

Bradley Secures DOJ Settlement Beneficial to Client Aseracare in Longstanding False Claims Act Matter

Bradley Arant Boult Cummings LLP is pleased to announce that it has secured a favorable settlement agreement for its hospice provider client AseraCare with the U.S. Department of Justice (DOJ) over a Qui Tam lawsuit that began in 2008.

Under terms of the agreement, AseraCare will pay \$1 million to the DOJ, which had sought more than \$200 million worth of claims under the False Claims Act.

“Our client AseraCare is very pleased with this settlement and the outcome of this case that provides benefit and clarity to the hospice industry over Medicare billing reimbursement, as well as some level of comfort and certainty to physicians who treat terminally ill patients,” said Bradley partner Jack W. Selden, who served as lead counsel in this case. “The existing law and the evidence that we presented clearly supported AseraCare’s position and helped us secure this settlement beneficial to our client.”

Bradley partner Kimberly B. Martin, chair of the firm’s Litigation Practice Group who also served as counsel to AseraCare in this matter, added, “This positive outcome also helps AseraCare continue its mission to provide vital hospice care and services to patients and their families with integrity and the utmost commitment to upholding ethics in the healthcare industry.”

The Eleventh Circuit Court of Appeals, in an opinion issued

Sept. 9, 2019, agreed with AseraCare and the District Court that a mere difference of reasonable physician's opinions on a terminal patient's prognosis will not constitute falsity under the False Claims Act. The Court of Appeals also clarified that any other evidence presented by the government in an effort to impose False Claims Act liability must be directly linked to the claim the government contends is false. Bradley partner Matt Lembke, who was a key member of the trial team and argued the case in the Eleventh Circuit Court of Appeals, noted that "The result provides additional clarity for hospice providers faced with claims under the False Claims Act."

Other key members of the Bradley team included Nick Danella, Tiffany deGruy, Fritz Spainhour, and Erin Sullivan.

AseraCare is a leading provider of hospice services caring for 2,200 patients and families per day. The company operates 44 locations in 14 states. For more information about AseraCare, visit www.aseracare.com.

About Bradley

Bradley combines skilled legal counsel with exceptional client service and unwavering integrity to assist a diverse range of corporate and individual clients in achieving their business goals. With offices in Alabama, Florida, Mississippi, North Carolina, Tennessee, Texas, and the District of Columbia, the firm's nearly 550 lawyers represent regional, national and international clients in various industries, including banking and financial services, construction, energy, healthcare, life sciences, manufacturing, real estate, and technology, among many others.