

Sports law case review: identifying a duty of care to spectators

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Significance of the case

In 2021, the High Court in Dublin, Ireland dismissed a claim from a spectator who was struck by a golf ball while attending the West of Ireland Championship at Rosses Point Golf Club in 2016. The case has come to prominence again recently following a Court of Appeal judgement regarding an appeal. We will consider the High Court decision in this Part 1 and consider the appeal decision in Part 2 to follow.

This was a significant decision for sports clubs, tournament organisers and event spectators in Ireland as it identified a duty of care owed to spectators.

The High Court held that the duty of care owed to spectators is not to act in “wanton disregard” for their safety. This specification amounts to a lesser duty than the duty to act with reasonable care.

Background and arguments

The case was brought against the Golfing Union of Ireland (GUI) as event organisers, Rosses Point Golf Club in Co Sligo as the venue, and Kevin Le Blanc, a leading amateur golfer who struck the shot.

Mr Le Blanc’s golf ball was in the rough about 220 yards from the green when he hit his approach shot with a three wood. The plaintiff, a spectator, was struck by the ball on his temple while standing at a vantage point between the 11th green and the 12th tee.

The plaintiff claimed that Mr Le Blanc hit a wayward shot and should have shouted “fore” to warn other players and spectators of an approaching ball. He also argued that both Rosses Point Golf Club and the GUI failed to take reasonable care for the safety of spectators by failing

to provide stewards to direct him where to stand, by failing to put a fence around his vantage point and by failing to erect signs to warn spectators of the danger while standing there.

He argued that Mr Le Blanc, Rosses Point Golf Club and the GUI owed him a duty of reasonable care.

Mr Le Blanc gave evidence that he struck his shot along the intended line having considered the conditions, including the uphill nature of the shot and the strong wind behind him.

He said that if his shot was going off target or it was going to hit someone he would have shouted "fore" but that he could not see anything up around that area to call "fore" as there were no spectators watching at that stage and he presumed that area to have been empty.

The court accepted evidence that Mr Le Blanc's shot had not been wayward and that it would have been impractical and unreasonable for him to have walked up the fairway to check for spectators in any blind spots, as was suggested by the plaintiff. In contrast, the court found that the plaintiff had been talking to his friends when the shot was hit and had not been paying attention to the shot.

Duty of care to spectators

The court found that the duty of care owed to spectators is not to act in "wanton disregard" for their safety, a duty which was not breached in the case. The court noted that the plaintiff was a recreational user responsible to a huge extent for his own safety. Spectators attending the West of Ireland Championship were held to be self-policing spectators who were deemed to have been knowledgeable of golf and reasonably expected to take care of their own safety.

While not specifically considered by the court, a higher duty of care is likely to be owed to spectators attending professional or ticketed events, such as those attending European PGA Tour events.

Sports law litigation in U.K. and Ireland

Litigation arising from incidents on or around a golf course are not unique in Ireland. The plaintiff relied on a UK case where substantial damages were awarded to a spectator. However, the Irish High Court found that the facts of the UK case were completely different due to the fact the plaintiff in that case had been sitting on a veranda in a cordoned off area which was off the course. In contrast, the Irish plaintiff was standing in an area which was considered to be part of the course.

Litigation has also arisen from incidents of this kind in other sports. In 2008, a case was taken by a spectator who was struck over her eye by an ice hockey puck at the Odyssey Arena in Belfast. The spectator alleged that the Odyssey Arena had failed to provide barriers and netting to protect spectators from wayward pucks.

The court dismissed the claim and found that the Odyssey Arena had taken sufficient precautions to prevent spectator injury by placing warnings on the match ticket, displaying warning signs on all entrances to the arena, and further warning spectators via a PA system to keep their eyes on the pucks at all times.

Conclusion

The Irish High Court's decision is important for golf and other participation sports by confirming that recreational users remain responsible to a huge extent for their own safety. However, sports clubs, tournament organisers, venues, and governing bodies should note that a more onerous duty of care remains to be owed to paid and ticketed spectators who enter an arena or stadium. Reasonable steps can be taken to reduce the risk of litigation by pointing out the inherent dangers of their respective sport with warnings on tickets, and by erecting signs or barriers where necessary.

Part 2 of this article will deal with the Court of Appeal decision regarding the Plaintiff's appeal.

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