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**Gulfstream Park Racing Association, Inc. v. Tampa Bay Downs, Inc.**

THE COURT WILL TAKE THE NEXT CASE OF GULFSTREAM PARK RACING ASSOCIATION VERSUS TAMPA DOWNS.

CHIEF JUSTICE: GOOD MORNING.

MAY IT PLEASE THE COURT. MY NAME IS KEITH ROUNSAVILLE AND I REPRESENT GULFSTREAM PARK RISING ASSOCIATION.

CHIEF JUSTICE: WE ALWAYS WONDER WHEN THE 11TH CIRCUIT CERTIFIES THESE QUESTIONS, YOU KNOW, WHY THEY CAN'T ANSWER SOME OF THEM THEMSELVES, BUT GO AHEAD. PLEASE PROCEED.

I THOUGHT THAT THEY COULD, ALSO, BUT BECAUSE I THINK THE STATUTES ARE CLEAR, AND I THINK THEY ARE UNAMBIGUOUS, AND NEVERTHELESS THE COURT HAS ASKED US, THE 11TH CIRCUIT BY THE WAY I ASK THE COURT TO RESERVE FIVE MINUTES FOR REBUTTAL.

CHIEF JUSTICE: AND YOU WILL HAVE THAT.

IN ANY EVENT THE 11TH CIRCUIT HAS ASKED THIS COURT TO ANSWER A CERTIFIED QUESTION.

CHIEF JUSTICE: IT SEEMS LIKE THE DISTRICT COURT JUDGE, WHAT'S WRONG WITH HIS REASONING?

WHAT'S WRONG WITH HIS REASONING, YOUR HONOR, IS THAT HE COMMITTED SEVERAL FUNDAMENTAL ERRORS IN HIS INTERPRETATION. FIRST, AND IN HIS CONCLUSION HE SAYS, WHILE SECTION 556.3059 G1 DOES NOT BY ITSELF DOES NOT DIRECTLY PROHIBIT AN EXCLUSIVE DISSEMINATION AGREEMENT. IT PROVIDES A PLAIN MEANING.

CHIEF JUSTICE: WE ARE REALLY DEALING, JUST SO WE MAKE SURE, WE'VE GOT TWO STATUTES THAT WE ARE ANALYZING; IS THAT CORRECT?

NO, YOUR HONOR, WE'RE ANALYZING THE ENTIRE PARIMUTUEL ACT AND PROVISIONS RELATED TO WAGERING ON INTERSTATE HORSERACING.

CHIEF JUSTICE: SO WE HAVE TWO MAIN ONES THAT WE ARE LOOKING AT?

I WOULDN'T EVEN SAY THAT.

CHIEF JUSTICE: THE WHOLE THING?

3551 IS AS OR MORE IMPORTANT TO THE ISSUE OF WAGERING ON OUT OF STATE HORSE RACES.

CHIEF JUSTICE: CAN YOU EXPLAIN BEFORE YOU GET INTO THIS, I JUST HAVE TO ASK YOU. THIS IS SOMETHING THAT ESCAPES ME. NOW THAT YOU CAN TRANSMIT THESE SIGNALS VERSUS SATELLITE OR NOT YOU, THAT NO THOROUGHBRED FACILITY IS ACTUALLY REBROADCASTING AN OUT OF STATE RACETRACK SIGNAL, BUT STILL SOMEHOW IS ONLY THE THOROUGHBRED RACETRACKS THAT GET THE BENEFIT OF BEING ABLE TO SORT OF KEEP A PART OF THE PIE SO TO

SPEAK?

NO, YOUR HONOR, THAT IS ALL AN ASPECT OF FEDERAL POLICY WHICH IS EXPLICIT IN INTERSTATE HORSERACING ACT WHICH IS WHY THE REGULATIONS ARE THAT WAY. ACTUALLY THERE HAS NOT BEEN A REBROADCAST AS FAR AS I KNOW SINCE 1990. THAT'S A FICTION THAT THE TRACKS HAVE KNOWN ABOUT FOR A LONG TIME AND SO IS DPW. IT HAS NOT BEEN CLOSED CIRCUIT. IT HAS BEEN DIRECT SATELLITE BROADCAST.

CHIEF JUSTICE: I REALLY GOT YOU OFF YOUR ARGUMENT.

BUT THEY HAVE A DECODER AND THAT'S HOW THEY PULL THE SIGNAL OUT OF THE AIR. BUT THE FUNDAMENTAL ERROR THAT THE COURT MADE, THERE WERE SEVERAL IN THAT STATEMENT, AND WHICH THEY CONCLUDED THAT THE STATUTE OR THOSE TWO PROVISIONS OF THE STATUTE PROHIBIT GULFSTREAM'S AGREEMENT. FIRST, ON ITS FACE, 6153 APPLIES TO BROADCAST BY FLORIDA PERMIT HOLDERS TO OTHER FLORIDA PERMIT HOLDERS IN STATE FOR WAGERING IN STATE. THE OUT OF STATE HORSE RACES. YES, SIR?

HOW DOES THE DECLARATORY STATEMENT FIT IN HERE? WHAT KIND OF DEFERENCE DO WE HAVE TO GIVE TO THE DECLARATORY STATEMENT AND HOW FAR DOES IT GO IN DETERMINING THE ISSUES IN THIS CASE?

I SAY YOU GIVE NO DEFERENCE TO THE DECLARATORY STATEMENT FOR ONE OF TWO REASONS. ONE IS WHEN I FILED AN ACTION FOR DECLARATORY JUDGMENT I SOUGHT THE COURT'S DECLARATION OF THE LEGALITY OF THE AGREEMENT. I DIDN'T EVEN RAISE THE DECLARATORY STATEMENT IN MY PRAYER FOR RELIEF. I WANT A DECLARATION THAT THESE ARE LAWFUL UNDER THE PARI-MUTUEL WAGERING ACT AND THEY DON'T VIOLATE THESE TWO PARTICULAR PROVISIONS AND THEY ARE ENFORCEABLE IN FLORIDA AND I SOUGHT NO DECLARATION REGARDING THE DECLARATORY STATEMENT.

I UNDERSTAND BUT WHETHER IT IS A DECLARE STORY -- DECLARATORY STATEMENT OR A RULE, OUR CASES SAY THAT THE COURTS DEFER TO THE INTERPRETATION BY AGENCIES OF THE STATUTES THAT THEY ARE CALLED UPON TO EXECUTE AND INTERPRET AND SO UNDER THAT RULE OF LAW, DON'T WE OWE DEFERENCE TO THE DECLARATORY STATEMENT?

IF IT WERE, IT WOULD BE A CLEARLY ERRONEOUS STANDARD AND STILL THE DECLARATORY STATEMENT IS CLEARLY ERRONEOUS BECAUSE IT IS CONTRARY TO THE PLAIN MEANING OF THE STATUTE. THAT'S THE DEFINITION -- AND THAT IS A DEFINITION.

CHIEF JUSTICE: WHICH STATUTES THEN? I ASKED YOU WERE THERE ONLY TWO AND YOU SAID IT WAS THE WHOLE 550 BUT YOU ARE NOW, LET'S START WITH THE ONE YOU JUST MENTIONED WHICH IS 615.3, AND YOU SAID THAT'S NOT EVEN APPLICABLE?

IT IS NOT APPLICABLE, YOUR HONOR, BECAUSE 615, EACH OF THE PROVISIONS OF 615 APPLY TO BROADCAST BY WAGE -- PERMIT HOLDERS WHO ARE LICENSED IN FLORIDA, AND SO THE OUT OF STATE TRACKS ARE NOT LICENSED IN FLORIDA. THERE IS NO PROVISION AS A RESULT OF THAT, THE PROHIBITION ON INTERFERING WITH A PERMIT HOLDER SENDING OR RECEIVING THE SIGNAL OF ANOTHER PERMIT HOLDER IN FLORIDA HAS NO APPLICATION. THEY ARE NOT PERMIT HOLDERS. OUT OF STATE TRACKS ARE NOT PERMIT HOLDERS. 6153 DOES NOT APPLY AT ALL. IT APPLIES PURELY IN STATE WAGERING.

CHIEF JUSTICE: SO WE JUST LEAVE THAT OUT. SO NOW WE GO TO WHICH ONE DOES APPLY THEN?

35513A AND C AS WELL AS 63059 G1.

LET'S START WITH 6059 G1 THEN.

WELL, ON ITS FACE, IT DOESN'T PROHIBIT OUT OF STATE TRACK FROM ENTERING INTO AN AGREEMENT WITH AN IN-STATE TRACK, GRANTING IT -- GRANTING ONE, EXCLUSIVE RIGHTS AND GRANTING THE OTHER LIMITED RIGHTS, AND, INDEED, THOSE CONTRACTS ARE SPECIFICALLY AUTHORIZED BY THE INTERSTATE HORSERACING ACT, SECTION 3004 A1, WHICH THE FLORIDA LEGISLATURE HAS INCORPORATED INTO THE PARI-MUTUEL WAGERING ACT.

THE FEDERAL ACT THAT YOU SAY AUTHORIZES, TELL US EXACTLY WHAT THAT SAYS THAT AUTHORIZES THIS AS OPPOSED TO FLORIDA JUST ACCOMMODATING WHAT FEDERAL LAW IN THE OVERVIEW.

I WILL GIVE YOU WHAT THE STATUTE SAYS IS THAT 3004.A1 OF THE INTERSTATE HORSERACING ACT STATES THAT AN INTERSTATE OFF-TRACK WAGER WHICH IS WHAT WE ARE DEALING WITH HERE MAY BE ACCEPTED BY AN OFF-TRACK BETTING SYSTEM, EITHER TAMPA BAY DOWNS OR GULFSTREAM ONLY IF CONSENT IS OBTAINED FROM THE HOST RACING ASSOCIATION AT WHICH AS A CONDITION PRECEDENT TO SUCH CONSENT MUST HAVE A WRITTEN AGREEMENT WITH THE HORSEMEN'S GROUP UNDER WHICH SAID RACING ASSOCIATION MAY GIVE CONSENT SETTING FORTH THE TERMS AND CONDITIONS RELATING THERETO.

THAT DEALS WITH CERTAINLY YOU HAVE TO HAVE A WRITTEN AGREEMENT FROM THEM, YOU HAVE TO HAVE THEIR APPROVAL BUT WHERE IN THERE DOES IT APPROVE SPECIFICALLY THE CONCEPT OF A MONOPOLY ON THAT? THAT'S WHAT I AM TRYING TO GET TO.

I'VE GOT TO DISPENSE OF THIS NOTION OF MONOPOLY BUT FIRST I WILL DEAL WITH THAT.

YOU WANT A MONOPOLY THAT WILL PERMIT SOMEONE TO CONTROL WITHIN THE STATE SO THAT OTHER PEOPLE CANNOT USE IT THAT WOULD OTHERWISE BE ABLE TO BROADCAST?

THEY CAN USE IT BUT SECTION 312 WHICH RELATES TO TERMS AND CONDITIONS THESE CONTRACTS MUST HAVE TERMS AND CONDITIONS WITH AN OUT-OF-STATE HOST AND AN OUT-OF-STATE HORSEMEN HAVE CONSENTED. UNDER THE INTERSTATE HORSERACING ACT THOSE ARE THE PRIMARY INTEREST.

SO IT ADDRESSES TERMS AND CONDITIONS BUT IT DOES NOT SAY SPECIFICALLY THAT YOU CAN HAVE THESE RESTRICTIONS?

IT DOES SAY SPECIFICALLY, BECAUSE IT SAYS THAT THE TERMS AND CONDITIONS MAY INCLUDE ANY ARRANGEMENTS TO EXCLUSIVITY BETWEEN THE TWO SYSTEMS. YES, IT DOES SAY THAT. WHAT NOBODY SEEMS TO -- SO, YES, THE CONGRESS INTENDED AS CLEARLY IN THE TURFWAY PARK CASE AND THE ALABAMA'S SPORTS SERVICE CASE DISCUSSED THE ISSUE OF THE RELATIONSHIP THE STATES AND ITS AUTHORITY TO REGULATE WAGERING ON INTERSTATE HORSE RACES OR INTERSTATE WAGERING ON HORSE RACES WHICH IS A VERY, VERY NARROW AREA OF REGULATION WHICH IS APPLICABLE HERE.

LET ME ASK YOU SOMETHING. LET'S GO BACK TO 550.615, WHICH YOU SAY ADAMANTLY DOES NOT APPLY IN THIS SITUATION, AND THE STATUTE ITSELF SAYS BASICALLY THAT, YOU KNOW, THE PERMIT HOLDERS CAN SEND THEIR SIGNALS TO OTHER PERMIT HOLDERS, CORRECT? AND YOU SAY THAT DOESN'T APPLY TO OUT OF STATE PEOPLE BECAUSE THEY ARE NOT PERMIT HOLDERS, BUT SO HOW DOES THIS REALLY WORK? I THOUGHT WHAT HAPPENED HERE IS THAT AN IN-STATE PERMIT HOLDER GETS A BROADCAST FROM AN OUT OF STATE TRACK, AND THEN THE IN-STATE PERSON CAN TRANSMIT BACK TO ANOTHER IN-STATE PERSON; IS THAT BASICALLY WHAT WE ARE TALKING ABOUT HERE?

THEY DON'T TRANSMIT IT, NO, AS A MATTER OF FACT --

WHAT DO THEY DO WITH IT?

THEY PULL IT OUT OF THE AIR WITH THE DECODER FROM A SATELLITE FEED. THERE IS NO --  
AND SO UNDER THAT SITUATION YOU ARE SAYING THAT'S NOT A SIGNAL?

NO, I'M NOT SAYING IT IS NOT A SIGNAL BUT IT NEVER BECOMES -- A SIGNAL NEVER BECOMES A SIGNAL OF A PERMIT HOLDER AND THE SIGNAL OF A PERMITHOLDER IS BECAUSE OUT OF STATE TRACKS ARE NOT PERMITHOLDERS AND THE INTERSTATE HORSERACING ACT WHICH IS INTENDED TO PROTECT THE HOST RACING ASSOCIATION AND THE HOST RACING ASSOCIATION'S HORSEMEN ALLOWS THE HOST RACING ASSOCIATION, THE HOST RACING ASSOCIATION HORSEMENS TO IMPOSE TERMS AND CONDITIONS OF THEIR CONSENT. THOSE CONDITIONS CAN INCLUDE CONDITIONS AS TO EXCLUSIVITY. THEY ALSO CAN EXCLUSIVELY LIMIT AND WHAT NOBODY SEEMS TO HAVE CONTESTED HERE IS THAT UNDER 3004B, WHICH IS THE PROVISION WHICH CARVES OUT THE 60-MILE RADIUS AROUND EACH OF THESE TRACKS, 3004B IS NOT A MANDATORY PROVISION IN THE SAME SENTENCE -- SENSE THAT THE CONSENT UNDER TERMS AND CONDITIONS IS UNDER 3004A1. WHAT 3004B SAYS IS IF THERE IS ANOTHER LIVE TRACK OPERATING IN-STATE, OPERATING LIVE AT THE SAME TIME IN-STATE THAT THEY MUST APPROVE THE RECEIPT OF ANY -- BY ANY OFF-TRACK BETTING OFF WHICH WOULD APPLY TO THE PERMIT HOLDERS WITHIN A 60-MILE RADIUS.

CHIEF JUSTICE: WHICH STATUTE ARE YOU REFERRING TO?

15 US C-SECTION 3004B.

CHIEF JUSTICE: THE FEDERAL CODE?

YES.

CHIEF JUSTICE: WELL, WE'RE HERE TO DECIDE A QUESTION OF STATE LAW.

YES.

CHIEF JUSTICE: I MEAN, CERTAINLY THE 11TH CIRCUIT DIDN'T WANT US TO INTERPRET A PORTION OF FEDERAL LAW?

WELL, YOUR HONOR, BUT YOU HAVE TO LOOK AT THAT STATUTE BECAUSE UNLESS YOU DO -- WELL, FIRST, THE FLORIDA LEGISLATURE IN 35513A, REQUIRES THAT AN IN-STATE HORSE TRACK GET -- COMPLY WITH THE INTERSTATE HORSERACING ACT AS A CONDITION TO BRINGING IN OUT-OF-STATE SIGNALS. SECONDLY, UNDER 63059G1, IT SAYS A THOROUGHBRED HORSE -- THOROUGHBRED PERMIT HOLDER WHICH ACCEPTS WAGERS ON A SIMULCAST SIGNAL. NOW, WHAT IS ACCEPTING A WAGER ON A SIMULCAST SIGNAL IS ACCEPTING AN INTERSTATE OFF-TRACK WAGER WHICH IS GOVERNED BY THE INTERSTATE HORSERACING ACT.

I KNOW THIS IS A VERY TECHNICAL MATTER OF STATUTORY CONSTRUCTION BUT IT WOULD HELP ME GREATLY IF I HAD YOUR POSITION IN UNDERSTANDING OF WHAT THE POLICY IS THAT WAS TRYING TO BE PROMOTED BY THE LEGISLATURE IN PASSING THE STATUTES AND WHETHER THE LEGISLATURE WAS, INDEED, AS JUDGE MOODY INDICATED, ATTEMPTED TO FOSTER COMPETITION AMONG THESE PARIMUTUELS.

WELL, YOUR HONOR, JUDGE MOODY DISCERNED THIS POLICY OF PROMOTING COMPETITION FROM THE LAST SENTENCE OF SUBSECTION 6153, WHICH CONTAINS THE PROHIBITION. BY THE WAY, THERE IS NO SUCH PROHIBITION IN 905 G 31 NOR AN OFFER TO WAGER. THOSE HAVE TO COME FROM SOMEPLACE ELSE. BUT HE DEVINED THIS INTENTION TO PROTECT COMPETITION IN THIS ACT AND IGNORED THE POLICY OF INTERSTATE HORSERACING ACT WHICH THE FLORIDA

LEGISLATURE NECESSARILY ADOPTED WHEN IT AUTHORIZED ACCEPTANCE OF INTER-TRACK WAGERS AND REQUIRED COMPLIANCE WITH INTERSTATE HORSERACING ACT. AS TO THE MONOPOLY POINT --

AND THAT POLICY IS -- WHAT IS THE POLICY THAT YOU ARE SAYING THEY IGNORED?

THE POLICY OF THE INTERSTATE HORSERACING ACT IS TO PROTECT THE INTERESTS OF THE PRIMARY, THE PRIMARY PROPRIETARY INTEREST OF THE PROPER MAJOR PARTICIPANTS. OUT OF STATE HOST TRACK AND OUT OF STATE HOST RACING ASSOCIATION. THEY ARE THE ONES THAT CONTROL THE SIGNALS. THE LAW IS THAT THE -- THE SYSTEM OR THE NEGOTIATION OF THESE CONTRACTS IS NOT SUBJECT TO REGULATION, AND UNDER THE INTERSTATE HORSERACING ACT THEY CAN DO TWO THINGS. THEY CAN APPROVE INTERSTATE HORSERACING OR ACCEPTANCE OF WAGERS, AND IT CAN -- THE IN-STATE COMMISSION, THE IN-STATE COMMISSION CAN SAY YEA OR NAY AS TO WHETHER OR NOT GULFSTREAM CAN ENTER INTO A CONTRACT.

ARE YOU SAYING THAT THE STATE OF FLORIDA COULD NOT HAVE PUT SOMETHING INTO THIS STATUTE THAT SAID YOU CANNOT -- THAT EXPLICITLY SAYS THAT YOU CANNOT ENTER INTO THESE EXCLUSIVITY KIND OF ARRANGEMENTS?

YES, I'M SAYING THAT UNDER THE INTERSTATE HORSERACING ACT I'M SAYING YOU CAN'T DO THAT.

CHIEF JUSTICE: I WANT TO REMIND YOU YOU ARE IN YOUR REBUTTAL.

YES, YOUR HONOR, AND I WILL SIT DOWN.

MAY IT PLEASE THE COURT, MY NAME IS DAVID KNIGHT FROM TAMPA, AND I REPRESENT THE APPELLANT OR APPEALEE IN THIS CASE, TAMPA BAY DOWNS.

CHIEF JUSTICE: COULD YOU GIVE US A PICTURE OF COULD YOU GIVE US A PICTURE OF THE THOROUGHBRED RACETRACKS IN FLORIDA WHICH ARE THE ONLY ONES THAT CAN BASICALLY CONTRACT WITH THE PARIMUTUEL FACILITY?

YOUR HONOR, THIS IS THE WAY IT WORKS, UNDER SECTION 3551, SUB5, ONLY A FLORIDA THOROUGHBRED RACETRACK CAN IMPORT THE SIMULCAST OF ANOTHER THOROUGHBRED TRACK FROM OUT OF STATE.

CHIEF JUSTICE: AND THAT'S LIKE A PROTECTIONIST KIND OF PROVISION?

YOUR HONOR --.

CHIEF JUSTICE: I MEAN, WE CAN TRY TO, I MEAN WE JUST WANT TO MAKE SURE, YOU KNOW, WE'VE GOT THE REALITY CHECK HERE OF WHAT WE ARE TALKING ABOUT.

YOUR HONOR, I CAN'T TELL YOU WHY THAT WAS DONE. THIS CASE HAS BEEN MY FIRST EXPOSURE TO THE STATUTE.

CHIEF JUSTICE: BUT, ANYWAY, THERE ARE FOUR OF THEM THAT CAN DO THAT?

YES. AND THEY COME IN, YOUR HONOR, UNDER A LICENSING AGREEMENT IF YOU WANT TO CALL IT THAT, THEN THEY AND ONLY THEY CAN THEN DISSEMINATE THE SIGNAL TO THE OTHER WAGERING VENUES WITHIN THE STATE.

CHIEF JUSTICE: AND IF THEY ARE WITHIN 60 MILES THEN WHAT?

THEN EACH PARTY, EACH HORSE TRACK HAS ESSENTIALLY A MONOPOLY WITHIN ITS 60-MILE

RADIUS.

CHIEF JUSTICE: SO WE ARE NOT TALKING ABOUT THE 14 THAT WEREN'T WITHIN A 60-MILE RADIUS?

PRECISELY, WE'RE TALKING ABOUT THE GREAT BULK OF THE STATE THAT THEY DO HAVE A MONOPOLY ON BY VIRTUE OF THESE DISSEMINATION AGREEMENTS, AND THAT'S WHAT WE ARE HERE TODAY --

SO LET ME SEE IF I STILL UNDERSTAND IT COMPLETELY. GULFSTREAM THEN IS THE ONLY ONE OF THE FOUR THAT CAN SEND THE SIMULCAST TO THE OTHER 14 PLACES; IS THAT WHAT YOU ARE -- IS THAT THE AGREEMENT THAT THEY HAVE?

YOUR HONOR, LET ME BE MORE EXPLICIT ABOUT IT. TWO OF THE OTHER TRACKS THAT AREN'T HERE TODAY ARE CULVER AND TROPICAL. THEY ARE REALLY OWNED BY THE SAME ORGANIZATION. THEY HAVE A TRACK VERY CLOSE TO GULFSTREAM, THEY AND GULFSTREAM HAVE DIVIDED UP THE YEAR AND THEY DON'T RACE AGAINST ONE ANOTHER. WE RACE AGAINST GULFSTREAM SO DURING THE PERIOD THAT WE ARE RACING YOU CAN ONLY BRING THESE SIMULCASTS IN DURING THE PERIOD YOU ARE RACING AND DISSEMINATE THEM.

HOW MANY SOURCES OF SIMULCAST OUT OF STATE ARE THERE COMING IN?

YOUR HONOR, THERE ARE INNUMERABLE ONES. THE BIG TRACKS, THOUGH, THE MAJOR TRACKS THEY HAVE TIED UP WITH THE DISSEMINATION AGREEMENTS, THE EXCLUSIVE DISSEMINATION AGREEMENTS, NYRA, SARATOGA, THOSE KINDS.

SO THERE ARE OUT OF STATE SIMULCASTS THAT COULD BE PRESENTED THROUGH YOU THAT ARE NOT TIED UP BY GULFSTREAM'S AGREEMENTS?

THERE ARE SOME OF THE LESSER ONES. IF YOU LOOK AT THE MARKET STUDIES, JUDGE, THAT IS A VERY SMALL OF THE OVERALL BETTING DOLLAR IN THE STATE OF FLORIDA.

CHIEF JUSTICE: BUT BASICALLY WHAT HAPPENS, I MEAN THERE IS NOTHING WHETHER YOUR FACILITY HAS IT OR ANOTHER, IT IS REBROADCASTING, I MEAN THERE IS NOTHING, IT IS JUST YOUR CONDUIT, RIGHT?

EXACTLY.

CHIEF JUSTICE: AND THEN YOU GET TO CHARGE -- YOU GET TO TAKE OUT A PERCENTAGE BACK OF WHATEVER THE CHARGE IS?

PRECISELY, AND IF YOU LOOK AT THE DEPOSITION OF DAVID ROBERTS, HE WAS THE DIRECTOR OF PARIMUTUEL WAGERING IN FLORIDA. HE MADE THAT VERY CLEAR. THIS REBROADCAST, ALL THAT IS IS ANOTHER WAY OF TALKING ABOUT THE LICENSING AND SUBLICENSING. HE SAID WHEN IT COMES IN, YOU THOROUGHBRED TRACK CAN BRING IT IN, WHEN YOU DISSEMINATE IT TO ANOTHER TRACK WE CALL THAT REBROADCAST. IF YOU LOOK AT THE DEFINITION OF SIMULCASTING UNDER THE FLORIDA WAGERING ACT, IT USES THAT WORD. NOW, COUNSEL IS RIGHT. IT COMES IN ACTUALLY THROUGH A SATELLITE SIGNAL NOW BUT THAT'S THE TERMINOLOGY THAT THEY USE.

CHIEF JUSTICE: SO IT IS JUST GOING DIRECTLY TO THE PARIMUTUEL FACILITY?

IT DOES BUT IT COULDN'T GO TO THAT PARIMUTUEL WAGERING FACILITY UNLESS WE BROUGHT IT IN OR GULFSTREAM BROUGHT IT IN AND WE THEN --

CHIEF JUSTICE: IS THAT BECAUSE OF THE FEDERAL LAW OR FLORIDA LAW?

THAT'S UNDER THE FLORIDA LAW.

CHIEF JUSTICE: AND THAT'S, AGAIN, SO THAT'S WHAT I WAS TALKING ABOUT THE PROTECTIONISM THING FOR THE RACETRACKS?

YES, YOUR HONOR.

CHIEF JUSTICE: SO NOW TELL ME WHICH ONE HE SAYS THAT 615.3 DOESN'T APPLY, BECAUSE THE OUT-OF-STATE RACETRACKS ARE NOT PERMITHOLDERS, WHY ISN'T THAT THE CASE?

YOUR HONOR, THAT'S NOT ACCURATE, BECAUSE FIRST OF ALL IF YOU LOOK AT THAT STATUTE THAT THEY ARE TALKING ABOUT, 615.3, IT DOES NOT SAY IT APPLIES ONLY TO IN-STATE TRACKS. IN FACT, IF YOU LOOK AT SECTION 3551, SUB5, PERMIT HOLDER ALSO IS RELATED TO OUT-OF-STATE TRACKS. THEY TALK ABOUT OUT-OF-STATE PERMITS.

CHIEF JUSTICE: IS THAT THE DEFINITIONAL SECTION?

NO, YOUR HONOR.

CHIEF JUSTICE: IS THERE A DEFINITION?

THERE IS NO DEFINITION FOR PERMITHOLDER.

CHIEF JUSTICE: IS IT YOUR POSITION THAT 3 APPLICABLEY APPLYS?.

IT IS, YOUR HONOR.

CHIEF JUSTICE: AND IS THAT THE STATUTE THAT THE DEPARTMENT INTERPRETED?

THERE WERE TWO STATUTES THAT WERE DECIDED OR REVIEWED BY THE DEPARTMENT OF PARIMUTUEL WAGERING AND THAT WAS ONE.

CHIEF JUSTICE: AND THEY INTERPRETED THIS AS APPLYING TO OUT-OF-STATE WAGERING?

YES, YOUR HONOR, AND IF YOU LOOK AT THE DEPOSITION OF DAVID ROBERTS, I'LL GIVE YOU TWO CITATIONS, 99 AND 100 AND 164 AND 165, YOU WILL SEE HE MAKES ABUNDANTLY CLEAR, YES, THAT'S WHAT WE MEAN.

WE CAN'T USE HIS DEFINITION, THOUGH, IN DETERMINING -- TO THE EXTENT WE ARE OFFERING DEFERENCE TO A DEPARTMENT'S POSITION CAN WE LOOK AT ANYTHING BESIDES THE DECLARATORY STATEMENT?

YOUR HONOR, I THINK TO THE EXTENT YOU WOULD LIKE CLARIFICATION FROM THE PERSON THAT SIGNED THE DECLARATORY STATEMENT WHO WAS MR. ^ROBERTS AND THE HIGHEST DIVISION PERSON --.

CHIEF JUSTICE: WE CAN'T LOOK BEHIND. WE WOULD BE -- THAT'S NO STATUTORY CONSTRUCTION ISSUE.

FAIR, YOUR HONOR, BUT WHAT THEY DID SAY IN THE DECLARATORY STATEMENT WAS EXCLUSIVE DISSEMINATION AGREEMENTS WHICH OPERATE TO RESTRICT THE TRANSFER OF A SIMULCAST SIGNAL FROM TAMPA BAY DOWNS TO OTHER PERMIT HOLDERS VIOLATE THE

FLORIDA WAGERING ACT.

CHIEF JUSTICE: WHICH PROVISION?

THIS SPECIFIC ONE SAYS 6305^9G1.

CHIEF JUSTICE: BUT IT IS ONLY 615^3 THAT SAYS A PERSON MAY NOT RESTRAIN OR ATTEMPT TO RESTRAIN THAT'S OTHERWISE AUTHORIZED?

WELL, YOUR HONOR, THERE IS NO WAY THAT YOU CAN COMPLY WITH 63059G1, BECAUSE IT SAYS YOU MUST AND THE STATUTE USES THE WORD MUST. SOMEONE LIKE TAMPA BAY DOWNS MUST MAKE THAT SIGNAL AVAILABLE TO ANY OF THESE OTHER VENUES THAT CAME FOR -- ASK FOR IT.

DID THE DEPARTMENT IN THE DECLARE STORY -- DECLARATORY STATEMENT ALLOW THOSE OTHER PERMIT HOLDERS TO ENGAGE IN INTER-TRACK BETTING OR WHATEVER THE DEFINITION IS?

WELL, IT SAYS AND I QUOTE, EXCLUSIVE DISSEMINATION AGREEMENTS WHICH OPERATE TO RESTRICT THE TRANSFER OF A SIMULCAST SIGNAL FROM TAMPA BAY DOWNS TO ANOTHER PERMIT HOLDER IN THAT OPEN AREA WOULD VIOLATE 556.305.

SO IT SEEMS LIKE THEY ARE SAYING YOU HAVE TO BE ABLE TO REBROADCAST THE SIGNAL, THEY HAVE TO RECEIVE THE SIGNAL BUT IT SEEMS TO BE SILENT ON WHETHER THE OTHER PERMITHOLDER SHOULD BE ALLOWED TO ENGAGE IN BETTING ON THAT REBROADCAST.

I DON'T AGREE, YOUR HONOR. I THINK IF YOU LOOK AT THE EARLIER PART OF THAT SUBSECTION, 6305.9, IT SPECIFICALLY TALKS ABOUT THERE BEING A WAGERING ON THAT. THE G1 IS SIMPLY A SUBSECTION OF THAT STATUTE, A SUBSECTION OF THAT SUBSECTION. SO, YOUR HONOR, WE DON'T AGREE WITH THAT.

I'M ASKING SPECIFICALLY WHAT THE DECLARATORY STATEMENT SAYS, NOT WHAT THE STATUTE SAYS WHEN THE DECLARATORY STATEMENT INTERPRETED A STATUTE IT IS SAYING YOU HAVE TO REBROADCAST TO THE OTHERS DID IT GO BEYOND THAT AND SAY THEY SHOULD BE ALLOWED TO BET ON IT?

IT DID, YOUR HONOR, BUT THE DEPARTMENT OF PARIMUTUEL WAGERING IN THAT ACT OR THAT'S WHAT IT IS ALL ABOUT. IT IS NOT BROADCAST SIMULCAST INTO MOVIE THEATERS, IT IS TO BET ON. I MEAN THE WHOLE ACT PART AND PARCEL IS ALL ABOUT BETTING AND CONTROLLING BETTING. THE POLICY STATEMENT ON THE ACT AND ALL OF THE PROVISIONS, THE SUBSECTIONS OF THIS TO WHICH THIS SECTION APPLY TALK ABOUT ACCEPTING BETTING, WAGERING ON THE SIGNALS.

CHIEF JUSTICE: DO YOU SET WHATEVER AMOUNT YOU WANT FOR THE CHARGE OR HOW IS THAT REGULATED?

THERE IS A STATUTORY SCHEME WORK WHICH PROVIDES THAT THERE ARE CERTAIN MINIMUMS THAT HAVE TO BE PAID. THE OUT OF STATE TRACK GETS A CERTAIN CUT, THE STATE OF FLORIDA GETS A CERTAIN CUT FOR TAXES AND SO FORTH. BUT THERE IS SOME DISCRETION WITHIN THAT TAKE-OUT PART IF YOU WILL FOR THE OUT OF STATE OR THE IN-STATE TRACK SUCH AS TAMPA BAY DOWNS AND THE OTHER BETTING VENUES TO NEGOTIATE. THAT'S WHAT WE WEREN'T ABLE TO DO UNTIL WE GOT THE DECLARATORY STATEMENT AND THAT'S WHAT CHANGED THEIR MARKET SHARE FROM UP HERE TO HAVING OURS TOTALLY REVERSED AND GO AND CAPTURE ALL OF THAT MARKET.

CHIEF JUSTICE: YOU OFFERED IT AT A MORE COMPETITIVE RATE?

MUCH MORE. IN FACT, ONE OF THE BETTING VENUES WAS THERE IS TESTIMONY IN THE RECORD THAT THEY WERE ON THE VERGE OF GOING OUT OF BUSINESS BECAUSE THEY WEREN'T MAKING MONEY UNTIL THIS CHANGE OCCURRED AND WE WERE ABLE TO PAY THEM A HIGHER PERCENTAGE WHICH ALLOWED THEM TO KEEP THEIR DOORS OPEN.

WHICH IS ALL BASED ON THE AMOUNT OF MONEY THAT'S TURNED OVER IN THE FACILITY?

YES, SIR.

I MEAN ALL OF THIS IS BASED ON THAT. EVERYBODY GETS A LITTLE PIECE OF THE ACTION, IS THAT HOW THE THING OPERATES?

THAT'S EXACTLY HOW IT WORKS, JUDGE.

WOULD YOU GO THROUGH THE 615.3 AND PLACE IN THAT STATUTE, DO YOU HAVE IT THERE WITH YOU?

YES, YOUR HONOR.

WHERE IT IF A PERMITHOLDER ELECTS TO BROADCAST THE SIGNAL?

YES, YOUR HONOR.

WOULD YOU PLACE IT IN TERMS OF THE WORDPERFECT MITTHOLDER WHICH PARTIES AND HOW THE STATUTE APPLIES IN THIS CASE?

YOUR HONOR, LET ME BACK UP JUST A SECOND AND THEN I WILL DO THAT.

OKAY.

FIRST OF ALL, YOU GO BACK TO THE PORTION OF THE STATUTE I TALKED ABOUT EARLIER, AND THAT IS THE SIMULCAST SIGNAL ON A THOROUGHBRED RACE CAN ONLY BE BROUGHT IN TO A FLORIDA THOROUGHBRED RACE.

UNDERSTOOD.

AT THAT POINT THAT TRACK BECOMES THE HOST, AND IF YOU LOOK AT 6305.9 YOU WILL SEE THAT FLORIDA IS THEN CONSIDERED THE HOST.

SO THAT'S HOW YOU ARE GOING TO PLACE THE PERMIT HOLDER AS THE FLORIDA FACILITY THAT ORIGINATES OR HAS THE AGREEMENT WITH THE OUT-OF-STATE TRANSMISSION?

THE SIGNAL BECOMES THE FLORIDA'S RACETRACK SIGNAL TO THEM DISSEMINATE AT THAT POINT AND IT IS TREATED AS THE PERMIT HOLDER IN FLORIDA.

PLEASE GO AHEAD THEN WITH THAT BACKGROUND AND TELL US HOW THIS STATUTE WOULD RELATE.

YES, YOUR HONOR, IT SAYS A PERSON, INSERT THE NAME GULFSTREAM HERE, MAY NOT RESTRAIN OR ATTEMPT TO RESTRAIN ANY PERMITHOLDER THAT IS OTHERWISE ENTITLED TO CONDUCT INTER-TRACK WAGERING FROM RECEIVING THE SIGNAL OF ANY OTHER PERMIT HOLDER. SO INSERT NEXT THE NAME OF ONE OF THESE VENUES THAT THEY CANNOT RESTRAIN, GULFSTREAM CAN'T RESTRAIN THEM OR US FROM SENDING -- AND THE VENUE FROM RECEIVING THAT SIGNAL.

KEEP GOING.

AND ANY OTHER PERMIT HOLDER IS US. IT BECOMES OUR SIGNAL ONCE IT IS IMPORTED ONLY WE CAN IMPORT IT. THE STATUTE SPECIFICALLY CALLS US THE HOST AT THAT POINT, SO, YOUR HONOR, WE THINK AND THAT IS CERTAINLY THE WAY THE DEPARTMENT HAS INTERPRETED THIS.

HOW DO THE TWO -- IN TERMS OF TRYING TO UNDERSTAND THE STATUTORY SCHEME, MR. ^ROUNSAVILLE SAID I'VE GOT TO READ ALL OF 550. LET'S JUST ASSUME WE STICK WITH 615 AND THEN 6305 ONE IS ENTITLED INTERTRACK WAGERING, THE OTHER IS INTERTRACK WAGERING TRACK PAYMENTS AND ACCOUNTING RULES. DO YOU NEED G1 OR IN OTHER WORDS WHAT IS THE RELATIONSHIP OF G1 IN THAT SECTION TO THE ONE THAT JUSTICE LEWIS JUST SPOKE ABOUT?

OKAY. YOUR HONOR --

CHIEF JUSTICE: WHAT -- HOW IS THIS DIFFERENT?

I THINK THEY BOTH ARE DIFFERENT WAYS AT COMING AT THE SAME THING. ON THE ONE HAND WE CAN'T BE RESTRICTED FROM TRANSMITTING A SIGNAL ON THE OTHER HAND THE OTHER VENUES CAN'T BE RESTRICTED FROM GETTING THE SIGNAL. WE HAVE TO. WE MUST TRANSFER THAT TO THEM.

CHIEF JUSTICE: USUALLY YOU WOULD EXPECT THAT IF THERE IS GOING TO BE ON A PARTICULAR SUBJECT, ALTHOUGH THE LEGISLATURE DOES SOME STRANGE THINGS YOU WOULD EXPECT THAT THEY DO IT IN THE SAME PARAGRAPH, BUT ARE YOU SAYING WE HAVE TO PUT TOGETHER G1 AND 615 IN ORDER TO COME UP WITH THIS?

NO, YOUR HONOR, WHAT WE THINK IS EITHER ONE STANDING COMPLETELY ALONE ARE VIOLATED BY THE EXCLUSIVE DISSEMINATION AGREEMENTS AND THAT'S PRECISELY WHAT I THINK THE DEPARTMENT CAME TO THE CONCLUSION ON.

CHIEF JUSTICE: I GUESS AGAIN BUT MAYBE YOU DIDN'T -- ONE SAYS INTERTRACK WAGERING. SO THAT COVERS THAT. WHAT IS 6305 COVER THAT 615 DOESN'T COVER?

I THINK THERE IS OVERLAP, JUDGE.

CHIEF JUSTICE: POOR DRAFTSMANSHIP? WERE THEY ADOPTED AT DIFFERENT TIMES?

THEY WERE ADOPTED AT DIFFERENT TIMES AND I THINK THE PARAMOUNT PURPOSE, THE QUESTION WAS ASKED ABOUT THE POLICY, THAT'S TO PROMOTE COMPETITION AND IF YOU LOOK AT BOTH OF THOSE WHAT YOU SEE IS THAT THERE IS SUPPOSED TO BE COMPETITION IN THIS INDUSTRY AND THAT IS MANDATED.

WELL, DO YOU AGREE WITH YOUR OPPONENT THAT THAT PLACES THE FLORIDA SCHEME IN CONFLICT WITH THE PROTECTIONIST SCHEME ON THE FEDERAL LEVEL?

NOT AT ALL, YOUR HONOR, AND THIS IS WHY. FIRST OF ALL, I THINK WE ARE GETTING WAY FAR REMOVED FROM WHAT WAS CERTIFIED TO THIS COURT. IF THERE IS AN INTERPRETING ISSUE OF A FEDERAL STATUTE OR A PREEMPTION ARGUMENT WHICH THEY HAVE. THAT'S THEIR ONLY ARGUMENT IN RESPONSE TO OUR CONTENTION THAT 6305 ALONE IS VIOLATED BY THESE AGREEMENTS BUT IF THERE IS SUCH A FEDERAL QUESTION THE 11TH CIRCUIT OUGHT TO DECIDE THAT BUT THERE IS NO CONFLICT BETWEEN THE TWO WHATSOEVER.

IF THERE WAS CERTAINLY THE 11TH CIRCUIT COULD SPEAK TO THAT.

BUT WE NEED TO RESOLVE THE ISSUE OF THE INTERPRETATION OF FLORIDA LAW ON THE BASIS OF TAKING INTO CONSIDERATION THE FEDERAL SCHEME SO AS TO AVOID AS BEST WE CAN AN ISSUE OF PREEMPTION. SHOULD WE NOT?

THERE IS NOTHING IN THE FEDERAL DISTRICT, JUDGE, THAT RULED AGAINST GULFSTREAM SAID THERE IS NOTHING IN THE INTERSTATE HORSERACING ACT THAT IS IN CONFLICT WITH THE FLORIDA LAW. WE WOULD WHOLEHEARTEDLY AGREE. THERE IS NOTHING IN THE FEDERAL ACT THAT SAYS EXCLUSIVE DISSEMINATION AGREEMENTS ARE PROPER. EVERYTHING WE HAVE SEEN FROM THE ACT SAYS THAT STATES HAVE PRIMARY REGULATORY JURISDICTION OVER GAMBLING. THE DECISION -- THE WHOLE REASON THAT WAS, I THINK, CERTIFIED, THIS QUESTION HAS BEEN CERTIFIED IS BECAUSE THE 11TH CIRCUIT RECOGNIZED GAMBLING AND REGULATION OF GAMBLING GOES TO THE HEART OF THE STATE'S POLICE POWER AND SO TO ANSWER YOUR QUESTIONS DIRECTLY, YOUR HONOR, I DON'T SEE ANY CONFLICT BECAUSE THERE IS NOTHING IN THE FEDERAL STATUTE THAT SAYS YOU CAN HAVE EXCLUSIVE DISSEMINATION RIGHTS. THERE IS NOTHING IN THE FEDERAL STATUTE THAT SAYS WE CAN PUT PROVISIONS IN AGREEMENT ENTERED INTO PURSUIT -- PURSUANT TO THE STATUTE THAT VIOLATE A STATE'S LAW.

IS IT YOUR UNDERSTANDING THAT YOUR OPPOSITION IS RELYING ON ONLY THE DEFINITIONAL SECTION UNDER THE FEDERAL LAW?

YES, YOUR HONOR.

AND THAT THAT REALLY, THERE IS NO SUBSTANTIVE PROVISION IN ADDITION TO THAT?

THERE IS NONE.

CHIEF JUSTICE: WHAT IS THE 60-MILE RADIUS THING, IS THAT IN THE STATUTE?

THAT'S IN THE FEDERAL LAW.

CHIEF JUSTICE: THAT'S IN THE FEDERAL LAW. WHAT'S THE REASON THAT THAT WAS -- DO WE KNOW? I MEAN WHY THAT'S PUT IN THE FEDERAL LAW?

I THINK THERE IS NOTHING IN THE RECORD TO SUGGEST WHY THAT IS THERE.

CHIEF JUSTICE: IS THERE SOME IMPLICATION IF THERE IS SORT OF A MONOPOLY SO TO SPEAK ON FACILITIES WITHIN 60-MILE RADIUS THAT ANYTHING OUTSIDE OF THAT IS REALLY SHOULD BE -- YOU SHOULD ENCOURAGE THERE TO BE COMPETITION?

YOUR HONOR, I WOULD CERTAINLY READ IT THAT WAY. I CAN'T TELL THE COURT THERE IS A CASE ON THAT. I CAN'T TELL THE COURT THAT THERE IS ANYTHING IN THE LEGISLATIVE HISTORY, BUT I WOULD THINK CONGRESS WENT TO SOME TROUBLE TO CARVE OUT A PROTECTED AREA FOR EACH TRACK. BEYOND THAT, HAD THEY WANTED TO GO FURTHER THEY COULD HAVE, AND THAT'S WHAT IS AT ISSUE IN THIS CASE IS THE OPERATION OF THESE DISSEMINATION AGREEMENTS, THESE EXCLUSIVE DISSEMINATION AGREEMENTS OUTSIDE OF THAT PROTECTED AREA THAT CONGRESS IS NOT CONTROLLED AT ALL.

CHIEF JUSTICE: I MEAN I GUESS TO ME THAT'S FAIRLY POWERFUL EVIDENCE, THOUGH, IN TERMS OF PREEMPTION THAT IF THEY PUT THE PROTECTED AREA AT 60 MILES AND AFTER THAT IF THE STATE SAYS, NO, THERE SHALL BE OPEN COMPETITION THAT WOULDN'T CONFLICT WITH ANYTHING?

NO, AND WE'VE HAD AT LEAST ONE FEDERAL JUDGE LOOK AT THIS ISSUE, THE DISTRICT JUDGE. HE FOUND NO PREEMPTION. HE FOUND TO THE CONTRARY, THERE WAS DEFERENCE GIVEN BY THE FEDERAL ACT TO STATE REGULATION. HE FOUND NOTHING IN THE FEDERAL ACT IN HIS INTERPRETATION OF IT THAT IN ANY WAY CONFLICTED WITH STATE LAW AND IT IS VERY CLEAR GIVEN THE I GUESS IN OUR SYSTEM OF FEDERALISM THE GREAT DEFERENCE GIVEN TO STATES IN REGULATION OF GAMBLING THAT IF A SIGNAL COMES INTO FLORIDA AND THERE IS GOING TO BE BETTING IN FLORIDA ON THAT SIGNAL, FLORIDA OUGHT TO HAVE THE RIGHT TO REGULATE IT.

SO WHAT'S THE STATE INTEREST THEN, NOT TO ALLOW WHAT GULF IS DOING?

WELL, YOUR HONOR, THERE ARE A NUMBER.

CHIEF JUSTICE: I'LL LET YOU ANSWER JUSTICE BELL'S QUESTION BUT LET'S GIVE US THE BEST ONE.

OKAY. THE STATE'S INTEREST, IF YOU LOOK IN THE STATUTE IT HAS ONE TO PROTECT THE WELFARE OF THE CITIZENS, ALSO TO PROTECT ITS TAX BASIS. WE HAVE ONE VENUE WE KNOW OF READY TO GO OUT OF BUSINESS, CLOSE ITS DOORS, BECAUSE IT WAS BEING GIVEN A LOT LESS MONEY BY GULFSTREAM BECAUSE GULFSTREAM HAD THESE EXCLUSIVE AND THEREFORE HAD THE POWER TO DO IT THAT HAPPENED ONCE FREE COMPETITION CAME INTO THE MARKET. SO THE STATE HAS EVERY RIGHT TO PROMOTE COMPETITION IN ORDER TO PROTECT ITS TAX BASE.

CHIEF JUSTICE: ALL RIGHT. I THINK THAT'S RESPONSIVE. THANK YOU VERY MUCH. REBUTTAL?

YES, YOUR HONOR, BRIEFLY. I HAVE TO ADDRESS BRIEFLY THIS ISSUE, THIS NOTION OF MONOPOLY. THERE ARE FOUR NOW OPERATING THOROUGHbred HORSE TRACKS IN THE STATE OF FLORIDA. WE NO LONGER HAVE HIGH A LEE A. WHEN WE HAD -- WHEN WE HAD HIALEAH TAMPA BAY HAD THE EXCLUSIVE DISSEMINATION AGREEMENTS IN ITS CONTRACTS.

I THINK WHEN PEOPLE TALK ABOUT MONOPOLY THEY ARE TALKING ABOUT MONOPOLIZING THE SIGNAL THAT COMES INTO THE OTHER NONTHOROUGHbred AND PERMITHOLDERS.

THEY DID. WHEN THEY WERE RUNNING HEAD TO HEAD WITH HIALEAH THEY HAD CONTRACTS, THE SAME CONTRACTS THAT WE WE DO. CULDER HAS MANY OF THE SAME CONTRACTS AND PAYS THE SAME SPLITS. TROPICAL DOES. ALL OF THE FLORIDA TRACKS DO IT AND HAVE DONE IT. TAMPA BAY DOWNS DID IT UNTIL HIALEAH WENT OUT OF BUSINESS AND THEN THEY COMPLAINED. NOW, FURTHER, THE NOTION THAT WE HAVE A MONOPOLY, WE HAVE THE MOST -- IN THE LAST YEARS THAT WE HAD IN THE RECORD, WE HAD 11%. THEY HAD MORE MONEY THAN WE HAD.

PLEASE DON'T BE UPSET WITH THE USE OF THE WORD MONOPOLY. IT WAS USED IN THE SENSE OF THE EXCLUSIVITY OF THE TRANSMISSION SO IT WAS NOT A NEGATIVE CONNOTATION.

THERE IS A NEGATIVE CONNOTATION IN THE BRIEF.

WE ARE NOT DECIDING ANY ANTI TRUST.

THE CONTROL OF THE SIGNAL IS ALL IT GOES TO.

OF COURSE THEY BROUGHT, THEY KNEW HOW TO FIND A STATUTE THAT REGULATES MONOPOLIES BECAUSE THEY FILED A COMPLAINT UNDER THE FLORIDA ANTI TRUST ACT. OF COURSE THEY LOST THAT CLAIM, BUT BE THAT AS IT MAY, UNDER 6059G1, THE MAGIC WORDS ARE WHICH ACCEPT THE WAGERS ON A SIMULCAST BECAUSE ACCEPTING WAGERS ON A SIMULCAST IS ACCEPTING AN OFF-TRACK WAGER AND CONTRARY TO MR.^KNIGHT'S INTERPRETATION OF WHAT THE PUBLIC POLICY OF THE INTERSTATE HORSERACING ACT IS, IT HAS NOTHING TO DO WITH COMPETITION. IT HAS TO DO WITH PROTECTING THE INTEREST OF THE OUT OF STATE HOST TRACK AND THE HOST RACING ASSOCIATION.

WOULD YOU GO THROUGH AND READ FOR US, YOUR INTERPRETATION OF 5506153 AS YOUR COUNSEL DID, AND YOUR INTERPRETATION OF PUTTING IN WHOSE NAME GOES IN FOR EACH PERMIT HOLDER THERE?

YES, AND I WOULD LIKE TO DO THAT. BY READING THE 615, THE INTRODUCTORY SENTENCE OF

651, 6512, BECAUSE IT SAYS ANY HORSE RACE PERMITHOLDER LICENSED UNDER THIS CHAPTER WHICH HAS CONDUCTED A FULL SCHEDULE OF LIVE RACING MAY ACCEPT -- RECEIVE BROADCASTING AND ACCEPT WAGERS. 6152 SAYS ANYONE LICENSED UNDER THIS CHAPTER AND THEN 6153 SAYS IF A PERMIT HOLDER --.

WHO IS THE PERMITHOLDER THERE? WHAT NAME GOES IN?

OH, TAMPA BAY DOWNS ELECTS TO BROADCAST ITS SIGNAL TO FLORIDA JAI ALAI, ANY PERMITHOLDER, ANY OTHER PERMITHOLDER IN THE STATE THAT IS ELIGIBLE TO CONDUCT INTERTRACK WAGERING UNDER THESE PROVISIONS IS ENTITLED TO RECEIVE THE BROADCASTING AND CONDUCT WAGERING UNDER THIS SECTION.

WHY DOESN'T THAT SAY THAT THEY ARE ENTITLED TO ANY OTHER PERMITHOLDER IS ENTITLED TO RECEIVE --

I HAVE NO DOUBT THAT'S THE CASE. THAT'S A PURELY INTERSTATE BROADCAST -- INTRASTATE BROADCAST AND THE RIGHT TO WAGER IS ON AN INTRASTATE EVENT.

AND WHEN IT TALKS IN TERMS OF CONDUCT INTRASTATE WAGERING DOES NOT REFER TO SIMULCAST IN THAT PARAGRAPH?

IT REFERS TO SIMULCAST OF AN IN-STATE -- OF A HORSE RACE AT TAMPA BAY DOWNS.

ONLY IN STATE?

IN-STATE, YES.

CHIEF JUSTICE: I WOULD LIKE TO REMIND YOU THAT YOUR TIME HAS EXPIRED. THANK YOU, THANKS TO BOTH SIDES FOR BRIEFING THIS CASE AND RESPONDING TO OUR QUESTIONS. THE COURT WILL BE IN RECESS.

THE MARSHAL: PLEASE RISE.