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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

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PGA TOUR, INC. *v.* MARTINCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 00–24. Argued January 17, 2001– Decided May 29, 2001

Petitioner sponsors professional golf tournaments conducted on three annual tours. A player may gain entry into the tours in various ways, most commonly through successfully competing in a three-stage qualifying tournament known as the “Q-School.” Any member of the public may enter the Q-School by submitting two letters of recommendation and paying a \$3,000 entry fee to cover greens fees and the cost of golf carts, which are permitted during the first two stages, but have been prohibited during the third stage since 1997. The rules governing competition in tour events include the “Rules of Golf,” which apply at all levels of amateur and professional golf and do not prohibit the use of golf carts, and the “hard card,” which applies specifically to petitioner’s professional tours and requires players to walk the golf course during tournaments, except in “open” qualifying events for each tournament and on petitioner’s senior tour. Respondent Martin is a talented golfer afflicted with a degenerative circulatory disorder that prevents him from walking golf courses. His disorder constitutes a disability under the Americans with Disabilities Act of 1990 (ADA), 42 U. S. C. §12101 *et seq.* When Martin turned pro and entered the Q-School, he made a request, supported by detailed medical records, for permission to use a golf cart during the third stage. Petitioner refused, and Martin filed this action under Title III of the ADA, which, among other things, requires an entity operating “public accommodations” to make “reasonable modifications” in its policies “when . . . necessary to afford such . . . accommodations to individuals with disabilities, *unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such . . . accommodations,*” §12182(b)(2)(A)(ii) (emphasis added). In denying petitioner summary judgment, the Magis-

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trate Judge rejected its contention, among others, that the play areas of its tour competitions are not places of “public accommodation” within Title III’s scope. After trial, the District Court entered a permanent injunction requiring petitioner to permit Martin to use a cart. Among its rulings, that court found that the walking rule’s purpose was to inject fatigue into the skill of shot-making, but that the fatigue injected by walking a golf course cannot be deemed significant under normal circumstances; determined that even with the use of a cart, the fatigue Martin suffers from coping with his disability is greater than the fatigue his able-bodied competitors endure from walking the course; and concluded that it would not fundamentally alter the nature of petitioner’s game to accommodate Martin. The Ninth Circuit affirmed, concluding, *inter alia*, that golf courses, including play areas, are places of public accommodation during professional tournaments and that permitting Martin to use a cart would not “fundamentally alter” the nature of those tournaments.

Held:

1. Title III of the ADA, by its plain terms, prohibits petitioner from denying Martin equal access to its tours on the basis of his disability. Cf. *Pennsylvania Dept. of Corrections v. Yeskey*, 524 U.S. 206, 209. That Title provides, as a general rule, that “[n]o individual shall be discriminated against on the basis of a disability in the full and equal enjoyment of the . . . privileges . . . of any place of public accommodation.” §12182(a). The phrase “public accommodation” is defined in terms of 12 extensive categories, §12181(7), which the legislative history indicates should be construed liberally to afford people with disabilities equal access to the wide variety of establishments available to the nondisabled. Given the general rule and the comprehensive definition of “public accommodation,” it is apparent that petitioner’s golf tours and their qualifying rounds fit comfortably within Title III’s coverage, and Martin within its protection. The events occur on “golf course[s],” a type of place specifically identified as a public accommodation. §12181(7)(L). And, at all relevant times, petitioner “leases” and “operates” golf courses to conduct its Q-School and tours. §12182(a). As a lessor and operator, petitioner must not discriminate against any “individual” in the “full and equal enjoyment of the . . . privileges” of those courses. *Ibid.* Among those “privileges” are competing in the Q-School and playing in the tours; indeed, the former is a privilege for which thousands of individuals from the general public pay, and the latter is one for which they vie. Martin is one of those individuals. The Court rejects petitioner’s argument that competing golfers are not members of the class protected by Title III— *i.e.*, “clients or customers of the covered public accommodation,” §12182(b)(1)(A)(iv)— but are providers of the entertainment peti-

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tioner sells, so that their “job-related” discrimination claims may only be brought under Title I. Even if Title III’s protected class were so limited, it would be entirely appropriate to classify the golfers who pay petitioner \$3,000 for the chance to compete in the Q-School and, if successful, in the subsequent tour events, as petitioner’s clients or customers. This conclusion is consistent with case law in the analogous context of Title II of the Civil Rights Act of 1964. See, *e.g.*, *Daniel v. Paul*, 395 U. S. 298, 306. Pp. 12–19.

2. Allowing Martin to use a golf cart, despite petitioner’s walking requirement, is not a modification that would “fundamentally alter the nature” of petitioner’s tours or the third stage of the Q-School. In theory, a modification of the tournaments might constitute a fundamental alteration in these ways: (1) It might alter such an essential aspect of golf, *e.g.*, the diameter of the hole, that it would be unacceptable even if it affected all competitors equally; or (2) a less significant change that has only a peripheral impact on the game itself might nevertheless give a disabled player, in addition to access to the competition as required by Title III, an advantage over others and therefore fundamentally alter the character of the competition. The Court is not persuaded that a waiver of the walking rule for Martin would work a fundamental alteration in either sense. The use of carts is not inconsistent with the fundamental character of golf, the essence of which has always been shot-making. The walking rule contained in petitioner’s hard cards is neither an essential attribute of the game itself nor an indispensable feature of tournament golf. The Court rejects petitioner’s attempt to distinguish golf as it is generally played from the game at the highest level, where, petitioner claims, the waiver of an “outcome-affecting” rule such as the walking rule would violate the governing principle that competitors must be subject to identical substantive rules, thereby fundamentally altering the nature of tournament events. That argument’s force is mitigated by the fact that it is impossible to guarantee that all golfers will play under exactly the same conditions or that an individual’s ability will be the sole determinant of the outcome. Further, the factual basis of petitioner’s argument— that the walking rule is “outcome affecting” because fatigue may adversely affect performance— is undermined by the District Court’s finding that the fatigue from walking during a tournament cannot be deemed significant. Even if petitioner’s factual predicate is accepted, its legal position is fatally flawed because its refusal to consider Martin’s personal circumstances in deciding whether to accommodate his disability runs counter to the ADA’s requirement that an individualized inquiry be conducted. Cf. *Sutton v. United Air Lines, Inc.*, 527 U. S. 471, 483. There is no doubt that allowing Martin to use a cart would not fundamentally alter the nature

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of petitioner's tournaments, given the District Court's uncontested finding that Martin endures greater fatigue with a cart than his able-bodied competitors do by walking. The waiver of a peripheral tournament rule that does not impair its purpose cannot be said to fundamentally alter the nature of the athletic event. Pp. 19–29.

204 F. 3d 994, affirmed.

STEVENS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. SCALIA, J., filed a dissenting opinion, in which THOMAS, J., joined.