is void. Furthermore, there is no statutory authority given to MSDH to extend a voided or expired CON.

The Court "neither broaden[s] nor restrict[s] the legislative act." *Miss. Dep't of Transp. v. Allred*, 928 So.2d 152, 156 (Miss. 2006). In *Green v. Cleary Water, Sewer & Fire Dist.*, 910 So.2d 1022, 1027 (Miss. 2005) the Supreme Court held that "courts cannot restrict

or enlarge the meaning of an unambiguous statute." *Green*, 910 So.2d at 1027 (quoting *Marx v. Broom*, 632 So.2d 1315, 1318 (Miss. 1994)). In *Allred*, 928 So.2d at 154, the Court stated that:

In considering a statute passed by the Legislature, . . . the first question a court should decide is whether the statute is ambiguous. If it is not ambiguous, the court should simply apply the statute according to its plain meaning and should not use principles of statutory construction. [Citations omitted]. Whether the statute is ambiguous or not, the ultimate goal is to discern and give effect to the legislative intent.

Allred, 928 So.2d at 154 (quoting *City of Natchez v. Sullivan*, 612 So.2d 1087, 1089 (Miss. 1992)). Therefore, when a statute is not ambiguous, this Court applies the statute according to its plain meaning and need not apply principles of statutory construction. *Id.*

"When the language used by the legislature is plain and unambiguous . . . and where the statute conveys a clear and definite meaning. . . the Court will have no occasion to resort to the rules of statutory interpretation." *Marx v Broom*, 632 So.2d 1315, 1318 (Miss. 1994). Instead, "[c]ourts have a duty give statutes a practical application consistent with their wording, unless such application is inconsistent with the obvious intent of the legislature." *Marx*, 632 So.2d at 1318.

In the present case, the Department of Health issued a Certificate of Need to Defendant RCG on December 16, 2005. (R. at 304) The stated expiration date on the Certificate of Need was December 16, 2006. (R. at 310 & 312) RCG failed to request an extension prior to the stated expiration date, in fact they did not make said request until January 8, 2007, over a year after it had expired. (R. at 305)

Section 41-7-195 provides that “*** a Certificate of Need shall be valid for the period of time specified therein.” The language here is plain, unambiguous, and conveys a clear and definite meaning. This statute expressly provides that a CON is valid only for the period stated therein. Once the time period stated in the CON has lapsed, the CON is void and no extensions can be granted. The stated effective date on the CON was December 16, 2004 and the stated expiration date was December 16, 2005. (R. at 310 & 311). As required by *Marx*, giving this statute its practical application of its wording it is clear that the CON is void.

One may argue that the Department of Health has broad statutory authority to promulgate rules and regulations necessary for the administration and enforcement of Mississippi’s CON program. However, this Court has maintained that “we have accepted an obligation of deference to agency interpretation and practice in areas of administration by law committed to their responsibility[; however,] . . . it has no material force where agency’s action is contrary to the statutory language.” *Gill v. Mississippi Dept. Of Wildlife Conservation*, 574 So. 2d 587, 593 (Miss. 1990). Following the court’s reasoning in *Gill*, it is clear that the legislature has given the Department of Health the authority to administer and enforce the CON program and in doing so the Department must stay within the guidance of the statute. And, there is no statutory authority granted to the Department of Health to extend or revive a CON once it has expired. It may be argued that the Department has some type of inherent authority to expand or change the statutory authority that was given to them by the legislature. In doing so it must be noted, that this Court has stated that a “[s]tatutory agency has only legislation granted authority, there is no inherent authority.” *Mississippi*

Public Service Comm. v. Mississippi Power & Light Co., 593 So.2d 997, 999 (1991).

In response to a request from the State Health Officer, Dr. Ed Thompson, the Attorney General of the State of Mississippi issued an October 12, 2007 official opinion concerning the extension of a Certificate of Need as it pertains to Miss. Code Ann. Section 41-7-195. (R. at 325) In *Madison v. Hopskins*, 857 So.2d 43 (Miss. 2003), the Supreme Court stated that “Attorney General’s Opinions are not binding, but they may certainly be considered by the Court.” In the October 12, 2007 opinion, the Attorney General stated that “[o]nce the period in the CON has lapsed, the CON is void and no extensions can be granted. At that point, the applicant would be required to reapply for a CON it is the opinion of this office that after the date of expiration, the CON is automatically void by operation of law.” *Att’y Gen. Op.* 2007-00467 issued October 12, 2007. (R. at 326)

The opinion went on to state that “it is the opinion of this office that after the expiration of the CON, the department does not have the authority to grant an extension of the CON. Any extensions granted pursuant to section 41-7-195(3) must be granted prior to expiration. *Id.*

It is clear that pursuant Section 41-7-195 the Department Health does not have the authority grant an extension of a Certificate of Need, after the expiration of the time period stated in the Certificate of Need.

The trial court adopted the Defendants’ argument that the MSDH’s adoption of the Temporary and Permanent rules corrected their illegal practice. The Trial Court stated that “the MSDH subsequently took steps to update its regulation taking into account the Attorney

General's Opinion." (R. at 370). In the Trial Court's order denying the Temporary Restraining Order the court said "in any event, the more important point is that, in response to the Attorney General's Opinion, the MSDH took legal and definitive administrative action in addressing questions and concerns on the validity and duration of CONs MSDH adopted temporary and permanent rules to govern the review, monitoring and extension of CON projects." (R. at 187)

This argument is fundamentally flawed for several reasons. First, Plaintiff Dialysis Solution filed its complaint and the MSDH was served with process on October 23, 2007. (R. at 306 & 01) The Department of Health's Temporary Rule change was proposed on October 26, 2007 and became effective on October 29, 2007 and the MSDH Permanent Rule change was not effective until February 24, 2008. (R. at 306 & 323) Both the Temporary and Permanent Rules adopted by MSDH did not take effect until after the Plaintiff filed suit in Hinds County Chancery Court. *Id.* The Trial Court and the Defendants are erroneously applying facts that did not develop until after Plaintiff Dialysis Solution filed its complaint.

Secondly, subsequent actions on the part of the MSDH does not change the facts and the law as they were on October 23, 2007 when the lawsuit was filed. The fact that the Department of Health changed its CON rules and regulations on October 29, 2007, does not negate the fact that RCG had failed to request an extension of its CON prior to the December 16, 2005 expiration. And, as previously discussed there is no statutory authority that gives the Department of Health the authority to revive an expired CON. After the expiration of the CON, the Department of Health must reopen the application and review process as provided

by statute and regulations. The Department of Health can not grant itself boarder authority through an administrative rule change than was not given to it by the legislature. Therefore, the Department can not revive RCG's expired CON by simply making a rule change after the CON had expired. The October 26 Rule Change was put in place to (1) clarify Section 41-7-195 and (2) to prevent any future CONs from being voided as result of the holder's failure to request an extension prior to its expiration. (R. at 306). The Department's rule changes and the CON Rules & Procedures is in itself evidence that the Department of Health does not have the authority to revive a CON without the CON holder reapplying. No where in the rule change or any where in the Department's policies and procedures does it speaks about the Department reviving or extending an expired CON.

In exercising the check or review principle to restrain the agency from using unauthorized power, the Mississippi Supreme Court has repeatedly stated that powers legislatively granted to and exercised by an administrative agency are limited to and must not exceed the authority prescribed by the legislative enactment. *Miss. ex rel Pittman v. MPSC*, 520 So.2d 1355 (Miss.1987); *Reserve Life Insurance Co. v. Coke*, 254 Miss. 936, 183 So.2d 490 (1966); *United Gas Pipeline Co. v. Miss. Public Service Commission*, 241 Miss. 762, 133 So.2d 521 (Miss.1961). Statutory provisions control with respect to the rules and regulations promulgated by such a body. Accordingly, such a body may not make rules and regulations which conflict with, or are contrary to, the provisions of a statute, particularly the statute it is administering or which created it. 73 C.J.S., *Public Administrative Law and Procedure*, § 89 at 584, 585, 588 (1983).

It is clear that the legislature intended to limit the authority of the Department of Health in how long a CON could be outstanding. Sections 41-7-171 through 41-7-209 covers the CON process and in those sections the legislature gave the Department of Health authority to create a healthcare plan , authority to determine the need for healthcare facilities and the authority to promulgate the rules & procedures for issuing CONs. However, in Section 41-7-195 the legislature strictly limited the authority of the Department by clearly and specially stating: (1) CON shall be valid for the period of time specified there in (2) CON shall be issued for 12 months or such lesser period of time as specified by the Department; and (3) Extension should not exceed 6 months. It is obvious the intent of the Legislature was to strictly control through statute the time period in which a CON could be outstanding. No where in Section 41-7-195 or any other place in the statute does the legislature convey the authority to the Department to revive an expired CON.

Both the language of Section 41-7-195 and the legislative intent clearly provides that a CON is only good for a definite period, which is 12 months. There is no constitutional, statutory or any other authority that grants the Department of Health the power to revive or extend an expired CON. The outstanding Certificate of Need issued to RCG-Montgomery is invalid and voided by operation of law.

Whether the Chancery Court erred in failing to determine that the maximum time a Certificate of Need may be outstanding is eighteen (18) months.

Miss. Code Ann. Section 41-7-195 states that “(2) A certificate of need shall be issued for a period of twelve (12) months, or such other lesser period as specified by the State Department of Health. (3) The State Department of Health may define by regulation, **not to exceed six (6) months**, the time for which a certificate of need may be extended.” (Emphasis Added.)

Again, when the language used by the legislature is plain and unambiguous and where the statute conveys a clear and definite meaning the Court will not resort to the rules of statutory interpretation. However, in such cases the Courts have a duty to give statutes a practical application consistent with their wording. *Marx v. Broom*, 632 So.2d 1315, 1318 (Miss. 1994). Section 41-7-195(3) provided that MSDH may define by regulation the time for which a CON may be extended, however, that time shall not exceed six (6) months. The language is clear that the maximum extension for a Certificate of Need is six months.

The practical application of the wording and the intent of the legislature in Miss. Code Ann. Section 41-7-195 is to provide a definite time period in which a Certificate of Need may be outstanding, which is twelve months. The legislature went on to grant the Department of Health limited authority in extending Certificates of Need and that is six (6) months.

Although, the legislature gave the department broad authority in administering the CON program, it is clear that it was **their** intent to limit the time for which a CON could be

outstanding. The spirit and the language of the statute was to provide a maximum amount of time a CON could be outstanding, which is eighteen (18) months.

CONCLUSION

For the above stated reasons it is clear that the Department of Health does not have the authority to grant an extension of a Certificate of Need, after the expiration of the time period stated on the Certificate of Need has expired. The Certificate of Need issued to RCG-Montgomery should be declared void by operation of law and the Department of Health should be ordered to reissue the Certificate of Need to RCG for a 6 station ESRD facility in Montgomery County in compliance with Mississippi statute and Department procedures.

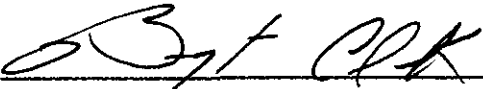
Also, Section 41-7-195 and Department Regulation limits the extension of a Certificate of Need to six (6) months. The Certificate of Need issued to RCG-Montgomery should be declared void by operation of law and the Department of Health should be ordered to reissue the Certificate of Need to RCG for a 6 station ESRD facility in Montgomery County in compliance with Mississippi statute and Department procedures. And, the Department of Health should be enjoined from issuing extensions that total more than 6 months.

Appellant/Petitioner Dialysis Solution respectfully request that the order of the Chancery Court of Hinds County be reversed and remanded with instructions to declare the Certificate of Need issued to RCG-Montgomery void by operation of law and order the Department of Health to reissue the Certificate of Need for a ESRD facility in Montgomery



County in compliance with Mississippi statute and Department procedures.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I. Bryant W. Clark, one of the attorneys for Appellant Dialysis Solution, LLC, certify that I have this day filed the foregoing Brief of Appellant with the Supreme Court Clerk and served a copy of these documents via Unites States Mail, postage prepaid, on the following:

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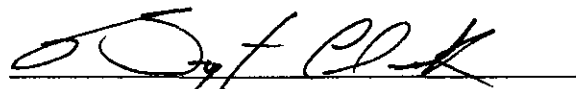
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HINDS COUNTY CHANCERY JUDGE
P.O. Box 686
Jackson, MS 39205-0686

Dated, this the 15th day of April, 2009.


Bryant W. Clark