

THE SUPREME COURT OF ALABAMA

Amended Oral Argument Docket for June 4, 2019

NOTE TO ATTORNEYS: You should report to the Clerk's office at least 15 minutes prior to the call of the docket at which time your case is set for oral argument. Julia Jordan Weller, Clerk.

10:00 A.M.

1. **1180047**

ORAL ARGUMENT LIMITED TO 30 MINUTES EACH SIDE.

Ex parte Michael Gregory Hubbard. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Michael Gregory Hubbard v. State of Alabama).

Petitioner/Appellant

Phil Adams
William J Baxley
R. Lance Bell
Joel Evan Dillard
Sam H Heldman

Petitioner/Appellant

David McKnight
Blake L Oliver
Matthew Clay McDonald -
Amicus
Howard Phillip Walthall, Sr. -
Amicus

Respondent/Appellee

Steven Marshall
Kyle Adam Beckman
James Roy Houts
Edmund Gerard LaCour, Jr.

1:30 P.M.

2. **1170864** (989)

ORAL ARGUMENT LIMITED TO 45 MINUTES EACH SIDE.

Ex parte Aladdin Manufacturing Corporation et al. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the Town of Centre v. 3M Company, et al.).

Petitioner/Appellant

David M. Barnes - Pro Hac
John M. Bergquist
Sela S Blanton
Richard E Broughton
Brannon J. Buck
David Carpenter - Pro Hac
C. Paul Cavender
William V. Custer - Pro Hac
Jennifer B. Dempsey - Pro Hac
Christopher B. Driver
Michael Dumitru - Pro Hac

Petitioner/Appellant

Brett A. Ialacci
M. Ellis Lord - Pro Hac
W. Scott Parrish - Pro Hac
Doug Scribner - Pro Hac
Douglas G. Scribner
Alfred F. Smith, Jr
Sharon Donaldson Stuart
Deborah Ann Wakefield
Jonathan Wells - Pro Hac
Randall Wilson - Pro Hac

Respondent/Appellee

Jere L. Beasley
Roger H Bedford, Jr
Grant M. Cofer
Rhon E Jones
Jon Ryan Kral
Richard D. Stratton

1170887 (989)

Ex parte Milliken & Company. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the Town of Centre v. 3M Company, et al.).

Petitioner/Appellant

Meaghan G. Boyd - Pro Hac
A. Nicole DeMoss - Pro Hac
Sharon Donaldson Stuart

Respondent/Appellee

Jere L. Beasley
Rhon E Jones
Richard D. Stratton

THE SUPREME COURT OF ALABAMA
Amended Oral Argument Docket for June 4, 2019

1:30 P.M.

1170894 (989)

Ex parte Textile Rubber and Chemical Company, Inc. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the Town of Centre v. 3M Company, et al.).

Petitioner/Appellant

Bryan A Grayson
E Britton Monroe
Stephen O'Day - Pro Hac

Petitioner/Appellant

Devon K. Rankin
Andrew M. Thompson - Pro Hac

Respondent/Appellee

Jere L. Beasley
Rhon E Jones
Richard D. Stratton

1171182 (1001)

Ex parte Mohawk Industries, Inc., et al. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the City of Gadsden v. 3M Company et al.).

Petitioner/Appellant

John M. Bergquist
Sela S Blanton
Richard E Broughton
Brannon J. Buck
David Carpenter - Pro Hac
Asra A. Chatham - Pro Hac
William V. Custer - Pro Hac
Jennifer B. Dempsey - Pro Hac
Christopher B. Driver
Michael Dumitru - Pro Hac
John William Gray, II

Petitioner/Appellant

Howard Edgar Howard
Brett A. Ialacci
M. Ellis Lord - Pro Hac
W. Scott Parrish - Pro Hac
Doug Scribner - Pro Hac
Alfred F. Smith, Jr
Anthony N. Upshaw - Pro Hac
Deborah Ann Wakefield
Jonathan Wells - Pro Hac
Randall Wilson - Pro Hac

Respondent/Appellee

Jere L. Beasley
Roger H Bedford, Jr
Grant M. Cofer
Rhon E Jones
Jon Ryan Kral
Richard D. Stratton

1171196 (1001)

Ex parte Dorsett Industries, Inc. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the City of Gadsden v. 3M Company et al.).

Petitioner/Appellant

Michael R. Baumrind - Pro Hac
James Eric Brisendine
Gregory A. Brockwell
Richard E Broughton
Brannon J. Buck
David Carpenter - Pro Hac
Steven Frank Casey
C. Paul Cavender
Peter Montgomery Crofton
William V. Custer - Pro Hac
John W. Dodson
Michael J. Dumitru
Leslie K. Eason
Marvin Jerome Elmore - Pro Hac
Lee Price Fernon, Jr.
Charles G. Fisher
Bruce L. Gordon

Petitioner/Appellant

John William Gray, II
Charles A. Hardin
Howard Edgar Howard
Carrie Motes
Harlan I Prater, IV
Devon K. Rankin
Cody D. Robinson
John W. Scott
Thomas O. Sinclair
Alfred F. Smith, Jr
Joshua B Sullivan
Michael B. Terry - Pro Hac
D. Bart Turner
Anthony N. Upshaw - Pro Hac
Jane D. Vincent - Pro Hac
Deborah Ann Wakefield
Christopher James Williams

Respondent/Appellee

Jere L. Beasley
Roger H Bedford, Jr
Rhon E Jones
Jon Ryan Kral

THE SUPREME COURT OF ALABAMA
Amended Oral Argument Docket for June 4, 2019

1:30 P.M.

1171197 (1001)

Ex parte Indian Summer Carpet Mills, Inc. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the City of Gadsden v. 3M Company et al.).

Petitioner/Appellant

Cydney L. Barnes
Michael R. Baumrind - Pro Hac
John M. Bergquist
Sela S Blanton
James Eric Brisendine
Gregory A. Brockwell
Richard E Broughton
Matthew D. Brownfield
Brannon J. Buck
Richard F. Bulger
David Carpenter - Pro Hac
C. Paul Cavender
Asra A. Chatham - Pro Hac
Michelle L Crunk
William V. Custer - Pro Hac
John Gibbs Dana
John Gibbs Dana
Jennifer B. Dempsey - Pro Hac
Elbert Allen Dodd, Jr
John W. Dodson
Christopher B. Driver
Michael Dumitru - Pro Hac
Leslie K. Eason
Marvin Jerome Elmore - Pro Hac
Lee Price Fernon, Jr.
Charles G. Fisher
Bruce L. Gordon
Bruce L. Gordon
John William Gray, II

Petitioner/Appellant

Bryan A Grayson
Charles A. Hardin
David Higney
Howard Edgar Howard
Brett A. Ialacci
M. Ellis Lord - Pro Hac
David J. Marmins - Pro Hac
Robert G. McCurry
E Britton Monroe
Morgan E. M. Morrison - Pro Hac
W. Scott Parrish - Pro Hac
Harlan I Prater, IV
Larkin Radney
Devon K. Rankin
Cody D. Robinson
Karen Marsh Ross
Doug Scribner - Pro Hac
Thomas O. Sinclair
Alfred F. Smith, Jr
Hannah S. Stokes
Michael B. Terry - Pro Hac
John Alan Truitt
D. Bart Turner
Anthony N. Upshaw - Pro Hac
Jane D. Vincent - Pro Hac
Deborah Ann Wakefield
Jonathan Wells - Pro Hac
Randall Wilson - Pro Hac
Collins & Aikman Floor
Covering International Inc.

Respondent/Appellee

Tyler D. Alferman - Pro Hac
Jere L. Beasley
Roger H Bedford, Jr
Grant M. Cofer
Rhon E Jones
Jon Ryan Kral
Richard D. Stratton

THE SUPREME COURT OF ALABAMA
Amended Oral Argument Docket for June 4, 2019

1:30 P.M.

1171198 (1001)

Ex parte Oriental Weavers USA, Inc. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the City of Gadsden v. 3M Company et al.).

Petitioner/Appellant

John Gibbs Dana
David Higney

Respondent/Appellee

Jere L. Beasley
Roger H Bedford, Jr
Grant M. Cofer

Respondent/Appellee

Rhon E Jones
Jon Ryan Kral
Richard D. Stratton

1171199 (1001)

Ex parte Kaleen Rugs, Inc. PETITION FOR WRIT OF MANDAMUS: CIVIL (In re: The Water Works and Sewer Board of the City of Gadsden v. 3M Company et al.).

Petitioner/Appellant

Michael R. Baumrind - Pro Hac
Vonetta L. Benjamin
John M. Bergquist
Stroud Blanton
James Eric Brisendine
Gregory A. Brockwell
Richard E Broughton
Matthew D. Brownfield
Brannon J. Buck
David Carpenter - Pro Hac
Steven Frank Casey
C. Paul Cavender
Asra A. Chatham - Pro Hac
Michael J. Collins - Pro Hac
William Stanley Cox, III
Peter M. Crofton - Pro Hac
William V. Custer - Pro Hac
John Gibbs Dana
Jennifer B. Dempsey - Pro Hac
Elbert Allen Dodd, Jr
Michael Dumitru - Pro Hac
Marvin Jerome Elmore - Pro Hac
Charles G. Fisher
Stephanie L. Gase - Pro Hac
James E. Gentry
Bruce L. Gordon
James C. Gray, III
John William Gray, II
Bryan A Grayson
Charles A. Hardin
David Higney
Howard Edgar Howard
Brett A. Ialacci

Petitioner/Appellant

Bennie M. Laughter
M. Ellis Lord - Pro Hac
David J. Marmins - Pro Hac
Douglas Matthew
Robert G. McCurry
E Britton Monroe
Michael Franklin Morris
Morgan E. M. Morrison - Pro Hac
Carrie Motes
Stephen O'Day - Pro Hac
W. Scott Parrish - Pro Hac
Harlan I Prater, IV
Devon K. Rankin
Cody D. Robinson
Kenneth Sansom
John W. Scott
Doug Scribner - Pro Hac
Alfred F. Smith, Jr
Michael L. Smith - Pro Hac
Michael Sullivan - Pro Hac
Michael B. Terry - Pro Hac
Andrew M. Thompson - Pro Hac
Joshua S. Thompson
John Alan Truitt
D. Bart Turner
Anthony N. Upshaw - Pro Hac
Jane D. Vincent - Pro Hac
Deborah Ann Wakefield
Jonathan Wells - Pro Hac
Thomas Wells
Christopher James Williams
Randall Wilson - Pro Hac
Apricot International Inc.

Respondent/Appellee

Jere L. Beasley
Roger H Bedford, Jr
Grant M. Cofer
Rhon E Jones
Jon Ryan Kral
Richard D. Stratton

SUPREME COURT OF ALABAMA
ORAL ARGUMENT
Tuesday, June 4, 2019, 10:00 a.m.

1180047 - Ex parte Michael Gregory Hubbard

Attorneys: Sam Heldman for Michael Gregory Hubbard; Edmund G. LaCour, Jr., for the State of Alabama.

Facts: Michael Gregory Hubbard, former Speaker of the Alabama House of Representatives, was convicted following a jury trial of 12 violations of the Alabama Ethics Code, § 36-25-1 et seq., Ala. Code 1975. He appealed to the Court of Criminal Appeals, which affirmed 11 of the convictions. Those 11 were: convictions on 7 counts of receiving a thing of value from a principal, i.e., "a person or business which employs, hires, or otherwise retains a lobbyist," § 36-25-1(24), Ala. Code 1975; convictions on 2 counts of using his official position or state resources for personal gain; and convictions on 2 counts of representing, for a fee, a person before the executive branch. Hubbard appealed the Court of Criminal Appeals' decision to this Court.

Issue 1: The "compensation" exception to "thing of value"

While serving as Speaker of the House, Hubbard contracted to serve as a consultant to two principals, American Pharmacy Cooperative, Inc. ("APCI"), and Edgenuity, Inc. Hubbard contends that the money he received from those companies was earned under circumstances that make it clear that the money was provided for services unrelated to his public service as Speaker of the House. The State contends that APCI and Edgenuity hired Hubbard because he was Speaker of the House.

Issue 2: The "full-value" exception to "thing of value"

Hubbard was a 25% owner of Craftmaster Printers, which, at the time of the underlying events, was struggling financially. Hubbard solicited 10 investors to invest \$150,000 each in exchange for preferred stock in Craftmaster Printers. Hubbard contends that he paid full value for the investments by giving the investors stock in a fair exchange and that he thus could not be convicted of receiving a thing of value. The State contends that the phrase "pays full value" as used in the Ethics Code means that the public official must pay money to qualify for the exception.

Issue 3: The meaning of "principal"

Three of the investors in Craftmaster Printers were Will Brooke, a member of the executive committee of the Business Council of Alabama ("BCA"); Jimmy Rane, president of Great Southern Wood; and Rob Burton, president of Hoar Construction. Hubbard also received financial advice from Brooke. The BCA, Great Southern Wood, and Hoar Construction are registered principals. Hubbard contends that Brooke, Rane, and Burton were not "principals" because they did not hire lobbyists to represent them individually. See § 36-25-1(24). The State contends that the individuals were principals because they hired the lobbyists for their business entities.

Issue 4: Use of official position and State resources for personal gain

Hubbard had a consulting contract with Capitol Cups, which made "sippy" cups for children. He promoted Capitol Cups' product while on legislative trips, and he identified himself as Speaker of the House in e-mails sent on Capitol Cups' behalf. He also had his chief of staff make phone calls to help Capitol Cups' owner, Robert Abrams, obtain a patent for one of Abrams's related businesses. Hubbard contends that he did not use his position to obtain the consulting contract and did not identify himself as Speaker of the House in his dealings with Capitol Cups for personal gain. He also argues that he was helping Abrams with securing a patent because Abrams had businesses located in his legislative district. The State argues that, because Hubbard benefited financially from his consulting contract, his use of his position and state resources on Capitol Cups' behalf was for personal gain.

Issue 5: Representation before the executive branch for a fee

Abrams also owned a company called Si02 Medical Products ("Si02"). While receiving money from Capitol Cups, Hubbard set up two meetings regarding Si02 with the Governor and the Alabama Secretary of Commerce. Hubbard contends that he set up the meetings because Si02 was located in his legislative district and that the meetings were unrelated to his contract with Capitol Cups. The State argues that Hubbard set up the meetings because he was being paid by Capitol Cups under his consulting contract.

SUPREME COURT OF ALABAMA
ORAL ARGUMENT
JUNE 4, 2019

Second Case - 1:30 p.m.

1170864, 1170887, and 1170894 - Ex parte Aladdin Manufacturing Corporation, Mohawk Industries, Inc., Mohawk Carpet, LLC, Shaw Industries, Inc., Arrowstar, LLC, Engineered Floors, LLC, J&J Industries, Inc., MFG Chemical, Inc., and The Dixie Group, Inc.; Ex parte Milliken & Company; and Ex parte Textile Rubber and Chemical Company, Inc. (In re: The Water Works and Sewer Board of the Town of Centre v. 3M Company et al.)
(See reverse side for counsel.)

1171182, 1171196, 1171197, 1171198, and 1171199 - Ex parte Mohawk Industries, Inc., Mohawk Carpet, LLC, Shaw Industries, Inc., J&J Industries, Inc., Lexmark Carpet Mills, Inc., MFG Chemical, Inc., and The Dixie Group, Inc.; Ex parte Dorsett Industries, Inc.; Ex parte Indian Summer Carpet Mills, Inc.; Ex parte Oriental Weavers USA, Inc.; and Ex parte Kaleen Rugs, Inc. (In re: The Water Works and Sewer Board of the City of Gadsden v. 3M Company et al.)
(See reverse side for counsel.)

Facts: The petitioners are all carpet-manufacturing companies located in Georgia. The Water Works and Sewer Board of the Town of Centre and The Water Works and Sewer Board of the City of Gadsden ("the respondents") filed actions against the petitioners in the Cherokee Circuit Court and the Etowah Circuit Court ("the trial courts"), respectively, alleging that, through their chemical processes in manufacturing carpet, the petitioners discharged perfluorinated compounds ("PFCs") into their industrial wastewater in Georgia that subsequently contaminated the respondents' downstream water sources in Alabama. The petitioners filed motions to dismiss based on a lack of specific personal jurisdiction in Alabama. Both trial courts denied the petitioners' motions to dismiss, finding that the petitioners knew or should have known from numerous Environmental Protection Agency studies that their specific acts allowed PFC-containing wastewater to contaminate Alabama water sources and that those acts were directed at Alabama. The trial courts held that the petitioners' defense that the wastewater was treated by a third-party entity, Dalton Utilities, was inapplicable at this stage of the litigation because the petitioners knew or should have known that the treatment process could not remove the PFCs from the wastewater. The trial courts concluded (1) that there was a relationship between the petitioners, the forum, and the litigation and that the petitioners' activities were related to the operative facts of the controversy, and (2) that the exercise of personal jurisdiction in Alabama courts comported with fair play and substantial justice. The petitioners challenge the denial of their motions to dismiss.

Issue: Whether the Cherokee Circuit Court and the Etowah Circuit Court can properly exercise specific personal jurisdiction over the out-of-state petitioners.

Petitioners' Arguments: The trial courts lack personal jurisdiction over the petitioners because the petitioners have not undertaken any purposeful suit-related conduct in Alabama.

Respondents' Arguments: In the context of these water-pollution cases, the trial courts have jurisdiction because the petitioners' actions caused injury in Alabama and that injury was foreseeable.

Petitioners' Attorneys:

Attorneys for Aladdin Manufacturing Corporation, Mohawk Industries, Inc., and Mohawk Carpet, LLC: Sharon D. Stuart, Doug Scribner, Jonathan Wells, David Carpenter, and H. Edgar Howard

Attorneys for Shaw Industries, Inc.: Alfred F. Smith, Jr., Sela S. Blanton, William V. Custer, and Jennifer B. Dempsey

Attorneys for Arrowstar, LLC: Donald W. Stewart, C. Paul Cavender, and D. Matthew Centeno

Attorneys for Engineered Floors, LLC, and J&J Industries, Inc.: Brannon J. Buck, Brett A. Ialacci, Christopher B. Driver, Randall Wilson, and Michael Dumitru

Attorney for MFG Chemical, Inc.: Richard E. Broughton

Attorneys for The Dixie Group, Inc.: John M. Bergquist, Deborah Ann Wakefield, W. Scott Parrish, M. Ellis Lord, and David M. Barnes

Attorneys for Lexmark Carpet Mills, Inc.: John W. Gray II, Anthony N. Upshaw, and Asra A. Chatham

Attorneys for Milliken & Company: Sharon D. Stuart, Meghan G. Boyd, and A. Nicole DeMoss

Attorneys for Textile Rubber and Chemical Company, Inc.: E. Britton Monroe, Bryan A. Grayson, Devon K. Rankin, Stephen E. O'Day, and Andrew M. Thompson

Attorneys for Dorsett Industries, Inc.: Jonathan A. Huffstutler, Marvin Jerome Elmore, Michael B. Terry, Jane D. Vincent, and Michael R. Baumrind

Attorneys for Indian Summer Carpet Mills, Inc.: John W. Dodson and Michelle L. Crunk

Attorneys for Oriental Weavers USA, Inc.: John G. Dana and David C. Higney

Attorneys for Kaleen Rugs, Inc.: John G. Dana and Mathew D. Brownfield

Respondents' Attorneys:

Attorneys for The Water Works and Sewer Board of the Town of Centre and The Water Works and Sewer Board of the City of Gadsden: Jere L. Beasley, Rhon E. Jones, Richard D. Stratton, Grant M. Cofer, J. Ryan Kral, and Roger H. Bedford