

# 'Employee' Status of Caddie Involved in New York Case

By WILLIAM JABINE

When does a caddie actually go to work? That question was presented to a justice of the New York supreme court, Westchester County, recently when he was asked to grant a summary judgment in a case involving injury to a caddie. It was incurred while the boy was alighting from the automobile of the general manager of a golf club. The judge refused to grant the summary judgment in favor of the defendant, saying that the question of whether or not the caddie was an employee of the club at the time of the accident was a question of fact to be determined at a trial in which the club's customs and usages in handling its caddies could be carefully examined. However, in denying the defendant's motion for a summary judgment, the judge indulged in some interesting comment on the peculiar status of a caddie as compared with other club employees.



The accident which resulted in the action against the club's manager is described in the judge's opinion as follows:

"At the time of the accident, the defendant was the general manager of the Hampshire Club, Inc., which operates a golf course in Mamaroneck. For approximately five years prior to the accident, the plaintiff was employed by the club as a caddie. It was agreed that he had caddied at the club on the day prior to the accident.

## Defendant's Memorandum

"The memorandum of law, submitted on behalf of the defendant, states that the caddies were under the supervision and control of the caddiemaster of the club who not only hired and fired them, but assigned them to particular members and players. Caddies were paid by the club for their services at the rate of \$2.25 per nine-hole round. In turn, fees were

charged by the club to the members. In addition, caddies earned tips from members or players to whom they had been assigned.

"On the morning of Dec. 17, 1959, the defendant picked up the plaintiff in defendant's automobile and transported him to the country club grounds, where the plaintiff was reporting for an assignment to caddy. The defendant's automobile came to a stop on Cove Road, a private road maintained by and on the premises of the country club, the exact situs being opposite the first tee. In alighting from the defendant's automobile, the plaintiff caught his finger in the rear door of defendant's automobile, suffering a fracture of the terminal phalanx of his left middle finger: . . ."

Whether the injured caddie should recover as a club employee under the New York Workmen's compensation law depended upon whether he was an employee of the Club at the time of the accident.

## Legal Status Questioned

As the Court put it: "The difficult question confronting the court is not whether a caddie, per se, is an employee, but whether a caddie is to be construed to fit the legal description of an employee at a time after his entry upon the premises of the employer, but prior to his reporting his presence to the caddiemaster."

The defendant had cited cases from Calif., New Jersey, Ill., and New York, which he contended supported his claim that the plaintiff was an employee of the club at the time of the accident, thus bringing him under the protection of the club's insurance policy. However, the court pointed out that in each of the cases cited, the caddie had actually reported to a caddiemaster before the accident. In the case at issue, the caddie had not yet reported even though he was on the club's premises.

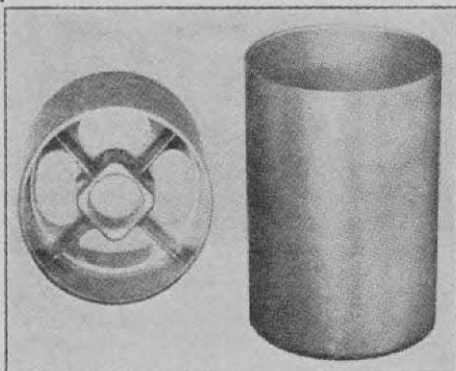
## Club Custom Considered

In discussing the status of a caddie as an employee, the court continued: "The many additional cases cited to support his position that an employee, injured on the premises of his employer while on his way to work or leaving the premises, where an injury is caused by a co-employee, is subject to the exclusive remedy provided by Section 29, subd. 6 of the Workmen's Compensation Law, are distinguishable by the very nature of the caddie's status.

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mon denomination of the term, 'employee', a caddie's eligibility for treatment as an employee would seem to depend uniquely on his posture at the time of the accident and on the rules, procedure and custom of the club involved.

#### Trial Recommended

"A person serving under a set arrangement, involving fixed hours, could naturally be considered an employee upon entering the premises of his employer to report to work. A caddie, on the other hand, may loiter or linger on the premises of the course for indefinite periods. If his presence and availability are not reported to the caddiemaster, he could hardly be considered to be an employee during such periods.

In stating his theory, the court is not attempting to state that, as a matter of law, the plaintiff herein was not an employee at the time of the accident. What is apparent however, is that an issue has been crystallized here which may not be summarily determined by motion, and which should await a trial wherein the rules, customs and procedures of the particular club may be presented." (Duck v. D'Angelo, 222 N.Y.S. 2d 578.

#### USGA Sponsors Turf, Administration Meetings in Three Cities

The USGA will sponsor two series of golf conferences, starting the week of Mar. 12, in Washington, Chicago and San Francisco. At each place, the first of the two days will be devoted to "A Business Approach to Course Maintenance", with the meeting being conducted by the green section. Administration will be discussed on the second day by representatives of golf associations. Invitations have been extended to sectional, state and local golf associations and to the 34 sections of the PGA to have three officials from each group at the informal meeting where rules, handicapping, Junior and Senior programs, etc. will be discussed.

Here is the schedule:

Mar. 12-13 — Washington (Marriott Motor Hotel, Twin Bridges)

14-15 — Chicago (Sheraton Chicago Hotel)

16-17 — San Francisco (Sheraton Palace Hotel)

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