

Civil liability act 2003 (qld) essay

[Education](#), [Discipline](#)



Introduction:

The term 'fore' meaning "look ahead" in golf game is shouted as a warning when it appears possible that the golf ball can hit spectators or other players. The mention of this term in 1881 British Golf Museum shows that the term was used at least as early as this period. The term is believed to have come from the military "beware before", and it was shouted when the battery was fired behind a friendly troop. Another possible origin include it derived from the term "fore-caddy" a caddy which is waiting down range from a golfer in finding where the ball lands. This paper analyses a case study as witnessed in a golf club therefore making it unclear on which side is legally favorable before the eyes of the law as far as the Civil Liability Act of 2003 is concerned. The case involves the golfers playing together therefore inflicting injuries among themselves and therefore one of them who happen to be a victim proceeds to seek legal redress against the club so as to seek compensation on the damages caused. This paper will also, try to investigate whether the complainant has a legal right of filing suit against the club.

Under the personal injuries proceeding act 2002, just like the workers compensation regime compulsory pre-court regime are set by the Personal Injuries Proceedings act 2002 for the prosecution of personal injuries claims which arise from the medical negligence or even public liability matters. In that case, most relevant provisions of an act in the context of such submission are deemed to be a substantive law. Similar mechanisms for parties which agree to appoint the joint experts are to be based in ss23 and also 24. Such sections contemplate expert's reports in regard to inter alia

causes of incidents, causes of the injuries and also the claimant's medical condition. A legal agreement between the claimants who is John in this case and the insurer as to the appointment of the joint experts will become increasingly prevalent therefore affecting the rendering of the proposed rules on the experts evidence which is redundant in the matters where PIPA is applicable. The clubs denial of liability is in one way valid and applicable since it is backed by some substantive and hard evidence. This is practically real because one of the players in their group of four has been handed a score card which has such an exclusion therefore protecting the clubs' status. In the other way round, the club also has some issues to put straight since it is not clearly evident that the score cards' knowledge on the exclusion was made familiar to the golfers before it was given out and also, the positioning of the message mattered bearing in mind that not all members of the golf club are capable of reading skills and that can apply in case the golfers claims so.

Different games have different rules and regulations. Due to this fact, the players or participants in any game are meant to be well educated before engaging. For instance, if a person is interested in becoming a professional boxer, he is meant to understand that there are ups and downs attached to the boxing game. Therefore some of the challenges an optimistic boxer should expect include bodily injuries and sometimes death. The boxer has a right to be informed that he can lose his or her life in the ring. It is therefore imperative to acknowledge the fact that the golf club has no case to answer since it assumes that it has no classes for learners but professionals. And in that case, it has a right to say that whoever attends to play is assumed to be

fully knowledgeable to professional level. John and his friends were fully aware of the rules and regulations of a golf club even though John can be assumed to be innocent and therefore qualifying for compensation not from the golf club but from Peter in that case. In some instances, the plaintiff's contributory to negligence which is reasonable foreseeability of precautions and risks a reasonable individual would take to such risk therefore taking into account the same types of factors which determine the defendants are standard. " Civil liability act 2003 (Qld)" Therefore, it will require the determination of what the reaction of a reasonable golfer could have been in circumstances including the precautions such a golfer could have taken for his own safety. Superficially, the practical precautions by the plaintiff to `in preventing himself from being injured by the reckless golfer might include seeking professional assistance from the club's designated experts and have him and both of his friends educated in golfing if incase their knowledge was limited (Butler, 1997)

Despite the fact that John is Peter's best friend, John should not shy away from seeking legal redress and file suit against him because if there is somebody to be responsible for the damages caused is his friend Peter and not the golf management. Against Peter, in a courtroom, he might win the compensation but against the golf management, he cannot win but instead, he can be sued back. Firstly, Peter is guilty of gross negligence even if he apologizes to John for the damages caused to him and it will be inadmissible in a court of law according to the (civil liability act of 2003) whereby an expression of regret which is made by a person in relation to an incident and damages he caused at any time before the civil proceedings are started in a

court of law. Furthermore, Peter, John and their friends all know that there are safety precautions to be followed and that it is of paramount importance as far as their safety is concerned, to be attentive for the sake of their well being. For instance, the term fore is known to prepare golfers psychologically to be aware and ready of avoiding possible injuries especially the ones caused by the golf ball. Peter knew that policy very well and he neglected it and went on to hit the ball which in turn hit John who was absolutely unaware of such a thing since no alert was made. Peter is fully guilty as charged because he only purported to shout a ' watch out' after he had hit the ball therefore making it too late for the plaintiff to respond and avoid the accident. The court of law will possibly assume that the act was intentional and even personal because he is aware of what he was supposed to do but chose not to.

However, in the comparison of the professional liability clauses in Australian Jurisdictions in SA for instance s41, (Civil Liability Act 2003) states that a professional does not breach any duty which arises from his provision of professional services if it is indeed established that the such a professional acted in one way that by the time the services were being provided that it was acceptable by peer expert's opinion by significant number of qualified practitioners in the same field as competent and ideal professional practice. Therefore in relevance to John's case, John is assumed to be acting professional but John is assumed to be acting unprofessional since he is incapable of following the simple instructions therefore deserving to be punished by the law.

Peter is likely to be guilty as charged because every golf player is aware of 'fore' as an alert alarm and not 'watch out' as he did and therefore he has no excuse of defending himself by saying that he shouted to alert John. Peter is also on the wrong side of the law because he seems to have shouted purporting to warn John when it is already too late for John to be vigilant and escape the injury. John's case⁴ is classified under the law of torts in trespass of person's act whereby Peter is prosecutable of battery. But in other words, under the civil liability act 2003 Chapter 2 Civil Liability for Harm Part One Breach of duty s14 in the assumption of risks and the Meaning of Obvious Risks, especially on sports, the obvious risk to an individual who suffers harm is at risk because in the circumstances, it could have been obvious to any reasonable person in a position of that person. Therefore obvious risks encompass risks which are patent or rather a matter of common knowledge. Clause (3) therefore states that something which is occurring may be an obvious risk even if it has a low probability of occurring. Therefore John should have been aware of obvious risks before proceeding to the pitch even if Peter was a bit careless.

Conclusion:

John can be successful if he files charges against Peter and not the club. However the instructions that are indicated behind the score card are reported to be small therefore giving Peter a valid excuse of distancing himself from the charges even though it will be so hard of him to get away with it through such an avenue. Such like cases depend largely on the panel of judges that is conducting them. To some, Peter might get away with it but

to others, he might not and to some judges, both the club, John and Peter will have some questions to answer.

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