

1 IN THE SUPREME COURT OF THE UNITED STATES
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3 PGA TOUR, INC., :
4 Petitioner, :
5 v. : No. 00-24
6 CASEY MARTIN. :
7 - - - - - x
8 Washington, D.C.
9 Wednesday, January 17, 2001
10 The above-entitled matter came on for oral
11 argument before the Supreme Court of the United States at
12 10:13 a.m.
13 APPEARANCES:
14 MR. H. BARTOW FARR, III, ESQ., Washington, D.C.; on
15 behalf of the Petitioner.
16 MR. ROY L. REARDON, ESQ., New York, New York; on
17 behalf of the Respondent.
18 MS. BARBARA D. UNDERWOOD, ESQ., Deputy Solicitor
19 General, Department of Justice, Washington,
20 D.C.; on behalf of the United States, as amicus
21 curiae, supporting Respondent.
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1 P R O C E E D I N G S

2 [10:13 a.m.]

3 CHIEF JUSTICE REHNQUIST: We'll hear argument on
4 Number 00-24, PGA Tour, Inc. vs. Casey Martin. Mr. Farr?

5 ORAL ARGUMENT OF H. BARTOW FARR, III

6 ON BEHALF OF THE PETITIONER

7 MR. FARR: Mr. Chief Justice and may it please
8 the Court: The Ninth Circuit in our view made two
9 critical mistakes in applying the Disabilities Act to this
10 type of claim by a professional athlete. First it failed
11 to recognize that Title 3 of the act, the public
12 accommodations provision, apply only to claims by persons
13 seeking to obtain inputs of a place of public
14 accommodation, that is seeking to enjoy its goods or
15 services, not to claims by persons seeking to supply
16 inputs as employees or independent contractors.

17 Second, the Ninth Circuit never took account of
18 just what a top-level professional sport really is,
19 nothing more or less than a competition that tests
20 excellence in performing what its rules require. Any
21 attempt to adjust the rules to compensate for an
22 individual player's physical condition fundamentally
23 alters the nature of that competition.

24 Now in turning to the first issue, our position
25 is simply this. That Title 3 of the act would not apply

1 if Respondent were playing in tour events as an employee
2 of the Tour, and the results should be no different just
3 because he is playing in the events --

4 QUESTION: Mr. Farr, the language of Part 3 of
5 the act literally could cover the player. It says, it
6 refers to any individual, and it refers to any kind of
7 advantage or privilege on a golf course. So you have to
8 construe it some way, it seems to me, to avoid that
9 language.

10 MR. FARR: That's correct, Justice O'Connor. I
11 mean, the argument --

12 QUESTION: To reach your conclusion.

13 MR. FARR: That's correct. The argument made by
14 Respondent is essentially that Title 3 covers any person
15 who is present at a place of public accommodation,
16 whatever he or she is doing there, whether they are a
17 customer, an employee or an independent contractor. I
18 think that's wrong for several reasons.

19 First of all, just looking at the specific
20 language that you point to, the notion of full and equal
21 enjoyment of goods and services, it seems to me, is quite
22 different from the notion of being allowed to provide the
23 goods and services.

24 QUESTION: Well, Mr. Farr, you keep talking
25 about goods and services, but the statute is not limited