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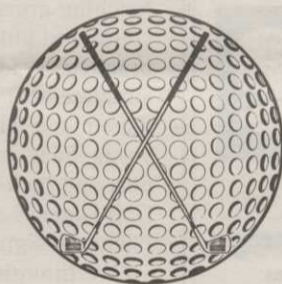
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Legal Corner

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and grossly negligent conduct, in violation of public policy. In a somewhat technical but crucial aspect of the agreement, the court's decision to throw out the entire release turned on common contract clause that was missing from this particular release agreement.

Contracts often contain what attorneys refer to as a "severability" clause. Such a clause states that if one provision of the contract is determined to be invalid, it may be severed from the rest of the contract. When the invalid portion is "severable," it does not contaminate the remaining valid provisions of the contract.

In such an instance, valid parts of the agreement will be enforced while invalid provisions will be "severe" and held unenforceable. The Mt. Bachelor release agreement did not contain a severability clause. Without such a provision in the release contract, the court of appeal held that the invalid portion of the release invalidated the entire contract.

Although the opinion can only be used by lawyers to interpret Oregon law, the opinion sends a word of caution to sports facilities everywhere. The decision is persuasive in other states because the basic principles are common to other jurisdictions. A brief review of existing release forms to assure they are not overreaching and contain the appropriate "severability" clause could avoid costly and time-consuming jury trial in the future.