

In the Supreme Court of Florida

Case No. SC12-437

R.J. Reynolds Tobacco Company,

Petitioner,

vs.

Melba Sherman, as Personal Representative
of the Estate of John Sherman,

Respondent.

Respondent Melba Sherman's
Brief on Jurisdiction

On Discretionary Review from a
Decision of the Fourth District
Court of Appeal

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STATEMENT OF THE CASE AND FACTS

The opinion of the district court simply cites to the court's prior opinion in *R.J. Reynolds Tobacco Co. v. Brown*, 70 So. 3d 707 (Fla. 4th DCA 2011).

SUMMARY OF THE ARGUMENT

If review is denied in *Brown*, review should be denied in this case as well. If review is granted in *Brown*, we request that review also be granted in this case. Because of our position, we oppose the Petitioner's request for a stay.

ARGUMENT

The opinion under review is a PCA with citation to *R.J. Reynolds Tobacco Co. v. Brown*, 70 So. 3d 707 (Fla. 4th DCA 2011). If the Court grants review in *Brown*, it would have jurisdiction over the present case.

We respectfully submit that review should be denied in *Brown*, for the reasons stated in the Respondent's brief filed in that case. However, if review is granted in *Brown*, we request that review also be granted in this case, so that we can participate in briefing and argument in this Court.

Since we submit that the jurisdictional decision in this case should follow the jurisdictional decision in *Brown*, we oppose the Petitioner's request for a stay.

CONCLUSION

If review is denied in Brown, review should be denied in this case as well. If review is granted in Brown, we request that review also be granted in this case.

Because of our position, we oppose the Petitioner's request for a stay.

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CERTIFICATE OF SERVICE AND COMPLIANCE

We hereby certify that a true and correct copy of the foregoing has been furnished by US Mail this 14th day of March, 2012, to Gordon James III, Esq., and Eric L. Lundt, Esq., Sedgwick, LLP, 2400 E. Commercial Boulevard, Suite 1100, Fort Lauderdale, FL 33308; and Gregory G. Katsas, Esq., Esq., and Charles R.A. Morse, Esq., Jones Day, 51 Louisiana Ave NW, Washington, DC 20001-2105.

. We hereby certify that this brief is in Times Roman 14 point, and in compliance with the type requirements of the Florida Rules of Appellate Procedure.
