



# 'A Quick Education'

The case that introduced Michael Cacace to the transgender community and to the law BY ANDREW BRANDT

In 1975, professional tennis player Renée Richards underwent sex reassignment surgery after decades of struggling with her birth-assigned gender. She then moved to the West Coast to start over as an ophthalmologist. It wasn't long before she began hitting again and, eventually, signing up for tournaments. But when she attempted to compete in the 1976 U.S. Open as a woman, the United States Tennis Association (USTA) barred her. So she sued for gender discrimination.

The following summer, Michael Cacace—then a second-year student at New York Law School—was interning at Saxe, Bacon & Bolan in New York City when the Richards suit landed on the firm's docket.

His tasks? Gather facts and help write an argument for why Richards should be allowed to play, as a woman, in the 1977 U.S. Open.

"It was a very novel case," says Cacace. "I will confess, I was ignorant of the whole notion of the transgender community at the time, and got a very quick education from all the doctors I dealt with."

That summer, Cacace met psychologist Dr. John Money at Johns Hopkins. "At that time, he was the leading expert in terms of gender changes," Cacace says. "Based on that information, we crafted a lengthy affidavit, which he executed. We then got additional affidavits from a number of other doctors. ... Ultimately, each of the doctors we submitted affidavits from concluded that Richards was a female in 1977."

From there, Cacace helped the firm find a then-recent New York statute that outlawed sex discrimination based on gender. "We made an argument using that law protecting Renée Richards and the fact that she was a woman, and was therefore being discriminated against," he says. "When we put the argument together, we felt we had a very strong case. Given the social views in 1977, we feared a judge might find it more comfortable to deny the preliminary injunction we sought."

Cacace says the firm and Richards also received support from some of the tennis stars of the day. "Billie Jean King submitted an affidavit in favor of her playing. Martina Navratilova was also a supporter," he says. "But there were other tennis players who literally wore T-shirts that said: 'Renée go home.'"

The firm began work on the case around June 1977, and by August, Judge Alfred Ascione of the New York Supreme Court had granted the injunction. From there, the USTA allowed Richards to compete in that year's U.S. Open tournament. Combating the USTA's claim that allowing Richards to play would encourage other athletes to undergo gender-reassignment surgery to flood women's sports, Judge Ascione wrote, "When an individual such as plaintiff, a successful physician, a husband and father, finds it necessary for his own mental sanity to undergo a sex reassignment, the unfounded fears and misconceptions of defendants must give way to the overwhelming medical evidence that this person is now female."

"We had a very courageous and bold judge," Cacace says.

The year after, when Cacace was a 3L, a professor name-checked the case, not knowing one of his students worked on it.

"He said the court reached the right result but based on the wrong legal theory," Cacace says. "I had a little argument with him over that."

For Cacace, who was attending law school with the goal of entering public service, the Richards case opened his eyes. "This case taught me that the law can have as big—if not bigger—an impact on public policy than the career path I was on," he says. "I fell in love with practicing law."

Richards wound up competing at the U.S. Open in women's singles and doubles that August. Though she lost in the first round in singles, she advanced to the finals in doubles. She retired from tennis in 1981.

"The fact that, now, more than 40 years later, we're still having debates over these issues is interesting," says Cacace. "It shows that society still moves very slowly." 



**Michael J. Cacace**

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Renée Richards poses for a portrait at her home in Carmel, New York, March 25, 2015.