

Golf and the Law

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**A Practitioner's Guide to the Law
and Golf Management**

Thomas H. Sawyer

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Dedication

This book is dedicated to four very fine ladies who have influenced my way of thinking for years—Daughn, my mother and teacher; Kathi, my wife, companion, and partner for life; Meghan (Muffin), my daughter who has encouraged me to keep an open mind at all times; and Edie Godleski, a dear friend and colleague who never feared telling me what she thought and how I ought to do something...her thoughts have all been a breath of fresh air.

In Memory of...

“Sadie” Daly Sawyer II, a miniature Poodle Terrier, a wonderful and loving companion to the family for over ten years before her tragic death in the family swimming pool (November 1999); and Sargeant “Sarge” Montgomery Sawyer I, an AKC English Bull Dog, who in a short time became a wonderful companion who had won the hearts of every family member and then tragically drowned in the family pool at age two falling through the protective cover (February 2000).

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Foreword

I remember my college days at Wake Forest University when a fellow student was setting records and making history in collegiate golf. These were the days of Arnold Palmer and his great rivalry with North Carolina's Harvey Ward. These were the days when there was little or no threat of expensive lawsuits in sport-related activities. These were the 1940s and '50s when people just didn't sue coaches, players, or schools. It just wasn't the thing to do. All this changed dramatically as damaging lawsuits entered the sport arena and multi-million dollar awards became the rule rather than the exception.

In the 1970s a popular TV sports reporter participated in the Greater Greensboro Open (GGO). At the pro-am, he sliced his drive off the tee and struck and injured a spectator. The woman filed a personal injury suit against the amateur golfer and the GGO. The reporter's attorney confidently predicted that the case would be dismissed because "anyone who plays golf or watches it on a golf course assumes the risk of injury and cannot hold anyone liable for injuries sustained in a golf environment." However, as Tom Sawyer found when he wrote *Golf and the Law*, there were hundreds of golf-related cases from 1962 to 1987. Since 1987 the number of cases has escalated as well as the enormous awards. Tom Sawyer reported cases in which injuries were caused by the following: golfers by other golfers, golfers in the same party and in another party, while taking instruction, golf carts, driving ranges, premises, club houses, non-golfers such as caddies, children, employees, spectators and residents adjacent to golf courses.

In *Golf and The Law*, Tom Sawyer, risk management expert, professor of recreation and sport management, author, renowned speaker and formerly an operator of a campus golf course, accepted the challenge to write about the law and golf management. His book exceeds the expectation of legal scholars for his attention to detail, thoroughness, accuracy and valuable information on law and how it relates to golf. The author, in essence, covers golf and the law from tee to green. Each chapter can stand alone and answer the many questions of the reader while offering solutions and strategies. In *Golf and The Law*, the author deals with discrimination, disabilities, contracts, employment practices, injuries, emergency action plans, lightning, risk management strategies and more.

Golf and The Law will become the definitive work in golf and legal issues. I commend and congratulate Tom Sawyer for accepting the challenge of such an important topic and feel confident that it will enhance the readers' understanding of the law and how it relates to golf.

Golf and The Law is a welcome addition to the series on sport law and sport management published by Carolina Academic Press. I recommend *Golf and The Law* to all who enjoy and love the game of golf.

Herb Appenzeller
Jefferson Pilot Professor of Sport
Management Emeritus, Guilford College

Preface

After serving as the golf course coordinator for Indiana State University's Stadium Golf Course for four years, it became abundantly clear there was a need for an operations guide relative to golf course liability for golf course managers. There was not a single day that went by that I did not have to concern myself with liability issues. Issues related to employees, passers-by, golfers, golf carts, golf cart maintenance, mowing equipment, chemical usage and storage, weather dangers, tree debris, cars hit by golf balls, houses hit by golf balls, and much more. I found two books on golf course liability that were helpful but I needed more. I decided that I would sit down and prepare a comprehensive golf course liability guide for golf course managers. The result of labor of love is this manuscript you are about to read.

I am sharing my experience as a former golf course manager and expertise as a sport law specialist to identify current issues confronting golf. The purpose of this book is to raise the risk and liability consciousness of the golf course manager, which will ultimately increase golf safety.

Those of you that are practicing golf course managers or superintendents know that golf-related litigation continues to grow rapidly. This will continue to be the case as long as golf course managers carelessly forget to do things that lead to personal injury and property damage or carelessly do things that cause damage, and employees, golfers, passers-by, and spectators are looking for a fast buck. Golf course managers or superintendents are human and make unintentional mistakes.

Golf and the Law: A Practitioner's Guide to the Law and Golf Management features a prologue, 11 chapters, and an epilogue. The prologue describes notable case law focusing on negligence issues. The first two chapters describe the foundations of law and the legal practitioner. The next chapter deals with defining negligence and a standard of care. Chapter 4 has a discussion centered on warnings and waivers. The next two chapters describe contracts and planning. Chapter 7 outlines safety concerns relative to severe weather conditions. The next chapter provides a discussion relating to employment issues, which has become a growing concern for employers. Chapter 9 talks about insurance issues related to golf course management. The tenth chapter describes what needs to be done to a golf course to make it ADA compliant. The final chapter discusses a variety of OSHA issues and describes what should be done to comply with OSHA regulations. The epilogue focuses on risk management issues and golf course management. The appendices have been designed to provide some practical assistance to the golf course manager.

It is hoped that while you read this book, you will take the opportunity to evaluate the material and opinions of the author and the various courts, and compare

these thoughts to current practices and policies. If, after reading this book, you decide to alter practices and policies to make your golf course safer and more golfer-friendly the book has been a success and the golf industry as a whole has become safer for millions of employees, golfers, passers-by, and spectators.

Thomas H. Sawyer

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The author is indebted to Herb Appenzeller who was always there for support and encouragement during the development of the book. The author is also grateful to many undergraduate and graduate students over the years for providing valuable research assistance and in particular to Cathrine Tonner for her in depth research regarding negligence on the golf course. Further, I greatly appreciate the assistance of Michael G. Hypes for his research assistance and photographic expertise, my daughter-in-law Dani Sawyer who spent many an hour typing and re-typing the manuscript, and my wife, the 7th grade English teacher, for her editorial assistance.

This book would not have been possible without the foresight and encouragement of Herb Appenzeller. Herb has been, and continues to be, a leader in sport law and management. Our profession and my career have gained greatly because of Herb Appenzeller.

Finally, the author would be remiss if he did not mention the great support he received from his family Kathi, Shawn, Meghan, and Peter. They made the task easier and allowed me time away from them to complete the research and writing.

Thank You!

Thomas H. Sawyer, Ed.D.

