

ORIGINAL

Case No. SC11-1611

FILED
THOMAS D. HALL
JUN - 4 2012
CLERK, SUPREME COURT
BY

**IN THE SUPREME COURT
STATE OF FLORIDA**

AMANDA JEAN HALL,

Plaintiff/Petitioner,

v.

R.J. REYNOLDS TOBACCO COMPANY,

Defendant/Respondent.

ON DISCRETIONARY REVIEW FROM A DECISION
OF THE FIRST DISTRICT COURT OF APPEAL OF FLORIDA

**SUGGESTION OF MOOTNESS OF RESPONDENT
R.J. REYNOLDS TOBACCO COMPANY**

Gregory G. Katsas
Florida Bar No. 89091
JONES DAY
51 Louisiana Avenue, N.W.
Washington, DC 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Elliot H. Scherker
Florida Bar No. 202304
GREENBERG TRAURIG, P.A.
333 S.E. 2nd Avenue
Miami, FL 33131
Telephone: (305) 579-0500
Facsimile: (305) 579-0717

Counsel for Respondent

Respondent R.J. Reynolds Tobacco Co. files this suggestion to notify the Court of subsequent developments that have occurred since the Court has accepted the case for jurisdiction. In this case, the trial court entered a \$15.75 million judgment for Petitioner Amanda Hall and against Respondent R.J. Reynolds Tobacco Co. Pursuant to a bond cap statute enacted by the Legislature to protect billions of dollars that the State receives from a tobacco settlement agreement, Reynolds obtained a stay of execution of the merits judgment pending appeal by filing a bond for \$5 million rather than for the entire amount of the judgment. Mrs. Hall asserted two constitutional challenges to that bond cap statute. They were rejected by the trial court and the First District Court of Appeal of Florida.

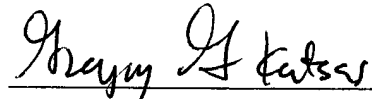
On January 23, 2012, this Court accepted jurisdiction of this case to consider Mrs. Hall's challenges. Since that time, the U.S. Supreme Court has denied Reynolds's petition for writ of certiorari on the merits appeal of the judgment entered against it. *See R.J. Reynolds Tobacco Co. v. Hall*, 132 S. Ct. 1795 (2012). Additionally, on April 27, 2012, Reynolds paid the judgment in full to Mrs. Hall. The case is now over.

Given these subsequent developments, the Court does not need to reach the constitutional issues presented by Mrs. Hall to the bond cap statute. They have been rendered moot. "An issue is moot when the controversy has been so fully resolved that a judicial determination can have no actual effect." *Godwin v. State*,

593 So. 2d 211, 212 (Fla. 1992) (citing *Dehoff v. Imeson*, 15 So. 2d 258 (Fla. 1943)). That is the case here, because the U.S. Supreme Court has denied review and Reynolds has paid the judgment. Indeed, Mrs. Hall herself affirmatively concedes that “the issue is now moot as to her.” Petr’s Br. 1 n.1. While mootness does not affect the Court’s jurisdiction if it determines that this case involves a recurring question of great public importance, *see State v. Matthews*, 891 So. 2d 479, 483–84 (Fla. 2004), the Court still has discretion to dismiss the case and wait for a proper vehicle to resolve the constitutional issues presented.

Respectfully submitted.

Gregory G. Katsas
Florida Bar No. 89091
JONES DAY
51 Louisiana Avenue, N.W.
Washington, DC 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700



Elliot H. Scherker
Florida Bar No. 202304
GREENBERG TRAURIG, P.A.
333 S.E. 2nd Avenue
Miami, FL 33131
Telephone: (305) 579-0500
Facsimile: (305) 579-0717

Counsel for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 30, 2012, I served a copy of the foregoing Suggestion by email¹ on the counsel for Petitioner listed below and by U.S. mail, overnight delivery, on the counsel listed for the Attorney General and for Amici below:

Counsel for Petitioner

John S. Mills
jmills@mills-appeals.com
Courtney Brewer
cbrewer@mills-appeals.com
The Mills Firm, P.A.
203 N. Gadsden Street, Suite 1A
Tallahassee, Florida 32301

Counsel for Attorney General

Louis F. Hubener, III
lou.hubener@myfloridalegal.com
Office of the Attorney General
The Capitol
400 South Monroe Street, PL-01
Tallahassee, Florida 32399

Rodney Smith
rodsmith@avera.com
Mark Avera
mavera@avera.com
Dawn M. Vallejos-Nichols
dvallejos-nichols@avera.com
Avera & Smith, LLP
2814 SW 13th Street
Gainesville, Florida 32608

¹ The parties have agreed to accept service by email at the email addresses listed in the certificate of service in lieu of mail and have further agreed that electronic service will be deemed service by mail for purposes of Fla. R. App. 9.420(e).

Counsel for Amici

Steven L. Brannock
sbrannock@bhappeals.com
Celene Humphries
chumphries@bhappeals.com
Brannock & Humphries
100 South Ashley Drive, Suite 1130
Tampa, Florida 33602

Christopher V. Carlyle
ccarlyle@appellatelawfirm.com
The Carlyle Appellate Law Firm
1950 Laurel Manor Drive, Suite 130
The Villages, Florida 32162

Lincoln J. Connoly
ljc@rbrlaw.com
Rossman Baumberger Reboso Spier &
Connoly, P.A.
44 West Flagler Street, Floor 23
Miami, Florida 33130

Robert S. Glazier
glazier@fla-law.com
Law Office of Robert S. Glazier
540 Brickell Key Drive, Suite C-1
Miami, Florida 33131

Christopher J. Lynch
clynch@hunterwilliamslaw.com
Hunter Williams & Lynch, P.A.
75 Valencia Avenue
Coral Gables, Florida 33134

Joel S. Perwin
jperwin@perwinlaw.com
Joel S. Perwin, P.A.
169 East Flagler Street, Suite 1422
Miami, Florida 33131

Richard B. Rosenthal
rbr@rosenthalappeals.com
The Law Offices of Richard B.
Rosenthal, P.A.
169 East Flagler Street, Suite 1422
Miami, Florida 33131

Bard D. Rockenbach
bdr@FLappellateLaw.com
Burlington & Rockenbach, P.A.
444 West Railroad Avenue, Suite 430
West Palm Beach, Florida 33401

David J. Sales
david@salesappeals.com
David J. Sales, P.A.
1001 North U.S. Highway One,
Suite 200
Jupiter, Florida 33477

Matthew Schultz
mschultz@levinlaw.com
Levin Papantonio Thomas Mitchell
Rafferty & Proctor, P.A.
316 S. Baylen Street, Suite 600
Pensacola, Florida 332502

