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Supreme shocker! Anna Nicole
goes to high court

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What do trusts and estates law professors and gossip columnists have in common? At least one thing, thanks to Anna Nicole Smith. Both will be anxiously awaiting the outcome of her case, a bitter inheritance battle over the \$1.6 billion estate of her late husband, Texas oil tycoon Howard Marshall, which the Supreme Court will hear on Tuesday. The question before the justices seems pedestrian: Does a federal court have the authority to hear an argument between two people that relates to a state court probate proceeding? In a bizarre dichotomy, the Supreme Court's ruling is sure to yield both tabloid fodder and important legal precedent. You know the background. In her early 20s, while working as an exotic dancer, Anna met the elderly billionaire. After a breast augmentation, paid for by Howard, Anna appeared on the cover of Playboy and signed a contract to be the new Guess? Jeans Girl. In 1993, she was named Playmate of the Year. The following year, at the age of 26, Anna married the 89-year-old Marshall. He died one year later. During his lifetime, Howard gave Anna gifts worth more than \$6 million.

Here is where things get interesting.

Despite Anna's claim that Howard had verbally promised her half of his fortune if they married, her name was nowhere to be found on either the will or the trust that he updated two weeks after their wedding. Instead, both instruments named his son, Pierce Marshall, as the sole beneficiary. Anna claims Howard had attempted to provide for her through a separate trust, but that Pierce unlawfully suppressed or destroyed the trust instrument.

This legal battle began in Texas probate court. While the probate case was still ongoing, Anna filed a bankruptcy case. The bankruptcy court found that Pierce had, as Anna claimed, illegally interfered with a substantial inheritance that Howard intended to leave her. It

awarded her almost \$450 million in compensatory damages, and \$25 million in punitive damages. Pierce Marshall appealed to a California federal district court. Before trial got underway, however, the Texas probate court dismissed Anna's claim, and ordered her to pay \$1 million in fees to Pierce's legal team. Then, the federal district court affirmed the bankruptcy court's findings, but reduced Anna's damages to a little more than \$88 million.

Now, the U.S. Supreme Court has decided to hear Anna's appeal.

The court will probably do the right thing by upholding traditional, expansive federal court jurisdiction. Anna should be able to attract the five votes necessary to win. However, no sitting justice has ever expressed a view on the probate exception, and the two new justices, Chief Justice John Roberts and Associate Justice Samuel Alito, are very definite wild cards.

Whatever the Supreme Court decides, one thing is certain: Marshall vs. Marshall will have implications that are much farther reaching than whether Anna ends up in the poorhouse or the penthouse.

Two things to watch for during Tuesday's argument: the cerebral legal rhetoric on both sides of this vital issue, and, most critical, just what will Anna be wearing.

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