

Per Curiam

MORGAN STANLEY & CO., INC., ET AL. *v.* PACIFIC
MUTUAL LIFE INSURANCE CO.

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

No. 93–609. Argued April 26, 1994—Decided May 23, 1994

997 F. 2d 39, affirmed by an equally divided Court.

James W. B. Benkard argued the cause for petitioners. With him on the briefs were *James D. Liss*, *Vincent T. Chang*, *Hannah Berkowitz*, *James L. Truitt*, *Robert B. Mazur*, *Ernest E. Figari, Jr.*, *Theodore Edelman*, *Fletcher L. Yarbrough*, *Robert G. Cohen*, *Kathryn A. Oberly*, and *Morton L. Susman*.

Richard G. Taranto argued the cause for respondent Pacific Mutual Life Ins. Co. With him on the brief were *H. Bartow Farr III* and *Stewart M. Weltman*. *Michael R. Dreeben* argued the cause for the United States. With him on the brief were *Solicitor General Days*, *Assistant Attorney General Hunger*, *Deputy Solicitor General Kneedler*, *Barbara C. Biddle*, *Paul Gonson*, and *Jacob H. Stillman*.*

PER CURIAM.

The judgment of the United States Court of Appeals for the Fifth Circuit is affirmed by an equally divided Court.

JUSTICE O'CONNOR took no part in the consideration or decision of this case.

**James M. Finberg* and *Paul J. Mishkin* filed a brief for the National Association of Securities and Commercial Law Attorneys as *amicus curiae* urging affirmance.

Barbara B. Edelman and *Barry Friedman* filed a brief for Spendthrift Farm, Inc., et al. as *amici curiae*.