

Teed Off: The Rise in Golf Rage And Resulting Legal Liability

BY ROBERT D. LANG

Rages, of various grades and orders, are giving rise to new claims in lawsuits. "Road" rage on the highway, "check-out" rage at the supermarket, "air" rage on airplanes with flight attendants – these and other incidents are occurring with increased frequency. One of the latest manifestations is "sports rage," the intense, destructive and seemingly mindless activities being manifested on golf courses, now commonly referred to as "golf rage."

Sports have long been viewed as an ideal outlet for competitiveness, a good way to get exercise, and an opportunity to instill positive values such as teamwork and grace under pressure. Recent events have highlighted the increased frequency of serious – and sometimes fatal – incidents of sports rage, not only involving players but also coaches and spectators.

The increase in sports rage among spectators may not rise to the level of soccer moms attacking referees for a blown call, but there does appear to be an increasing number of adults acting worse than spoiled children in harassing and abusing other players, parents and referees. For example, in *Kramer v. Arbore*,¹ the Appellate Division affirmed the denial of summary judgment where, in a recreational senior league hockey game, a stick-swinging incident arose when one player retaliated after being cross-checked. The injured player sued the league. The court denied the defendant's motion for summary judgment. Citing that both players described the refereeing as "poor" and "terrible," the court held that "[i]f the referees were not penalizing players for repeatedly violating the rules by checking other players, then it may have been foreseeable that the illegal conduct would continue and, indeed, escalate, as occurred here."²

Violence in golf is particularly unusual because golf has long been considered to be a sport of gentlemen and fair play. Indeed, it is one of the few sports where players are required to call penalties on themselves (e.g., inadvertently moving a ball) and where an "honor code" is in effect – players are not to improve their lie even when out of sight of their playing opponents. This self-policing is all the more significant when compared with most sports, where players do their best to hide their violations. Imagine, for example, a soccer player admitting that she tripped an opponent, an offensive lineman in football volunteering that he held a pass rusher or a basketball player admitting that he pushed off in order to get a rebound. As such, on one level, golf rage is surprising.

Golf has always been etiquette-driven. Golfers are required to wait their turn before hitting; to record their score on each hole honestly; to stand perfectly still without making any noise of any kind when others are hitting; and to be respectful, not only to the other golfers in their group but to other golfers on the course as well.

To be sure, in the past, golfers have long been known to express their frustration, if not rage. Throwing an offending putter in the water, followed by the ball that was involved in a missed putt, is part of the history of the game, however ungentlemanly it may be.³ A study commissioned by the Hyatt Hotels & Resorts showed that 29% of male business executives with a handicap of 15 or under, have broken at least one golf club in a fit of rage.

Part of the reason for golf rage is the consumption of alcoholic beverages on the course. In addition, new golfers, although anxious to play, may not be educated in proper golf etiquette, giv-

ing rise to improper actions on the golf course, whether real or imagined, by other golfers already hot under the collar from their own problems.

Violence against golf equipment is one thing; violence against golfers is another.

To some extent, golf rage may be a mirror of society. If so, we may all be in trouble:

- In Ontario, Canada, a 220-lb. golfer, enraged that another golfer's group had repeatedly "hit into" another foursome, attacked the offending golfer, punching him in the face several times and then kicking him as he lay on the ground. The injured golfer suffered cracked ribs and damage to his knee requiring surgery. At his trial, the attacking golfer claimed that he was merely defending himself, saying that the smaller golfer was brandishing a sand wedge. Ontario Court Judge Norman Douglas did not believe that story, calling it "an insult." The judge sentenced the defendant, a prison guard by occupation, to three months of house arrest and 18 months of probation.

- In *State v. Fricke*,⁴ Clyde Martin and two of his neighbors were playing golf at the Jack Nicklaus Golf Center. After teeing on the 15th hole, the defendant, who was playing alone, approached the threesome saying, "I want to play through." The two neighbors, although viewing the defendant as arrogant, allowed him to play through. Instead of teeing off and moving on, the defendant began to talk to one of the threesome about golf clubs. Martin said he did not understand why the defendant was starting a conversation about golf clubs when he had wanted to play through and told the defendant, "Mister, just hit the ball and move on." The defendant con-

tinued talking, rather than playing. Martin then stated, "Mister, hit the %#ing ball and go on." The defendant flew into a rage and exclaimed, "No one talks to me like that."

With this, both men approached each other. The defendant held his golf club in both hands "like a club and hit Martin in the mouth." Satisfied, the defendant then attempted to tee off (finally). One of the uninjured members of the threesome attempted to stop the defendant by knocking over his golf bag. However, the defendant picked up the bag and continued playing. Ultimately, the defendant finished his round of golf and, hardly upset with his encounter on the 15th tee, shot a 68.

At trial, the defendant claimed that the injured golfer, Martin, "ran into the club." Not surprisingly, given this "excuse," the jury found the defendant guilty of assault.

- In May 2002, at the Lakeside Golf Course, near Fort Wayne, Ind., Frank's threesome was moving slowly, ahead of Holly's foursome. After finishing their round, Frank drove onto the golf course to retrieve his seven-iron, which he had left on the 17th fairway. On his way back to the clubhouse, Frank yelled out to Holly while he was in the middle of his back swing, resulting in a poor shot. Later in the parking lot, a fistfight broke out between the two, and the 41-year-old Frank allegedly pulled out a gun against the 63-year-old Holly, who, according to a witness, was acting "like a rabid dog."

Frank was charged with a felony count of pointing a firearm and a misdemeanor battery charge. The six-member Allen Superior Court jury deliberated three hours, before finding Frank not guilty, apparently rejecting the state's allegation that Frank instigated the fight.

- A group of three young players in New Berlin, Mo., were playing behind a 50-year-old man and his 11-year-old son. The twosome were playing slowly. Frustrated at the waiting, the threesome overtook the father and son, taunting the father, who then ran at the

trio "like a crazed man." When the three golfers struck back in self-defense, the father was killed.

Nor are people or golf equipment the only objects of golf rage.

- On December 29, 2000, a New York golfer having a bad day on the links used his titanium driver to club to death a rare black swan, "Alex," who unfortunately waddled too close to a golfer at the 17th hole at Donald Trump's exclusive Trump International Golf Club in West Palm Beach, Fla.

Wagner killed the swan with one swing of his driver. Apparently, it was one of the few instances that day in which Wagner was accurate with his clubs, because he claimed to have lost 14 balls while playing. When approached by "Alex," Wagner, rather than take a drop and use another ball, allegedly said, "I'm not going to give another perfectly good \$4.00 ball to a god damned duck!" It would have been better if he had instead said to the swan, "You're fired."

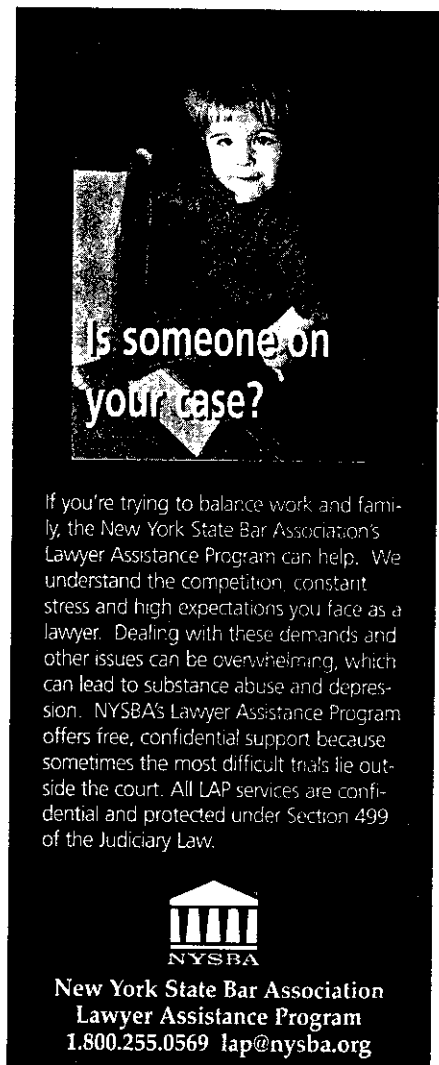
Wagner was charged with a misdemeanor, which carries a maximum penalty of one year in jail and a \$5,000 fine. Rather than go to trial, Wagner entered a plea providing for 30 hours of community service at a New York animal rescue league, a \$2,500 contribution to an animal rescue league in West Palm Beach and an \$800 reimbursement to the Palm Beach County Sheriff's Office. In addition, Donald Trump banned Wagner from playing at any of his courses worldwide, stating, "I would have hoped that there could have been a more gentle way of solving the problem. After all, we weren't dealing with an alligator here."

Once you have witnessed a law partner, associate, client or potential client in a full-blown "golf rage," it is hard to think of them at the office the same way in which you did so before. The same is true, of course, in how they may view you if you lose your cool in that manner on the links. Accordingly, and for every good reason, it is incumbent upon golfers to avoid venting their rage on other

golfers, thereby avoiding criminal and civil liability.


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1. 309 A.D.2d 1208, 765 N.Y.S.2d 118 (4th Dep't 2003).
2. *Id.* at 1209.
3. For one example, at the 2002 Ryder Cup, after three-putting the 18th hole, thereby causing his team to lose the best ball match, Sergio Garcia threw the offending golf ball into the lake and then repeatedly kicked his golf bag.
4. 1993 Ohio App. LEXIS 3008 (Ohio Ct. App., Warren Co. 1993).



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