

Bond Case Briefs

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BOND VALIDATION - GEORGIA

Safer Human Medicine Inc. v. Decatur-County-Bainbridge Industrial Development Authority

United States District Court, M.D. Georgia, Albany Division - January 28, 2026 - Slip Copy - 2026 WL 226966

Plaintiff, Safer Human Medicine, filed an action before the Court raising breach of contract claims against Defendant, Decatur-County-Bainbridge Industrial Development Authority (the Authority), regarding a primate breeding facility that Plaintiff sought to develop in agreement with Defendant.

After Plaintiff identified Decatur County, Georgia as the location for its primate breeding facility, it entered into negotiations with the Authority regarding tax bonds. The Authority ultimately voted to adopt a Bond Resolution for the maximum aggregate principal amount of \$300,000,000.00. Under Georgia law, the Authority was required to obtain confirmation and validation of the proposed bond issuance.

Authority and Plaintiff sought an order confirming and validating the Bond Resolution. A hearing was held on the petition and no member of the public moved to intervene or object. At conclusion of the hearing, the Superior Court issued the Bond Validation Order.

Subsequently, the District Attorney for the South Georgia Judicial Circuit filed a Motion for Reconsideration or in the Alternative to Set Aside the Validation Order in the Superior Court of Decatur County contending that the Authority voted illegally to approve the bond validation without any input from the community or citizens."

The Georgia Court of Appeals dismissed the appeal in its entirety, concluding that "because the State petitioned the trial court for the bond validation, it cannot bring an appeal from the trial court's order granting that petition" since "it is axiomatic that at the appellate level one cannot complain of a judgment, order, or ruling that their own procedure or conduct procured or aided in causing."

Subsequently, the State of Georgia (the State) filed a Motion to Intervene. The State of Georgia sought to intervene in the action both as of right and permissively. Specifically, the State contends that it must be permitted to intervene as of right because it claims an interest relating to the underlying property that would be impaired or impeded by disposition of the action and no existing party can adequately represent that interest.

The District Court held that:

- The State was not entitled to Intervention by Right as it could not establish the third element — impairment.
- Given that the State's case was decided on a procedural rather than substantive basis, the question of whether the Court should exercise its discretion and allow permissive intervention carries greater weight.
- A case from the State would share common questions of law and fact with the claims and defenses

of the action. Specifically, the underlying agreements “are not binding or enforceable because they fail to comply with Georgia law.”

- Permissive intervention would not cause undue delay or prejudice to existing parties.
- Because the litigation remains in the early stages, no party suffers any prejudice by the intervention of the State.
- Any claims the State may have for or against the Bond Validation would in turn share common questions of law and fact with the present parties claims and defenses of this action.
- Rule 24(b)(2) allows for an additional avenue of permissive intervention by a state governmental officer or agency so long as “a party’s claim or defense is based on any regulation, order, requirement, or agreement issued or made under the statute or executive order.” Here, the Bond Validation Order underlies the entire action and was made pursuant to a State statute.
- While Plaintiff is correct that permissive intervention is discretionary and may be denied even if a non-party satisfies the elements, the Court errs on the side of caution to avoid duplicious litigation and resolve the matter with all interests represented.