

THE LAW OF THE LINKS: Lightning Strikes

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One attraction of the game of golf is that it provides players the opportunity to spend time outdoors and experience nature. But even nature has its dangers.

One such danger is lightning. Given the open and often elevated areas of a golf course, and the fact that players are usually carrying long metal objects, it is not surprising that golfers are occasionally struck by lightning. Nor are spectators immune, as the tragedies at the 1991 U.S. Open and PGA Championship sadly attested.

One question is whether a course operator must provide lightning-proof shelters or devices to warn players of impending thunderstorms. The case of *Hames v. Tennessee* recently raised that question.

On July 3, 1987, Phillip Hames and two companions were playing a round at Warrior's Path State Park in Kingsport, TN. The weather was overcast. There were no signs or warning devices on the course informing players what to do in case of violent weather. There were also no weather shelters on the course. Hames, while not an expert golfer, had played at Warrior's Path before and was familiar with the layout and grounds.

Approximately 25 minutes after the three started playing, a thunderstorm moved over the area. Lightning soon began and continued for about 20 minutes. Course employees made no effort to clear the course. After the lightning passed, the three golfers were discovered under two trees on a small hill. All had been struck. Mr. Hames had died of cardiac arrest due to electrocution.

Rebecca Hames sued the course operator (the State of Tennessee) for the wrongful death of her husband. She alleged that the operator had been negligent in failing to provide lightning-proof shelters or warning devices, causing Mr. Hames' death.

At trial, a Claims Commissioner ruled for the operator. Mrs. Hames appealed to the Court of Appeals, which reversed the decision and awarded her \$300,000. The operator then appealed to the Supreme Court of Tennessee.

In its decision, the Supreme Court reversed the

decision of the Court of Appeals, and dismissed Mrs. Hames' complaint.

The Supreme Court based its ruling for the operator on two grounds. First, it concluded that Mrs. Hames had not proved that the operator had been negligent. The Court noted that "lightning is such a highly unpredictable occurrence of nature, that it is not reasonable to require one to anticipate when and where it will strike." In other words, "the risk to be guarded against is too remote to impose legal liability."

The Court also observed that "the risks and dangers associated with playing golf in a lightning storm are rather obvious to most adults" and that "a reasonably prudent adult can recognize the approach of a severe thunderstorm and know that it is time to pack up the clubs and leave before the storm begins to wreak havoc." Indeed, most of the golfers out that day had done just that.

Furthermore, the Court noted that there is no golf course industry standard requiring warning devices or lightning-proof shelters and that most courses do not provide either of these. Although the USGA recommends posting notices outlining the dangers of lightning and advising precautions, the course superintendent testified that such rules only applied to tournament play.

The second grounds for the Supreme Court decision in favor of the operator hinged on the fact that the State's alleged negligence was not the direct cause of Mr. Hames' death. The Court observed that the direct cause of his death was the bolt of lightning, as opposed to any act or omission by the operator. Thus, the operator's failure to provide shelters or warnings, although possibly furnishing the condition by which lightning could strike Hames, was not the primary cause of death.

Obviously, when lightning threatens, a player's first thought should be safety, and not the merits of a lawsuit should he or she be struck. Indeed, the USGA Rules emphasize that, even in competition, players have the right to stop play if they think there is a threat, even if the tournament rules committee has not specifically authorized it by signal. Players perceiving danger should immediately seek appropriate shelters (if available) or buildings and avoid open or elevated areas, isolated trees, water, and metal. □

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Lightning Safety Tips

If lightning is in the area and you can't get to the clubhouse immediately, remember these life-saving instructions:

- Get away from your clubs.
- It is better to get drenched than to hold onto a metallic umbrella shaft.
- Get to low ground. Lightning discharges to objects arising from the ground.
- Stay away from water hazards, bridges, and flagsticks. When lightning strikes water, even hundreds of feet away, the water can act as an electrical conductor.
- An electric golf cart is probably the safest place to sit out a storm, especially if it has a top. Lightning may strike the cart, but it will usually arc through to the ground.
- Underground sprinkler system pipes usually run down the middle of fairways. Avoid them; they are logical targets for a lightning strike.
- Stay away from trees and metal structures!