YOU AND THE LAW

Review of Key Golf Cart Cases 2000-2016

Part 3[1]

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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, 2000–2016.[2]

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

[2]The 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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Mendoza v. Club Car, Inc., 96 Cal. Rptr. 2d 605, 609 (Ct. App. 2000)

The plaintiff suffered multiple fractures of the spinal vertebrae and a spinal cord injury after the parking brake on the golf cart involved in the accident released. In order to prove notice of the alleged defect, counsel for the plaintiff obtained, and succeeded at introducing into evidence for the limited purpose of showing notice of brake problem, five documents evidencing prior complaints of failure of braking systems in the golf carts. One of the documents was a letter from an individual claiming that his Club Car rolled after the parking brake failed, and the remaining four documents were Club Car warranty records indicating that parking brakes on carts would not hold. The Court grants summary judgement to the defendants.

Tidemann v. Schiff, Hardin & Waite, No. 03 C 988, 2005 WL 351772 (N.D. Ill. Feb. 14, 2000)

The plaintiff was severely injured when a Club Car golf car that she was attempting to operate suddenly lurched forward and crashed into a garage door. Nadler Golf Car Sales, Inc., which had reconditioned the car and sold it to her employer, was the defendant. Both strict liability and negligence theories were raised by the plaintiff. The district court dismissed the former as a matter of law; the jury returned a verdict for Nadler on the latter.

Ritenauer v. Lorain Country Club, Ltd., No. 01CA007811, 2001 WL 1044082 (OhioCt. App. Sept. 12, 2001)

The plaintiff was injured when the golf cart he was riding in slid down a hill and spun in circles, causing the plaintiff to fall out of the cart and to injure his shoulder. The spinout was due to wet grass. The plaintiff sued the golf club, which moved for summary judgment to dismiss the complaint. In granting the motion to dismiss, which was affirmed on appeal, the court noted that plaintiff admitted that, when playing the first twelve holes of the course, he noticed that the grass was wet from watering, and he stated, they were just watering the heck out of the course. The accident occurred after the plaintiff had teed off on the 13th hole, and he and his playing partner's balls went over a hill in the fairway. The plaintiff testified that "they drove

to the top of the hill and located the balls on the other side at the bottom" when the golf cart spun out of control. The court found that wet grass on the hill was an "open and obvious danger" and that the plaintiff's own deposition testimony indicated that he observed that the grass on the golf course was wet from watering. The Court grants summary judgement to the defendant.

Blake v. Cotter, No. CV010074912S, 2001 Conn. Super. LEXIS 3500 (Dec. 11, 2001)

The plaintiff and the defendant were playing golf together. After teeing off, the defendant was driving a golf cart to retrieve the hit balls and the plaintiff was a passenger in the cart. The plaintiff alleged that the defendant drove the cart negligently, which led to the plaintiff falling from the cart and sustaining personal injuries. In its decision, the court distinguished those cases that occur in golf from an errant golf shot from those where a defendant drives a golf cart in a negligent manner, causing personal injury and, therefore, sustained the complaint.

MacDonald v. B.M.D. Golf Assocs., Inc., 813 A.2d 488, 490 (N.H. 2002)

The plaintiff was injured while riding in a golf cart at Indian Mound Golf Club. The plaintiff's adolescent nephew was driving the golf cart, and when approaching a fork in the path, they accidentally went to the right when they were supposed to go to the left. When his nephew realized the mistake, he attempted to turn back to the left, causing the cart to overturn. As the plaintiff jumped out of the cart, the roof of the cart struck and injured his ankle. Within minutes of the accident, John Murphy, a member of the club, arrived at the scene. He saw the plaintiff injured on the ground. His nephew was nearby, trembling. The member asked the nephew if he was okay, and a few seconds later he responded, "I was not supposed to be driving." Supreme Court of New Hampshire reverses and remands for a new trial.

Massey v. Brueden Corp., No. CV030479151S, 2005 WL 2082987 (Conn. Super. Ct. Aug. 9, 2005)

The plaintiff was at the Yale University Golf Course as a corporate sponsor for a charity event. She was provided a golf cart to operate on the course, and while driving the golf cart between the 9th and 10th greens, she applied the brakes of the vehicle but they failed to work, which caused the cart to leave the travel path. In an effort to avoid going over a steep elevation change, the cart struck a tree head on causing the plaintiff injury. The plaintiff thereafter sued Textron, Inc., doing business as E-Z-Go, the owner and lessor of the golf carts used by Yale University at its golf course. In granting the defendant's motion for summary judgment, the court pointed out that the plaintiff could not and had not identified the cart involved in the accident.

Haeg v. Geiger, No. A06-1840, 2007 WL 2472545 (Minn. Ct. App. Sept. 4, 2007)

At the third tee, a golfer, Slater, shanked his first shot and decided to take a mulligan. The plaintiff and the defendant were in the same golf cart and were playing directly behind the struggling golfer. Just as the golfer was about to hit his mulligan, the defendant stopped the golf cart in front of the tee box, at about a 45- to 50-degree angle from the tee. The golfer's second shot angled sharply, hitting the roof of his own golf cart that was parked nearby, ricocheted off his golf cart, and struck the plaintiff in the left eye. The accident caused the plaintiff to lose her eye.

The defendant's motion for summary judgment was granted by the district Court but was reversed on appeal. The appellate court held that the defendant had a duty to operate the golf cart with reasonable care and that there were material issues of fact as to whether the defendant should have parked the golf cart in front of the tee box. The court held that:

> Positioning the golf cart at a 45- to 50-degree angle in front of the tee box, especially given respondent's knowledge that Slater was hitting a second shot from that tee, created the danger, not any additional act by appellant. It therefore concluded that respondent owed appellants a duty of reasonable care not to operate the golf cart in a negligent manner.

Pappas v. Cherry Creek, Inc., 888 N.Y.S.2d 511, 512 (App. Div. 2009)

The plaintiff was a passenger in a golf cart operated by his friend and golfing partner while playing at the Cherry Creek Golf Course in Suffolk County. While negotiating a U-turn on a path between the sixth green and the seventh tee, the cart tipped over, causing the plaintiff to sustain pe00frsonal injuries. He sued the operator of the golf cart and the owners of the golf course. The defendants moved for summary judgment. Judge Brandveen of the Nassau County Supreme Court granted the golf course's motion for summary judgment and denied the individual defendant's motion.

Poelker v. Swan Lake Golf Corp., 897 N.Y.S.2d 174, 175 (App. Div. 2010)

The plaintiff was a passenger in a golf cart that was making a turn on a golf course when it tipped over onto him, causing personal injuries. The plaintiff then filed suit against the owner of the golf course, arguing that there were dangerous or defective conditions in the accident area and in the cart, about which the defendant failed to warn him. The golf course owner moved for summary judgment but was denied by Judge Gazzillo of the Suffolk County Supreme Court. On appeal, the court reversed, granting summary judgment dismissing the complaint. The Court found that the defendant had met its burden of establishing that there was no dangerous or defective condition by tendering photographs of the accident area, which showed no defective or dangerous condition.

Sujoy v. Patel, No. 115917/2006, 2011 N.Y. Misc. LEXIS 2672 (Sup. Ct. May 31, 2011)

The plaintiff was injured in a golf outing organized by Deutsche Bank for its corporate tax department at a golf course operated by American Golf Corporation (AGC) at the South Shore Country Club. During the course of the outing, the plaintiff was injured when defendant Patel, who was also enjoying the outing, crashed into him with a golf cart. At his deposition, the plaintiff testified that, after teeing off while facing the back of his golf cart to return his golf club, he heard some sort of whizzing sound similar to the one of a golf cart approaching. The plaintiff turned and saw that Patel's cart was

barreling toward him. The plaintiff's right leg got pinned between the rear of his golf cart and the front bumper of Patel's cart. After the accident, Patel called the plaintiff and apologized for the incident. Patel testified that his golf cart was moving at a speed less than two or three miles per hour, but he admitted to apologizing to the plaintiff and told the police that the incident was an accident. The motion for summary judgement by the defendant is granted.

Bertin v. Mann, No. 328885, Court of Appeals of Michigan, December 16, 2016

While the parties were at the 17th hole, defendant hit his golf ball onto the green, and plaintiff' landed to the right of the green. Plaintiff then drove the cart toward his ball and parked it in nearby rough off the green. He exited the cart, while defendant remained in the passenger seat, and grabbed his putter and wedge, intending to use the latter to chip the ball onto the green. However, after laying his putter on the ground, plaintiff struck his ball too hard, it traveled further than plaintiff intended, and it stopped on the other side of the green. Plaintiff then picked up the putter from where he had set it on the ground and began to walk toward his ball. Plaintiff did not believe that he stepped in front of the cart while walking, as he was moving in the opposite direction of the cart. After he had gone about 10 to 15 feet, defendant drove the cart and struck plaintiff in the buttocks. Plaintiff was pushed forward and knocked to the ground due to the impact. After impact, plaintiff rolled to the right, and the cart struck him a second time, running over his leg. This case was remanded for further proceedings related to reckless misconduct.

The Last Word

After reviewing these cases dating back to 2000, it is easy to understand why golfers need to be very careful when using a golf cart. The golf course operator does not always hold the liability bag. Often times, the liability falls upon individuals as well as golf cart manufacturers. The golf course operator and/or owner must ensure that the golf carts are well maintained and in excellent working order before renting them to the golfer. Further the operator/owner must ensure the course is safe for golf carts and post warning signs about dangers for operation of golf carts (e.g., steep uphill or downhill grades, blind spots, etc.). Golf carts are great revenue generators, but they are also

liabilities. Golf course owners/operators must balance revenue generation with risks and liabilities attached to golf carts. In England and Scotland the vast majority of the players walk the courses as the game was originally played and the USGA does not allow golf carts to be used in tournament play.