

Ruling deals blow to replica designs

By HAL PHILLIPS

HOUSTON — **Question:** When should a tiger be legally compelled to change its stripes?

Answer: When the tiger is actually a lighthouse standing beacon here in landlocked southeast Texas.

Confused? Well, customer confusion sits at the heart of a lawsuit still pending here in U.S. District Court. Judge David Hittner has ruled that a red- and white-striped lighthouse at Houston's Tour 18 Golf Club — a collection of holes that duplicates some of the greatest in golf — must, at the very least, change its stripes to differentiate itself from the original, which sits behind the 18th green at Harbour Town Golf Links on Hilton Head, S.C.

In his summary judgment Hittner wrote, "This duplication has weakened the lighthouse's propensity to bring to golfers' minds Harbour Town when they encounter the trade dress of the lighthouse." [See story at right for details on the ruling.]

When Hittner issued his judgment Sept. 10, he gave both sides — Tour 18 Inc. and The Sea Pines Co., owner of Pete Dye/Jack Nicklaus-designed Harbour Town — 60 days to work out a settlement or the judge would impose one. However, Dennis Wilkerson, president and chief shareholder of Tour 18, has since filed a motion for rehearing, which the court has not yet addressed.

"I have a feeling we may be taking down the lighthouse, but I don't know," said Wilkerson, whose firm owns another "homage" course in the Dallas area. The Dallas layout also features a replica of the Harbour Town lighthouse so it, too, will be affected by the settlement.

"As two parties who have been fighting a lawsuit for two years, I can't



imagine us working it out completely by the deadline," Wilkerson continued. "There's probably going to be another year or two of lengthy appeals. Nothing is ever completely final and, like all lawsuits, the only people that really win are the lawyers."

The plaintiffs might not agree. The Sea Pines Co., which joined The Pebble Beach Co. and ClubCorp of America in the suit, views Hittner's still-ambiguous ruling as a victory.

"We are very glad the decision upheld our belief that Harbour Town Golf Links' 18th hole and the lighthouse are distinctive landmarks and should not be reproduced without our approval," said Sea Pines Director of Sports Cary Corbitt. "Harbour Town Golf Links is very important to our

overall Sea Pines image and we work very hard to protect it."

The Tour 18 layout in Houston features holes duplicated from Pebble Beach, Pinehurst No. 2, Augusta National, Bay Hill, Inverness, Colonial, Oakmont, Oak Tree, Doral (Blue), Olympic (Lake), Disney World, the TPC at Sawgrass and LaCosta.

The course opened in late 1992 and The Pebble Beach Co. brought suit Dec. 7, 1993, claiming duplication of its 14th hole was, in essence, a copyright infringement. Soon ClubCorp of America — owner and operator of Pinehurst Golf & Country Club — and The Sea Pines Co. joined Pebble Beach in the suit.

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THE LETTER OF THE LAW

The following are excerpts from Judge David Hittner's ruling on "Pebble Beach Co., Resort of Pinehurst, Inc. and Sea Pines Co., Inc. vs. Tour 18 I, Ltd.," filed Sept. 10, from U.S. District Court, Southern District of Texas:

In addition to barring use of the lighthouse, Judge Hittner's ruling enjoined Tour 18 from "using in connection with the promotion, advertising or sale of golfing services, the service marks Pebble Beach, Pebble Beach Golf Links... Pinehurst, Pinehurst No. 2... Harbour Town, Harbour Town Golf Links."

The defendant, Tour 18, "may use these marks only to the limited extent necessary to inform the public which golf holes it copied. To comply with this section of the injunction, Tour 18 may use plaintiffs' marks on its scorecard, yardage guide and tee box signs. Additionally, Tour 18 may place these service marks in other printed materials only within a simple legend of the course's replicated golf holes. This legend shall include only the Tour 18 hole number, name of replicated hole, par and yardage, similar to the legend contained within Tour 18's current promotional brochure... Tour 18 must remove all other superfluous uses of the marks listed in this section from its written materials, including but not limited to the Tour 18 promotional brochures, mailers, advertisements in independent publications, and restaurant menu."

Hittner also ruled that Tour 18 must place prominent disclaimers on all "advertisements, promotional brochures, scorecards, yardage guides, or other written materials provided to the public as a means of marketing... The disclaimer shall disclaim any association, affiliation, sponsorship, or permission from the owners of golf holes tour 18 copied."

Further, Tour 18 was enjoined from claiming it used "original" blueprints in constructing the holes — unless "such a statement... also includes a disclaimer clearly stating that it neither received the blueprints or maps from the owners of the original golf holes or that the owners of the original golf holes authorized Tour 18's use of such blueprints or maps."

It's the smart course that plans for emergencies

By DONALD GEYER

BRIGANTINE, N.J. — Early one morning at about 8 a.m., I looked out of the front door of our local club, Brigantine Golf Links. A pick-up truck entered the parking lot at a high rate of speed and came to a very sudden stop. The driver jumped out of his truck and raced into the clubhouse.

"Call 911, there is a guy with a heart attack on the fourth hole," he said.

The person working on the desk immediately picked up the telephone and called 911. The conversation ran like this, "This is the Brigantine golf course. There is a guy down on the fourth hole with a heart attack."

This course is laid out with houses on practically every fairway bounded by city streets. Quite naturally the emergency



Access roads are plentiful at Brigantine Golf Links — a mixed blessing, actually.

person said, "What street is the fourth hole on?"

"I don't know," the desk person said. "Wait a minute."

Luckily, the fellow in the pick-up was still there and familiar with the streets. He said he would meet the emergency vehicle at a certain intersection. The golfer was given emergency treatment at the scene (not a heart attack fortunately) and was transported to a local hospital as a precautionary measure. End of the story.

But the episode got me thinking. Our course has 18 holes: the Hagen nine and the Vardon nine. The way this course is laid out, a number of streets run between green and the next tee box. There are a number of streets that run parallel to a fairway with potential access points. This course also has many ponds and waterways subject to tides and running along and across fairways.

Considering this information

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BRIGANTINE GOLF LINKS EMERGENCY EVACUATION PLAN

The purpose of this plan is to coordinate the efforts of the Golf Course and Rescue Personnel in aiding a person needing assistance. All of us working together will save valuable time, which may save a life.

D. Access Points Number Location

1. On Club House parking lot near H1 Tee Box and H9 Green and across Roosevelt Blvd. to V1 Tee Box and V9 Green.
2. On Hagen Road near H1 Green and H2 Tee Box.
3. On East Shore Drive near H4 Green and H5 Tee Box.
4. At Dead End Street off 11th. Street near H5 Fairway and H5 & H6.
5. On Sheridan Place near H6 Green, H7 Tee Box & Green.
6. At Sheridan Blvd. and Washington Drive near H9 Tee Box and on Washington Drive along H9 Fairway
7. On Sheridan Blvd. near V1 Green and V2 Tee Box and Green.
8. Pump House On Roosevelt Blvd. near V3 Green and V4 Tee Box.
9. On Sheridan Blvd. near V5 Green, V6 Tee Box and Green and V7 Tee Box.
10. On Sheridan Blvd. near V7 Tee Box.
11. On Sarazan Road near V7 Green and near V8 Tee Box and Green.
12. On North Shore Drive near the middle of V9 Fairway.

E. Pro Shop

1. Dispatch at least one person and cart to the emergency site — D.G.

A. Upon learning of an emergency

1. Determine which hole Hagen 1-9 (front) or Vardon 1-9 (back) and the exact location of the person on the hole.
2. Obtain a brief description of the type of emergency.
3. The exact location on the hole will determine the Fire Rescue Access #.

B. Dial 911

1. This is Brigantine Golf Links
2. We have a possible heart attack or stroke or broken leg.
3. Fire Rescue access Area # is. The emergency is on (See A1 above)
4. Golf Course Personnel will meet you at Access #

C. Call Ranger on the radio

1. We have an emergency. Where are you?
2. Go to Hagen 1-9 or Vardon 1-9. The person is at [give a specific location on the hole.]
3. Please meet the F.D. Rescue Unit at their Access Point to give them directions.

The Hayter Cup

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summer had made for poor growing conditions on the close cropped fairways. All of these factors suggested the superb West Lincs course would provide a stern enough test, gales or no. View the description "pussycat" in a purely relative sense. . .

The range of playing ability was wide, from plus-1 handicap to more than 12. This in mind, the opportunity for some one-sided matches was very real. As this would have been contrary to the spirit of the contest, organizers and team captains agreed to avoid such a scenario by the implementation of two devices: First, the matches would be played full handicap; second, the captains would, as near as possible, order their players in roughly ascending handicaps.

As the results show, this was a successful move with only five matches out of 18 being reasonably described as "comfortable victories/uncomfortable defeats."

The morning four-balls were extremely closely contested, four of six went to the 18th, one to the 17th, with only Dean Morrison and George Renault of the Americas cruising to a 6 and 5 victory (see complete scoring results on page 30).

Opening salvos were jocular and generous with 3-foot "gimmies" fairly commonplace. By about hole seven the *bonhomie* was a good deal thinner on the ground. "That's good, take it away," had been replaced with a calculating silence. Tension was mounting.

By hole 14, the sole Canadian, Thom Charters, had his shoe off decrying a mystery toe injury. Was this building an early excuse? If the ailment affected his putting, it might have explained his three-jack on the 18th — when two putts would have won the game. By his own admission, "The Canadian choked it!"

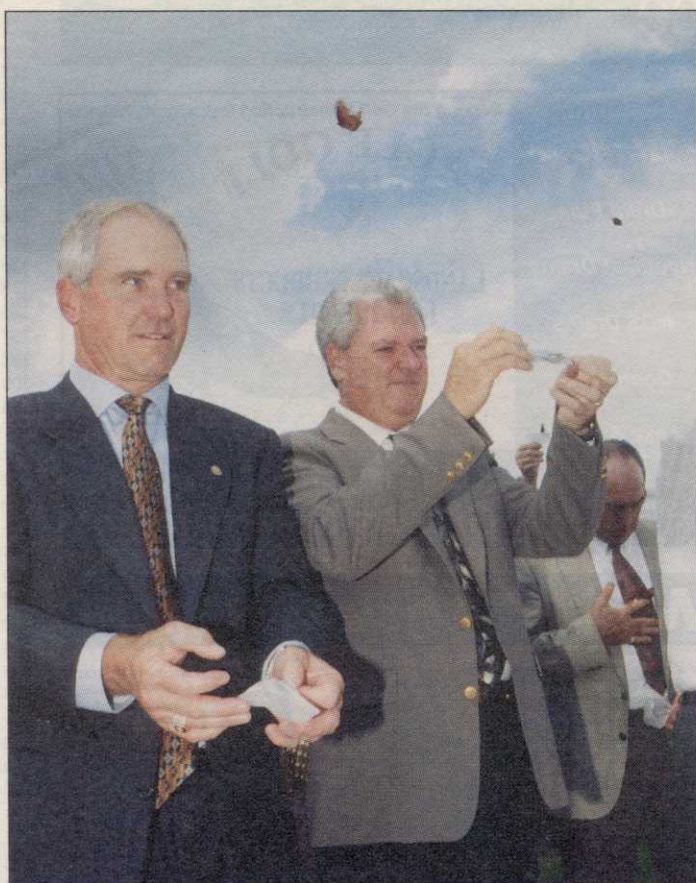
Charters was not alone in a nervous display on the last. Alex Reid of Scotland missed from 2 feet and thus achieved a half, instead of what might have been a vital win.

The Cup went down almost to the wire. If Ian Buckley had not been 3 off the tee at the 18th, the result may have been different.

However, in truth, the result was perhaps not as important as one might imagine. Surely the excitement was felt as both team captains were waiting on the 18th with information and encouragement for the final few matches. But the real buzz was felt by everyone by dint of being involved in such a brilliant event.

Hayter's Macfie was delighted with the way things panned out, declaring that even the weather was great: "This is everything I hoped it would be," he said.

This correspondent would go one better: The event surpassed all expectations.



PGA of America Secretary Will Mann (left) and PGA Chief Executive Officer Jim Awtrey let loose with their butterflies during the Audubon ceremony.

PGA's Reserve augments Fla. butterfly population

PORT ST. LUCIE, Fla. — Audubon International has presented its top award to the PGA Golf Club at The Reserve — only the fifth in the nation to receive Audubon's Signature Status for environmental excellence.

The award ceremony — complete with a live butterfly release — took place during The Reserve's opening dedication celebration attended by hundreds of PGA delegates from across the country, special guests and the news media.

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PARAMUS, N.J. — Ridgewood Country Club has become the second course in the state to achieve designation as a "Certified Audubon Cooperative Sanctuary" by the Audubon Cooperative Sanctuary System.

"Our efforts and accomplishments are part of an overall plan to not only maintain The Ridgewood Country Club as one of the top

golfing facilities in the U.S. but also to make our club environmentally sound," said Ridgewood President Fred Nydegger.

"The club is extremely committed to preserving the natural habitat on its 275-acre complex," explained Ridgewood superintendent John J. Gasper, "and our long-range environmental plan was created so that RCC can improve and sustain our desired level of environmental quality for years to come."

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RYE, N.Y. — Westchester Country Club has been designated a Certified Audubon Cooperative Sanctuary by the Audubon Cooperative Sanctuary System. Westchester is the third course in New York to receive the honor. "We are proud to have reached this status and look forward to maintaining and further enhancing our Audubon program," said superintendent Joe Alonzi.

Emergency plan

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along with worst-case scenario of a golfer — heart failure with a lack of oxygen — how much time is required to start immediate first aid, summon trained emergency personnel with equipment, and deliver the golfer to a hospital? Not hours, but minutes.

This scenario required a plan to coordinate all potential participants. Pat Vanderstine is general manager of the golf course. It was appropriate to discuss my concerns with her. She readily agreed from a humanitarian standpoint that I should proceed.

The beginning of the plan required traveling the golf course with paper and pencil viewing the course with an entirely new perspective. Example: The Hagen first hole has water crossing the fairway at 90 degrees

halfway between tee and green. The water is crossed by a bridge whose integrity is adequate for golf carts, but surely not for a heavy emergency vehicle. An emergency situation would require the exact location of a golfer needing assistance. Is the golfer between the tee box and the water or is the golfer between the water and the green?

This exercise started the creation of many pages of notes. It was now quite apparent a layout of the golf course, along with the adjacent city streets, would be needed. A trip to the fire department and the tax office located the needed street layout. The Fire Chief Darryl Platt was very enthusiastic about the development of this plan; he offered any needed cooperation by his department.

On one of the layouts the water, macadam paths tee boxes and greens were established and

colored. Water was blue, paths were black while tee boxes and greens were green. With the notes gathered prior, access points were established in red on the layout. This was accomplished after many meetings with the fire chief and deputy fire chief. The layout had a total of 12 access points.

The next order of business was to set forth a simple set of instructions for course personnel (see related story). Copies of these instructions and the course layout with the access point were reviewed with Chief Platt for his final approval. A copy was turned over to the police department. The fire department conducted training sessions with their personnel to familiarize them with it. At no cost to the golf course, Chief Platt offered to run training sessions on CPR and artificial respiration for all golf course personnel — paid and volunteer.

All golf courses should have an emergency evacuation plan. Just because a course has a number of holes that aren't close to public roads is no excuse. There should be a plan in place and personnel familiar with its operation.

Here, this issue has been discussed from the humanitarian standpoint. There is, I believe, a legal side to the question. A player goes down with a heart attack and dies on the course 15 minutes later. The only people in attendance were his fellow players who were untrained. A negligence suit is waiting to happen. An attorney for the deceased's heirs can and would raise many critical questions of the golf course and possibly the local emergency department. With my training in risk management I saw a potential problem, but I also saw a practical way to reduce and minimize the problem.

Buena Vista Golf Holdings

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course management industry; and favorable indicators that the game will enjoy increased participation in nearly all market segments.

"Because of the demographics of the U.S. population, we view golf as a growth business from the demand side," Frost said. "With the increasing financial and environmental roadblocks to building new golf courses, it will be difficult for the supply side to keep up."

Along with its management arrangement for the 36-hole LPGA world headquarters, the company has been named the exclusive development and management company for the LPGA. "We're working on plans to expand the LPGA's golf course identity in other parts of the world," Frost said. "It won't be too dissimilar to the way the PGA Tour has developed the TPC (Tournament Players Club) concept."

Statement of Ownership

	12 mo. avg.	Sept. Issue
A. Total no. of copies (net press run)	24,986	24,825
B. Paid &/or request circulation		
1. Sales-dealer, carrier, vendor, counter	0	0
2. Paid or requested mail subscriptions	18,432	17,459
C. Total paid &/or requested circ. (sum of B1 & B2)	18,432	17,459
D. Free distribution by mail (samples, complimentary, other free)	5,569	6,665
E. Free distribution outside mail	360	200
F. Total free distribution (sum of D & E)	5,929	6,865
G. Total distribution (sum of C & F)	24,361	24,324
H. Copies not distributed:		
1. Office, overs, spoiled copies	625	501
2. Return from news agents	0	0
I. Total issues (sum of F & H1 & H2)	24,986	24,825
Percent Paid &/or requested circ.	76%	72%

Statement of ownership, management and circulation required by Title 39 of United States Code, Section 3685 for Golf Course News ISSN 1054-0644, published 12 times a year by United Publications, Inc., 38 Lafayette St., Yarmouth, ME 04096. Publisher: Charles E. von Brecht. Editor: Hal Phillips. Managing Editor: Mark Leslie. Mailing address is P.O. Box 997, Yarmouth, ME 04096. The owners are J.G. Taliaferro, P.O. Box 997, Yarmouth, ME 04096, and Theodore E. Gordon P.O. Box 997, Yarmouth, ME 04096. There are no bondholders, mortgages or other security holders.