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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

Syllabus

## HALL, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF HALL AND AS SUCCESSOR TRUSTEE OF THE ETHLYN LOUISE HALL FAMILY TRUST *v.* HALL ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 16–1150. Argued January 16, 2018—Decided March 27, 2018

Respondent Samuel Hall served as caretaker and legal advisor to his mother Ethlyn Hall, a property owner in the United States Virgin Islands. After falling out with Samuel, Ethlyn transferred her property into a trust and designated her daughter, petitioner Elsa Hall, as her successor trustee. Ethlyn sued Samuel and his law firm over the handling of her affairs (the "trust case"). When Ethlyn died, Elsa took Ethlyn's place as trustee and as plaintiff. Samuel later filed a separate complaint against Elsa in her individual capacity (the "individual case").

On Samuel's motion, the District Court consolidated the trust and individual cases under Federal Rule of Civil Procedure 42(a). The District Court held a single trial of the consolidated cases. In the individual case, the jury returned a verdict for Samuel, but the District Court granted Elsa a new trial. In the trust case, the jury returned a verdict against Elsa, and she filed a notice of appeal from the judgment in that case. Samuel moved to dismiss the appeal on jurisdictional grounds, arguing that the judgment in the trust case was not final and appealable because his claims against Elsa remained unresolved in the individual case. The Court of Appeals for the Third Circuit agreed and dismissed the appeal.

*Held*: When one of several cases consolidated under Rule 42(a) is finally decided, that decision confers upon the losing party the immediate right to appeal, regardless of whether any of the other consolidated cases remain pending. Pp. 4–18.

(a) Title 28 U. S. C. §1291 vests the courts of appeals with jurisdic-

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tion over "appeals from all final decisions of the district courts," except those directly appealable to this Court. Under §1291, "any litigant armed with a final judgment from a lower federal court is entitled to take an appeal." *Arizona* v. *Manypenny*, 451 U. S. 232, 244. Here an appeal would normally lie from the judgment in the trust case. But Samuel argues that because the trust and individual cases were consolidated under Rule 42(a)(2), they merged and should be regarded as one case, such that the judgment in the trust case was merely interlocutory and not appealable before the consolidated cases in the aggregate are finally resolved. Pp. 4–5.

(b) Rule 42(a)(2) provides that if "actions before the court involve a common question of law or fact, the court may . . . consolidate the actions." The meaning of the term "consolidate" in this context is ambiguous. But the term has a legal lineage stretching back at least to the first federal consolidation statute, enacted by Congress in 1813. Act of July 22, 1813, §3, 3 Stat. 21 (later codified as Rev. Stat. §921 and 28 U. S. C. §734 (1934 ed.)). That history makes clear that one of multiple cases consolidated under the Rule retains its independent character, at least to the extent it is appealable when finally resolved, regardless of any ongoing proceedings in the other cases. Pp. 5–6.

(c) Under the consolidation statute—which was in force for 125 years, until its replacement by Rule 42(a)—consolidation was understood not as completely merging the constituent cases into one, but as enabling more efficient case management while preserving the distinct identities of the cases and rights of the separate parties in them. See, *e.g.*, *Rich* v. *Lambert,* 12 How. 347; *Mutual Life Ins. Co.* v. *Hillmon,* 145 U. S. 285; *Stone* v. *United States,* 167 U. S. 178. Just five years before Rule 42(a) became law, the Court reiterated that, under the consolidation statute, consolidation did not result in the merger of constituent cases. *Johnson* v. *Manhattan R. Co.,* 289 U. S. 479, 496–497. This body of law supports the inference that, prior to Rule 42(a), a judgment completely resolving one of several consolidated cases was an immediately appealable final decision. Pp. 6–12.

(d) Rule 42(a) was expressly modeled on the consolidation statute. Because the Rule contained no definition of "consolidate," the term presumably carried forward the same meaning ascribed to it under the statute and reaffirmed in *Johnson*.

Samuel nonetheless asserts that "consolidate" took on a different meaning under Rule 42(a). He describes the Rule as permitting two forms of consolidation: consolidation for limited purposes and consolidation for all purposes. He locates textual authority for the former in a new provision, subsection (a)(1), which permits courts to "join for hearing or trial any or all matters at issue in the actions." And he

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contends that subsection (a)(2), so as not to be superfluous, must permit the merger of cases that have been consolidated for all purposes into a single, undifferentiated case. But the narrow grant of authority in subsection (a)(1) cannot fairly be read as the exclusive source of a district court's power to consolidate cases for limited purposes, because there is much more to litigation than hearings or trials. Instead, that undisputed power must stem from subsection (a)(2). That defeats Samuel's argument that interpreting subsection (a)(2) to adopt the traditional understanding of consolidation would render it duplicative of subsection (a)(1), and that subsection (a)(2) therefore must permit courts to merge the actions into a single unit.

Moreover, a Federal Rules Advisory Committee would not take a term that had long meant that separate actions do not merge into one, and silently and abruptly reimagine the same term to mean that they do. Nothing in the pertinent Committee proceedings supports the notion that Rule 42(a) was meant to overturn the settled understanding of consolidation; the Committee simply commented that Rule 42(a) "is based upon" its statutory predecessor, "but insofar as the statute differs from this rule, it is modified." Advisory Committee's Notes on 1937 Adoption of Fed. Rule Civ. Proc. 42(a), 28 U. S. C. App., p. 887. The limited extent to which this Court has addressed consolidation since adoption of Rule 42(a) confirms that the traditional understanding remains in place. See, *e.g.*, *Bank Markazi* v. *Peterson*, 578 U. S. ___, ___–___; *Butler* v. *Dexter*, 425 U. S. 262, 266–267.

This decision does not mean that district courts may not consolidate cases for all purposes in appropriate circumstances. But constituent cases retain their separate identities at least to the extent that a final decision in one is immediately appealable by the losing party. Pp. 12–17.

679 Fed. Appx. 142, reversed and remanded.

ROBERTS, C. J., delivered the opinion for a unanimous Court.

# SUPREME COURT OF THE UNITED STATES

No. 16–1150

ELSA HALL, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ETHLYN LOUISE HALL AND AS SUCCESSOR TRUSTEE OF THE ETHLYN LOUISE HALL FAMILY TRUST, PETITIONER *v.* SAMUEL HALL, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

[March 27, 2018]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

Three Terms ago, we held that one of multiple cases consolidated for multidistrict litigation under 28 U. S. C. §1407 is immediately appealable upon an order disposing of that case, regardless of whether any of the others remain pending. *Gelboim* v. *Bank of America Corp.*, 574 U. S. ___ (2015). We left open, however, the question whether the same is true with respect to cases consolidated under Rule 42(a) of the Federal Rules of Civil Procedure. *Id.*, at ___, n. 4 (slip op., at 7, n. 4). This case presents that question.

## I

Petitioner Elsa Hall and respondent Samuel Hall are siblings enmeshed in a long-running family feud. Their mother, Ethlyn Hall, lived and owned property in the United States Virgin Islands. Samuel, a lawyer in the Virgin Islands, served as Ethlyn's caretaker and provided her with legal assistance. But trouble eventually came to

paradise, and Samuel and Ethlyn fell out over Samuel's management of Ethlyn's real estate holdings. During a visit from Elsa, Ethlyn established an *inter vivos* trust, transferred all of her property into the trust, and designated Elsa as her successor trustee. Ethlyn then moved to Miami—under circumstances disputed by the parties—to live with her daughter.

The family squabble made its way to court in May 2011. Ethlyn, acting in her individual capacity and as trustee of her *inter vivos* trust, sued Samuel and his law firm in Federal District Court (the "trust case"). Ethlyn's claims—for breach of fiduciary duty, legal malpractice, conversion, fraud, and unjust enrichment—concerned the handling of her affairs by Samuel and his law firm before she left for Florida.

Then Ethlyn died, and Elsa stepped into her shoes as trustee and accordingly as plaintiff in the trust case. Samuel promptly filed counterclaims in that case against Elsa—in both her individual and representative capacities—for intentional infliction of emotional distress, fraud, breach of fiduciary duty, conversion, and tortious interference. Samuel contended that Elsa had turned their mother against him by taking advantage of Ethlyn's alleged mental frailty. But Samuel ran into an obstacle: Elsa was not a party to the trust case in her individual capacity (only Ethlyn had been). So Samuel filed a new complaint against Elsa in her individual capacity in the same District Court (the "individual case"), raising the same claims that he had asserted as counterclaims in the trust case.

The trust and individual cases initially proceeded along separate tracks. Eventually, on Samuel's motion, the District Court consolidated the cases under Rule 42(a) of the Federal Rules of Civil Procedure, ordering that "[a]ll submissions in the consolidated case shall be filed in" the docket assigned to the trust case. App. to Pet. for Cert. A–15.

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