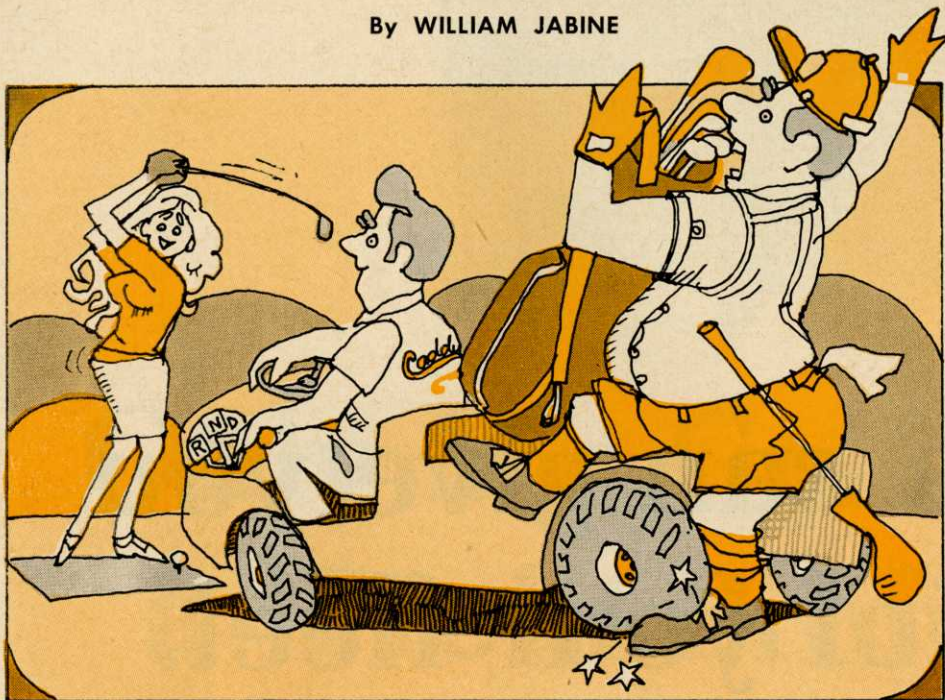


# The case of the careless caddie

By WILLIAM JABINE



*The Case—A caddie, known as Pee Wee, was following a club custom by taking a golf car from where a player had left it to the barn at the Riverbend Country Club in Texas. He accidentally backed the golf car into the player who was removing his clubs from the car, causing injuries for which the player brought suit against the club. The player plaintiff was awarded a judgment in the amount of \$17,500 in trial court. The club appealed to the Court of Civil Appeals of Texas.*

The principal question in this case which the Court of Appeals had to decide was whether or not Pee Wee, whose real name was Hector Andrade, was an

employee of the club acting in the course of his employment at the time the accident happened.

Some of the facts concerning the employment of caddies at the club are stated by the Court as follows:

"Hector was a caddy at the club. The club did not pay social security tax on the caddies nor withhold taxes from their income. The caddies were not required to report for work at any particular time. They could leave anytime they wanted to and were permitted to return so long as they abided by the rules and regulations. The club did not pay the caddies for their services to the players, but they were paid directly by the players. According to the rules of the club, caddies were not supposed to move the cars.

"The caddie master is an employee of the club. He conducted a caddie school for the boys in order that they might bet-

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ter perform their duties. The caddies were permitted to play golf on the course one day a week when it was closed to the members. This is one of the inducements the club offers to secure good caddies. When a boy signs the register to caddy, he is supervised by the caddie master."

The caddie master was asked the following questions and answered:

"Q. 'The caddie master tells them when to go out—he assigns them?'

"A. 'Yes sir.

"Q. ' . . . He tells those who are entitled to a second bag during the day and various other things. He controls that work, is that correct?'

"A. 'Yes, sir. .

"The rules of the club require a member to arrange for a caddie through the caddie master except during an official tournament. The caddie fee is fixed by the greens committee. One witness testified that from reading the club's by-laws and rules, he found nothing which prohibited the caddies from handling the cars. The caddies perform certain other services for the club, such as cleaning up and picking up paper.

"The cars belong to the club and it was the car attendant's duty to take care of them. When a player completes his play, he returns the car to the club by either returning it to the ramp or car barn."

The plaintiff, whose name was Patterson, did not return the car to either of the customary spots, the ramp in front of the pro shop, or the car barn. It was raining and he was in a hurry to get under shelter, so he left it on the edge of a sidewalk near a canopy. It was at that point that Pee Wee got in and undertook to put it where it belonged.

Some of the testimony bore directly on this phase of the caddies' activities. The golf pro, after saying that Pee Wee was a valued caddie, testified, in part:

"Q. 'A caddie doesn't just sit back when one of the cars is not in the right place; when it should be moved, he goes

over to the car, and moves it back to the shed?'

"A. 'They will do that. They are not authorized, but they will do it.

"Q. 'Getting back to August 20, 1960, these caddies got out there, got a hold of those buggies and took them back whenever there wasn't a car attendant around—and am I correct in saying that what they were doing was the custom?'

"A. 'Yes, sir.

"Q. 'As a matter of fact, then, the caddies were encouraged to jump in there and help get those cars back and forth, to facilitate the use of the cars . . . many of them did help the car attendants bring the cars back and forth. That was the custom in your club prior (to the accident)—I don't know what has happened since this accident—but (this was done) prior to Chambers Patterson's being injured?'

"They did. Yes, sir."

The Court evidently was convinced by this and other testimony that Pee Wee was acting as an employee in moving the golf car. It stated: "The evidence set forth above and other facts and circumstances in evidence constitute some evidence of probative force that Pee Wee was an employee of the club. (Citations)

"Pee Wee had been working as a caddie at the club for some time and was working at the time of the trial. It was conclusively established that at the time of the accident the car Pee Wee was operating belonged to the club. Under these circumstances a presumption arises that Pee Wee was acting within the course of his employment and in furtherance of the club's business. (Citation)"

"We have considered all the evidence and have concluded that the (trial) jury's answers — that Hector Andrade (Pee Wee) was an employee of the club acting in the course of his employment—are not against the great weight and preponderance of the evidence. (Citation)"

The judgment in favor of the player and against the club was affirmed. (*Riverbend Country Club v. Patterson*, 399 S.W.2d 382.) •