

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 09-15819  
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| FILED<br>U.S. COURT OF APPEALS<br>ELEVENTH CIRCUIT<br>MAY 25, 2010<br>JOHN LEY<br>CLERK |
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D. C. Docket No. 08-00067-CV-RWS-2

GRACEWAY PHARMACEUTICALS, LLC,  
CHESTER VALLEY PHARMACEUTICALS, LLC,

Plaintiffs-Appellants,

versus

RIVER'S EDGE PHARMACEUTICALS, LLC,

Defendant-Appellee.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Georgia  
\_\_\_\_\_

(May 25, 2010)

Before BLACK, HULL and ANDERSON, Circuit Judges.

PER CURIAM:

We have carefully reviewed the briefs on appeal and the record in this case.

We have had the benefit of oral argument. Our resolution of this case has adhered

strictly to the particular arguments asserted on appeal by appellants. We also note that the record in this case is deficient; the primary record evidence relied upon by appellants for crucial elements of its proof is a survey of pharmacists, which was flawed in several respects, including in particular that the survey did not describe actual advertisements at issue or reveal the fact that none of the drugs involved was either approved by FDA or required to be approved. After careful deliberation, and on the basis of the limited record in this case, and addressing only the particular arguments raised by the appellants on appeal, we cannot conclude that the district court committed reversible error.<sup>1</sup>

For these limited reasons, the judgment of the district court is

**AFFIRMED.**

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<sup>1</sup> Although we have some concern about the application of Georgia law, appellants have failed to articulate a persuasive argument challenging the district court in this regard. Limiting ourselves to appellants' particular arguments on appeal, we decline to disturb the district court's ruling. We do note that the district court's opinion clearly could have no persuasive or preclusive value in a case not involving Georgia law.