

YOU AND THE LAW

Review of Key Golf Cart Cases 1960–1979

Part 1¹

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Introduction

Golf carts today are a necessity for golf courses. The days of walking the course have almost vanished. With the declining rounds played, golf course operators/owners need more and more of the revenue generated by golf carts. Golf carts come with liability, as will be seen in the review of the cases below. These cases are those that have been appealed, which is about 10% of all cases brought to lower courts for a resolution. The following are case summaries of court records of key golf cart cases related to golf course incidents, 1960–1979:²

¹This is the first of a three-part series reviewing key golf cart cases between 1960 and 2016.

²The following articles and book were used as resources to gather the case summaries in this manuscript: Robert D. Lang, A Good Ride Spoiled: Legal Liability and Golf Carts, 23, *Marquette Sports Law Review*, 393; Michael Flynn, Cart 54, Where are you? The Liability of Golf Course Operators for Golf Cart Injuries, 14 *University of Miami Entertainment & Sports Law Review*, 127 (1997); and Thomas H. Sawyer (2005), *Golf and The Law: A Practitioner's Guide to the Law and Golf Management*, Carolina Academic Press.

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***Gillespie v. Chevy Chase Golf Club*, 9 Cal. Rptr. 437 (Cal. Ct. App. 1960)**

The Court found that even though the golf cart path was bumpy, the golf course owner did not breach his duty to maintain the golf course reasonably. The court ruled that the plaintiff's golf cart accident was not caused by the rough ride on the cart path. Rather, the court said the plaintiff's injuries occurred when the plaintiff's golf bag, held by the plaintiff instead of being placed in the golf cart's bag rack, hit the tiller of the cart. The driver lost control of the golf cart, and the cart rolled over in the middle of the fairway of the 9th hole. In short, the court ruled that the maintenance of the golf cart path did not have anything to do with the plaintiff's injuries.

***Fort Lauderdale Country Club v. Winnemore*, 189 So. 2d 222 (Fla. 4th Dist. Ct. App. 1966)**

The plaintiff was injured by another golfer's golf cart. The golf course leased the carts and split the profits with the lessor. When the golf carts were delivered to the golf course, each had a rubber brake pedal cover. The golf cart that ran over the plaintiff was missing the brake cover. According to the plaintiff's evidence, the golf cart driver's metal spiked golf shoes slipped off the brake pedal, and he was unable to stop the golf cart before hitting the plaintiff. The jury found the golf course owner liable because he knew or should have known that the golf cart did not have a rubber cover over the brake pedal.

***Miller v. Robinson*, 216 A.2d 743 (Md. 1966)**

A golfer who fell out of a golf cart sued the golfer/driver of the golf cart. The plaintiff alleged that but for the excessive speed of the golf cart, the driver's failure to control the golf cart, and the driver's failure to warn the plaintiff when the golf cart was going to turn, the plaintiff would not have been thrown from the golf cart and injured. The plaintiff testified that he knew the defendant's ball was on the left side of the fairway; that a left turn could not be made surreptitiously by the driver; and that it was not usual for the driver to warn a passenger that he was going to turn. Moreover, there was no evidence of anything other than a prudent speed. The only evidence of negligence was the plaintiff's own descriptive testimony of the defendant's

actions in operating a golf cart. The court held that such testimony by itself was insufficient to infer negligence.

***Nepstad v. Randall*, 152 N.W.2d 383 (S.D. 1967)**

The South Dakota Supreme Court rejected the defendant's argument that since the cart was a motor vehicle, the plaintiff fell under the state's guest statute. The guest statutes prevented a guest in a motor vehicle from recovering against a driver for injuries absent willful and wanton misconduct. The court held that a golf cart on a golf course was not a motor vehicle.

***England v. United States*, 405 F.2d (5th Cir. 1968)**

The plaintiff was injured when he was thrown from the golf cart he was riding downhill. The plaintiff argued that the golf cart's brakes malfunctioned so that the plaintiff could not control the golf cart as it raced downhill. The evidence indicated that the golf cart brakes were tested by the golf course attendant before the plaintiff rented the golf cart. According to the testimony of the golf course attendant, the brakes worked fine. In addition, the plaintiff testified that through the first 12 holes, the brakes on the golf cart worked fine. The plaintiff's expert testified that the sudden failure of the brakes between the 12th and 13th holes meant something had broken since the last application of the brakes. The court again found the golf course owner not liable for the plaintiff's injuries because the golf course owner did not know and could not have known about the sudden malfunction of the golf cart brakes.

***United States v. Marshall*, 391 F.2d 880 (1st Cir, 1968)**

A golf course owner was not found liable when a golfer's golf cart fell into a ravine. The plaintiff and her husband were playing golf on a course that featured a deep ravine that was obscured by a large hill. The ravine was only noticeable to golfers travelling from the men's tee on the 17th hole to the green on the 17th hole. The plaintiff used the women's tee on the 17th hole and never saw the ravine. When it started to rain, the plaintiff drove from the woman's tee back to the men's tee of the 17th hole to pick up her husband and then drove under a tree to seek shelter. To get to the tree, the plaintiff had to drive through grass that was three to four feet high. Instead of reaching the tree, the cart slid down the hill into the ravine. The plaintiff's

husband testified he was aware of the ravine, but he did not know it extended to the area of the tree. The Court found that the golf course defendant could not anticipate that a golfer would drive into this high grass area, and, therefore, was not liable for the plaintiffs' injuries because the golf course did not have any duty to protect the plaintiff or warn of hidden dangers in this untraveled area.

***McRoy v. Riverlake Country Club, Inc.*, 426 S.W.2d 299 (Tex. Civ. App. 1968)**

The plaintiff hit his ball into the grass approaching the green on the 18th hole. Plaintiff's partner drove their golf cart into the rough to look for McRoy's ball. The cart's axle caught on a tree stump, causing the cart to come to a sudden stop, and threw the plaintiff from the cart. The plaintiff claimed that the stump was obscured by the grass. The Court ruled that the plaintiff was entitled to a jury trial on the issue of whether the failure to remove an unmarked, grass-obscured, tree stump from the travelled areas of the golf course amounted to negligent maintenance of the golf course by the golf course owner.

***Baker v. City of Seattle*, 484 P.2d 405 (Wash. 1971)**

The court stated that the disclaimer contained in the golf cart rental agreement could have insulated the golf course from a negligence claim by an injured golfer. However, the court noted that the disclaimer clause was hidden in the middle of the text of the golf cart rental agreement and was typed in the same size print as the rest of the agreement. The court ruled that for a disclaimer to be binding, it must be conspicuous. The court went on to say that when a business, like a golf course, regularly requires the lease of equipment to its customers, like a golf cart to a golfer, if the golfer wants to play golf, then this type of business relationship also supports the need for any disclaimer to be conspicuous.

***Bona v. Graefe*, 285 A.2d 607 (Md. 1972)**

The driver of the golf cart was not responsible when the plaintiff was injured after the golf cart's brakes failed while traveling downhill, tossing the plaintiff from the cart at the bottom of the hill. The defendant saw a course employee test the golf cart brakes before releasing the golf cart for the defendant's use. The uncontroverted testimony was that this testing of golf cart brakes before renting any

golf cart was the standard operating procedure for the golf course. Additionally, the plaintiff did not present any evidence that the defendant failed to use reasonable care when driving the golf cart. Hence, the court found the defendant golf cart driver not negligent.

***Dashiell v. Keauhou-Kona Co.*, 487 F.2d 957, 958 (9th Cir. 1973)**

The plaintiff, while visiting Hawaii, was with her husband on the Keauhou Golf Course on the Island of Hawaii. After nine holes of golf and lunch, the couple decided to rejoin some friends on the tenth tee, and the plaintiff drove the cart that way. However, she made a wrong turn and headed back toward the tenth tee along a maintenance road. As the golf cart went down an incline, the plaintiff lost control of the cart, failed to make the 10th tee turn-off, sped into a parking area, and collided with a truck, which was backing out of the area. The plaintiff sued the golf course as well as the manufacturer of the golf cart. The jury found that, although the golf cart had a defect in the steering mechanism, the plaintiff assumed that risk by continuing to use the golf cart. However, it was decided that the assumption of that risk was not the proximate cause of the accident. Rather, the jury found, and the appellate court affirmed, that the golf course was negligent in its failure to adequately warn of the dangers of steep inclines. This negligence was a proximate cause of the accident.

***Lash v. Noland*, 321 So. 2d 104 (Fla Dist. Ct. App. 1975)**

The plaintiff went to play golf at a country club in New Smyrna Beach, Florida. After driving to the first tee in a golf cart obtained from the club and parking the cart on an incline, he set the brake and exited the cart to speak to friends. The cart rolled backward, pinning the plaintiff against an automobile parked nearby, causing him injury. The plaintiff sued the manufacturer of the golf cart, the company that serviced it, and the owner of the service company. The verdict of the lower court was granted in favor of the defendants. The plaintiff appealed, and the Florida Appellate Court ruled that he failed to present sufficient evidence that the brake portion of the cart was faulty.

***Goodwin v. Woodbridge Country Club, Inc.*, 365 A.2d 1158 (Conn. 1976)**

The golf course owner was found liable for the golfer's injuries when he was pinned between two golf carts. In this case, another golfer's golf cart began rolling toward the plaintiff and eventually crushed him. The plaintiff sued the golf course owner for negligence, claiming the golf cart that hit the plaintiff had faulty brakes. The plaintiff presented evidence that upon inspection of the brakes, the golf course staff should have noticed the wear-through of the brake pads.

***Sipari v. Villa Olivia Country Club*, 380 N.E.2d 819 (Ill. App. Ct. 1978)**

The disclaimer clause in the golf cart rental ticket did not bar a golfer's claim against a golf course owner when the golf cart tipped over on the plaintiff. The plaintiff sued the golf course owner based on strict liability. The golf course owner asserted that the disclaimer clause in the golf cart rental ticket precluded liability. The court held that since the plaintiff's claim was based on strict liability, a theory of liability not based on fault, the disclaimer clause could not "function to preclude imposition of liability for using products whose defective conditions make them unreasonably dangerous to the user.

***Cavers v. Cushman Motor Sales, Inc.*, 157 Cal.Rptr. 142 (California Court of Appeals 1979)**

A plaintiff was injured while riding on a motorized golf cart at the Oakridge Golf Club in San Jose. On April 26, 1973, appellant was assisting in coordinating activities on behalf of his employer, General Adjustment Bureau, at an independent insurance agents' golf tournament at the Oakridge Golf Club in San Jose. A motorized golf cart was rented from the club's pro shop. No manual or instructions were furnished with the cart, and appellant did not request any. Appellant's experience with carts consisted of having driven and ridden as a passenger on one or two previous occasions. Upon returning items to her car in the parking lot, the driver of the cart turned toward the car and the cart tipped over, and the appellant fell out of the cart and injured herself. The lower court ruled against the plaintiff, and its ruling was upheld by the appellate court.

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The Physical Educator

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Label all charts, graphs, and tables and place them on separate pages. Submit all images 300 dpi with appropriate captions. Number the pages beginning with the title page followed by text, references, figure captions, tables, and figures. Figures must be clean and legible. Freehand art or lettering is not acceptable.

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