

The Golf Market's 39th Annual

Buying & Budgeting Issue

— covers all 3 months of the Golf Market's concentrated period of planning, budgeting and buying:

**OCTOBER - NOVEMBER
DECEMBER**

Its timing and continuous usefulness to the buyers — all of them — throughout this important period, makes this special buyers'-operators' reference issue a key advertising buy.

Final ad forms close
October 4th.

GOLFDOM

800 Second Ave.

New York, N. Y. 10017

Player Not Obligated To Give A Warning Before Hitting Shot

By WILLIAM JABINE

When should a golfer yell "Fore"? That is a question the Supreme Court of Missouri, Division No. 1, was called upon to answer recently. A man was the plaintiff and a woman the defendant. The woman had cried "Fore" before the ball struck the man, but had delayed the warning shout until she saw her ball hook instead of fly straight. The plaintiff, who possibly held all women golfers in low esteem, contended that she should have called "Fore" before she made her shot. The trial court returned a verdict in favor of the defendant, and the plaintiff appealed the ruling to the Supreme Court.

The Court appointed a commissioner to hear the case, and he submitted a detailed report, here excerpted: "The defendant was playing in a foursome and each member had driven from the No. 1 tee. Defendant's drive was the shortest; she thus became the first up for the second shot, and it was this shot that admittedly struck the plaintiff. Just prior to the tee shots of defendant's foursome, the plaintiff and his companion finished playing No. 1 hole and were going to the No. 10 tee to join friends there to play the second nine. No. 10 tee, fairway and green are parallel to No. 1 tee, fairway and green, the two fairways being separated by a rough. No. 1 hole was almost straight east from the No. 1 tee, the fairway having neither a curve or 'dogleg'.

Plaintiff in the Rough

"There are a couple full-grown trees and a water fountain in the rough to the north of No. 1 fairway. This rough would be to the defendant's left as she walked in No. 1 fairway from the No. 1 tee, and the plaintiff was in the rough when defendant's golf ball struck his left hand.

"Defendant, called as a witness by plaintiff, indicated that the trees were behind or to the north of plaintiff at a time after she hit her ball and after plaintiff

was hit. It is not clear where the plaintiff was in relation to the trees at the time the defendant addressed the ball prior to hitting her second shot. Defendant also testified that she saw the plaintiff on the No. 1 green prior to hitting her first or tee shot and assumed when he disappeared from view that he went to the No. 2 tee. This would be a normal expectation, and such course would have taken plaintiff to a point south of the No. 1 green (and southeast of No. 1 fairway).

"Defendant's tee shot carried some 50 yards and came to rest in the fairway near the rough. She walked northeasterly from the tee to her ball where it lay on the left side (to her) of the fairway and she did not see the plaintiff during this walk. Prior to hitting her second shot, the defendant observed her fellow players and looked toward the hole. She also looked to the north (toward No. 10 fairway). The defendant testified that she did not see plaintiff, and that no one was in danger from her intended line of flight to the green, so she gave no warning of her intention to hit her ball.

"Defendant, with no intention to 'pull' or 'fade' her shot, struck the ball with a 3-wood. It went perfectly straight as intended until it hooked. According to defendant, the shot carried about 150 yards. While watching the ball the defendant saw plaintiff in the general area of the trees in the north rough and, when her ball hooked, the foursome (including defendant) screamed 'Fore' and 'Watch out.'

Gave No Warning

"According to plaintiff's partner, he and plaintiff were about halfway of the approximately 380 yards between No. 1 tee and green and about 25 yards in the rough north of No. 1 fairway. He also stated that defendant gave no warning before striking her ball and that she was about 60 yards west of plaintiff at the time. He acknowledged that golfers frequently don't hit a ball straight and stated that the defendant hit a bad shot which she did not intend to hit directly at plaintiff.

"He (the plaintiff) stated the view between him and the players that he saw in the No. 1 fairway was clear. He admitted that if the defendant had hit a good shot

it would not have come anywhere near him; that defendant's shot was a poor one which hooked to hit him; that golfers do not expect to make poor shots, and that a warning in relation to a bad shot would need to come only after the shot was determined to be a bad one."

The commissioner continued: "Plaintiff limits his appeal to a contention that he made a bona fide case on defendant's failure to warn **prior** to her striking the ball. This leads to the precise issue of whether, under the evidence in this case, defendant had a duty to warn prior to striking her ball."

After thus stating the issue, the commissioner proceeded to analyze a number of cases from various jurisdictions cited by the parties. All of them involved golf course accidents in which persons were hit by golf balls. At the conclusion of his analysis of the first two cited cases, he said: "These cases do not hold that a golfer has an absolute duty to warn everyone in the area of his play before making each shot. Rather, they stand for the proposition that a person about to strike a golf ball must exercise ordinary care to warn those within the range of the intended flight of the ball or the general direction of the drive, and the existence of such a duty to warn must be determined from the facts of each case."

The commissioner then examined several more cases, carefully distinguishing the facts in each from the facts in the case before him, and concluded: "Applying these authorities to the facts of the instant case, we hold that defendant had no duty to warn prior to striking her ball, and therefore the trial court properly directed a verdict for the defendant. The Supreme Court adopted the commissioner's opinion as its own. (Hoffman vs. Polsky, 386 S. W. 2d 376.)

Southern California Show

The first Southern California golf show will be held in Dodger Stadium, Oct. 13-17, according to Robert J. Case of Sportsman-Showcase, Inc., Los Angeles. The show, which will feature numerous exhibits, contests, clinics, etc., has the endorsement of the Southern California PGA and Public Links GA.