Litigious Links

by Lawrence Savell

NO ONE SHOULD be thinking -- or talking -- about the law on the golf course (that goes for lawyers, especially). But today, golfers who think bunkers and ponds are the only hazards they have to worry about could be surprised. Legal claims involving golf-related injuries and damage are becoming almost a matter of course: Players sue other players, spectators sue players, and both players and homeowners sue golf course owners for a number of reasons. Outlined here are some of the most common situations that cause legal trouble, and a primer on where you might stand if lady luck should desert you.

Perhaps the most commonly litigated situation occurs when a player hits a ball that (presumably unintentionally) mistakes another player for the flag. In addition to sustaining a bruised ego, can a golfer be held legally responsible for accidentally whacking someone with a wayward shot?

Although much depends on the particular facts and local court decisions, the general rule is that participants in sports such as golf can only hold another player responsible for injuries that are intentionally, or, in some cases, recklessly caused. Injuries that result from a merely accidental bad shot generally cannot be the basis for liability (although that doesn't mean that the unamused recipient of your shot won't take a whack at suing you anyway).

Golfers (and, usually, spectators) are viewed as having "assumed the risks" inherent in the sport, which includes the risk of being hit by an errant stroke. However, the rules and customs of the game must be followed. Thus, if a golfer knows that another is in the line of flight of his or her shot and fails to yell the customary "Fore," the golfer might be liable (when such a warning would have made a difference). Similarly, regardless of your level of frustration, you can't recklessly throw your club up in the air and expect to avoid responsibility for the consequences of its return to Earth.

Some courts might also find liability if the golfer knew he or she had a tendency to mishit balls in a particular direction (where the victim happened to be standing). On the other hand, if the injured party also knew of this propensity and did not take precautions (such as ducking), his or her own lack of care might be used as a defense.

Regardless of legal considerations, the safest course is for players to announce their intention to hit to those even remotely in the line of fire, and for those anywhere in range to keep in mind the navigational limitations of the human golfer.

Legal questions may also arise where an injury is caused not by another person, but by dangerous conditions (such as an open drain) on the course itself. Can the injured player hold the course owner or operator responsible?

Again, depending on the circumstances, the answer may be yes. Generally, the owner is only responsible for dangers of which only the owner was aware. The operator need not protect players from dangers that are either known to the players or are so obvious that the players should have been aware of and protected themselves from them.

The design of a course may provide the basis for liability. In one case, a court ruled that an owner could be held negligent for operating a course that was defectively designed. The plaintiff, who was standing at the 15th tee, was struck by 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.

Another court upheld a verdict against a country club in favor of a golfer who was struck on a green by a drive from that hole's tee. The course scorecard, upon which the driver had relied, had shown the tee to green yardage as 315 yards, significantly longer than he could hit. In reality, the distance was nearly 100 yards shorter.

Course operators may also be held responsible for injuries resulting from the acts of their employees. One court held an owner liable for the actions of a starter he hired to speed up play. The starter improperly directed a golfer to tee off while the plaintiff was only 125 yards away. Other cases have found operators liable for allowing courses to become overcrowded, where such a situation resulted in injury.

Some cases have involved players struck by lightning, an unfortunate but not surprising consequence of the open and often elevated areas of a golf course, and the fact that players are usually carrying long metal objects. The issue is whether a course operator must provide lightning-proof shelters or devices to warn players of impending thunderstorms. One court ruled that an operator had not been negligent, since "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." 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."

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. And hide those irons!

The interaction of golf and the law is not limited to lawsuits involving personal injuries to players or spectators. A broad range of cases have dealt with issues such as the rights of neighboring property owners for damage caused by out-of-bounds shots (often claiming that the course constitutes a "nuisance"), discrimination claims against golf clubs regarding membership criteria and/or benefits, environmental implications of golf course construction and maintenance, and attempts (usually unsuccessful, unless you're a pro golfer) to deduct golf-related expenses from personal income taxes. But the results of those cases vary depending on the circumstances.

If you're a parent, you should be aware of the potential of being held responsible for the actions of your "little duffers," particularly if it was reckless to entrust dangerous golf equipment to them without proper supervision. If you're injured on a golf outing sponsored by your employer, you should recognize that courts may rule such events "within the course of employment" and thus subject to "worker's compensation" laws, potentially affecting (positively or negatively) the amount you may be able to recover.

Given all this, maybe golfers should consider inviting their lawyers to join their foursomes-as long as they make sure they don't hit them!

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