

By NANCY SMITH, J.D.

**E**SCONDIDO, Calif. — The owner of a golf course must design it to minimize the danger that players will be injured by balls hit by fellow golfers, according to the California Court of Appeal.

In the recent decision of *Morgan v. Fuji Country USA, Inc.*, the court found that removal of a dead tree which had previously provided protection from errant tee shots may have been the cause of William Morgan's injuries. The court upheld Morgan's right to sue the club to recover for his injuries.

Morgan was a member of Castle Creek Country Club here, where he played golf

*Nancy Smith is an attorney working in Pasadena, Calif.*

## Owners must design courses for safety

two to three times per week. He frequently took refuge by a particular tree when other golfers were hitting from the 4th tee because the balls often flew onto either the 5th tee or green.

When the tree which had provided protection became diseased, the club removed it. Several people had near misses from golf balls originating at the 4th tee and ending up near the 5th tee box. Morgan stated that balls traveled farther after the tree had been removed.

Morgan was injured when he was struck by a ball hit from the 4th tee. He sued the

golf club owner for his injuries. Although the trial court initially ruled against Morgan, on appeal the higher court held that he could go forward with his case and sue the club owner.

In California, the law generally holds that a person participating in a sport cannot recover for injuries which are known risks associated with the sport, unless the injury is intentional. For example, a

player injured in a touch football game cannot sue another player for game injuries. A whitewater rafter cannot sue the outfitter for injuries sustained when fall-



ing in the boat while going through a rapid.

Although attorneys for the golf course argued that being hit by a golf ball is an inherent risk of the sport, the court nonetheless held that Morgan could pursue his claim that the course design was faulty.

The court held that a golf course owner cannot make the sport more hazardous by his design of the course.

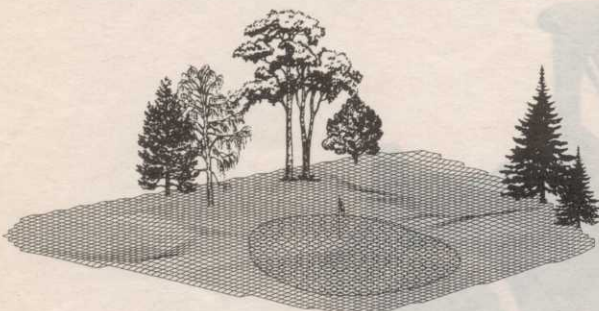
"Thus, the owner of a golf course has an obligation to design a golf course to minimize the risk that players will be hit by golf balls, e.g., by the way the various tees, fairways and greens are aligned or separated," the court wrote.

"In certain areas of a golf course, because of the alignment or separation of the tee, fairway and/or greens, the golf course owner may also have a duty to provide protection for players from being hit with golf balls," according to the court.

The ruling allows Morgan to return to court to have a trial on whether his injuries were caused by the removal of the tree from the course.

## Natural Disasters Happen

(and we mean in addition to your score!)



### Preserve your Golf Course

- \* With accurate mapping of topographic features of greens and surrounding areas

### New Courses

- \* As built drawings of tees, fairways & greens
- \* Accurate square footages

### Laser Measurements

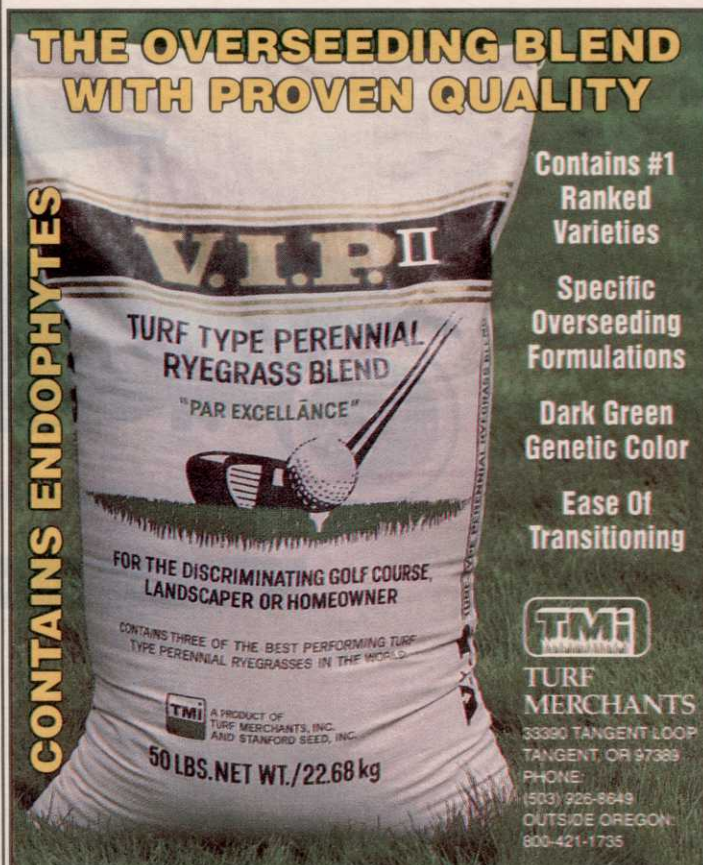
- \* Standard tee to green
- \* Sprinkler heads
- \* Ponds, traps, streams

CALL FOR QUOTATIONS & DETAILS  
1-800-362-0646

CIRCLE #130

## THE OVERSEEDING BLEND WITH PROVEN QUALITY

CONTAINS ENDOPHYTES



Contains #1  
Ranked  
Varieties

Specific  
Overseeding  
Formulations

Dark Green  
Genetic Color

Ease Of  
Transitioning



TURF  
MERCHANTS

33390 TANGENT LOOP  
TANGENT, OR 97389  
PHONE:  
(503) 926-8649  
OUTSIDE OREGON:  
800-421-1735

CIRCLE #131

## JOINT RESTRAINT SYSTEM

Available from 2" to 12"



ELIMINATE  
CONCRETE  
THRUST  
BLOCKS...AND  
THE WAIT



Golf Course  
Irrigation Systems,  
Commercial Land -  
scape Irrigation,  
Municipal Turf  
Irrigation, Rural  
Water Systems. Ideal  
for repairs and Golf  
Course Maintenance.



FAX (909) 735-3340  
FOR CATALOG

LEEMCO, INC.

1525 EAST SIXTH STREET • CORONA, CA 91718  
PHONE (909) 735-3330

CIRCLE #132



Strength . . . Design . . . Beauty . . .

## On Site Timber Bridge & Wall Construction

- Experienced With Environmental Areas
- Treated (CCA) Southern Yellow Pine
- Projects Throughout The U.S.
- Low Profile & Arched Bridges
- Retaining Walls
- Curb System & Picket Rails
- Custom Design & Build Service
- Piling Support & Free Span Bridges
- Designed To Specific Load Requirements

YORK  
BRIDGE CONCEPTS

The Professional Bridge Company

Southern USA  
800-226-4178

Northern USA  
800-383-0555

Western USA  
800-474-4990

CIRCLE #133

## National Fairways

Continued from page 33

is 80 percent complete and should open next summer. This is Fazio's first private course in the New York City area. Memberships are selling for \$100,000 and the club has already recruited 106 members, making it one of the most successful new private facilities to open in the Northeast, Bergschneider said.

"The location is the main thing," he said. "The course sits 500 feet above the Hudson River, with fantastic views of the water from a dozen holes. The area was ready for something like this since private clubs are so hard to get into. And then there is Fazio. He's the best."

Other National Fairways holdings include:

- a management contract at Minesceongo GC in Pomona, N.Y.
- a 30-year lease to operate 36-hole D. Fairchild Wheeler GC for the city of Bridgeport, Conn.

- Lindbrook GC, an 18-hole executive course in Hopkinton, R.I., purchased in April

- Boulder Hills, a semiprivate, 18-hole layout in Richmond, R.I. set to open in August that was designed by Austin, Texas architect Tripp Wood.

- A Desmond Muirhead-designed layout in Connecticut the company is negotiating to purchase.

"Our goal is to buy more courses on the East Coast," Bergschneider said. "We'll concentrate on areas where we already have properties so we can benefit from some economies of scale. But we'll also be looking at the Carolinas and Virginia."

"Our main business is acquiring existing courses. Hudson National is the only one we're building and Minesceongo our lone management-only contract. We like to take existing courses, run them better and make them more profitable. We're at 14 courses now. We'd like to be between 25 and 30 within three years."

The company won't limit itself to a particular type of course. It currently operates everything from Hudson National and its \$100,000 membership fees to Fairchild Wheeler and its \$6 green fees, Bergschneider noted.

"Every market is different," he said. "You have to analyze a particular course's situation, adapt to the market and not overspend."