



BILL KING

The Law of the Links: **GROUNDS FOR A LAWSUIT**

by
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In the last column, we discussed the circumstances under which a golfer could hold another player responsible for injuries. But what happens if the injury is caused not by another person, but by the course itself? Can the injured player hold the owner or operator of the course responsible?

The Court of Appeals of Ohio recently addressed this question in the case of *John Hladky v. Ironwood Golf Course*.

On August 11, 1986, while golfing alone, Hladky hit a tee shot into a ravine which lay along the fairway on the 17th hole. When Hladky climbed into the ravine to find his ball, he fell and broke his leg.

Hladky sued the course, alleging that his injury was caused by the course's negligence. The trial court dismissed the case. Hladky appealed.

The appellate court affirmed the decision of the trial court, noting that the same rules that apply to shopkeepers apply to golf courses. Under those rules, the operator of an establishment owes his or her patrons a duty of only "ordinary care." This means that the owner of the business is only responsible for dangers of which the owner, and not the patrons, is aware. The operator need not protect patrons

from dangers that are either known to the patrons or so obvious that the patrons should have been aware of them and protected themselves from them.

In this case, Hladky admitted in his deposition that he was aware that the ravine was a portion of the golf course which was not maintained and which consisted of rugged terrain. Thus, the court concluded that the danger was apparent to Hladky, and that the course operator owed him no duty of further protection.

Under certain circumstances, the deliberate design of a course could be the basis for liability. In a recent decision, the Supreme Court of Utah ruled that, depending on the evidence, a course owner could be held negligent for his or her operation of a course that was defectively designed. In this case, the plaintiff, who was standing at the 15th tee, was struck in the eye with a drive from the 14th tee. He alleged that his injuries resulted, in part, from the fact that the two tees nearly faced each other.

Other lawsuits against course operators have turned on the particular facts involved. For example, in one case, the court upheld a jury verdict against a country club in favor of a golfer who was struck on a green by a drive from the tee of that same hole. The score card had shown the yardage from tee to green as 315 yards, significantly longer than the driver could hit. In reality, the distance was nearly 100 yards less than the score card indicated.

In another case, a course owner failed to ensure that players were following safety rules. Evidence that players violated the rules and that the owner made no effort to caution offenders supported a jury verdict in favor of the injured player.

Courts have also held course operators responsible for injuries resulting from the acts of their employees. For example, one court held a course proprietor liable for the actions of a starter he employed to speed up play.

The starter improperly directed a golfer to tee off while another player was only 125 yards away. The court ruled that the driver was not responsible, as the starter had directed him to hit. He had the right to assume that the starter would act responsibly.

Other cases have found a course operator liable for allowing the course to become overcrowded, where such a situation resulted in an injury.

The status of the course owner or operator may make a difference. For example, if the course is owned or operated by a governmental entity, that entity may be immune from liability due to its governmental status. The entity can generally waive its immunity, however, if it decides to do so.

As always, the law of a particular state may differ from the rulings reported here. Nevertheless, it is clear that increasing awareness of the real hazards of a golf course—beyond just the sand traps and water—can serve the dual purposes of helping players to avoid injury and operators to avoid liability. □

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