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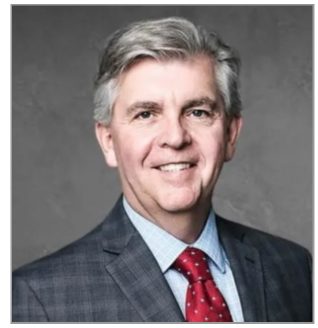
Hosel rockets: What are the odds? | Michael Cochrane

By **Michael Cochrane**



Michael Cochrane

Law360 Canada (February 20, 2025, 1:43 PM EST) -- It's a common reaction to something in the news, a bizarre incident occurs, (Plane catches fire, flips over while landing at airport! Everyone lives!), and someone says "Wow, what are the odds?"

It's one in 33,294,800 I could win the Lotto Max? Yup. Good Luck. I have a one-in-11.5 million chance of being attacked by a shark in Florida? Yeah, give or take but stay close to shore. Wait, I have a one-in-12,500 chance of getting a hole in one! You bet. Not bad compared to winning the lottery and shark bites.

When golfing great Lee Trevino awoke near the 13th green during competition in the 1975 Western Open at Coghill Golf and Country Club in Illinois, the last thing on his mind were the odds of hitting a hole in one. As the mental fog lifted all he could remember was that he had just marked his golf ball about three feet from the pin and walked off the green. Why was he laying on the ground?

Just moments before Trevino had been literally picked up off the lush grass and thrown in the air, gasping for breath, with memories of his life flashing before his eyes. He said later that he felt a warm feeling throughout his body and was bathed in an orange light. Once back on the ground he turned his head to see his playing partners Jerry Heard and Bobby Nichols, laying nearby, also gasping for breath.

A different set of odds had come into play that afternoon — the one-in-15,300 chance that a bolt of lightning would skip off a nearby lake and zap the three of them.

Approximately 500 people are hit by lightning each year in North America, resulting in not only injuries but two to three deaths in Canada and as many as 30 in the United States. Unfortunately, many of those deaths and injuries occur on golf courses. In the United States alone between 2006 and 2024 some 14 golfers — men and women -— were killed by lightning while on the course.

In June 2014, four fellows were golfing at Bethesda Grange Golf Course north of Toronto. A mere 50 yards from finishing on the 18th hole, within seconds one of them, a 60-year-old, lay on the ground, skin burned, clothing melted and in need of CPR.

In Trevino's case, the next shock was for his doctors. The result of being hit by lightning is usually cardiac arrest, tympanic membrane rupture and arboreal burns, not to mention damage to the nervous system. The doctors didn't know what to do, never having seen someone who had survived a lightning strike. Although these three golfers lived to tell the tale, Trevino needed two back operations to repair damage to a ruptured disc and had to retool his swing due to reduced mobility. He was lucky to return to golf at all. Heard was not so fortunate as his back surgery was not successful, and his career was cut short. However, it wasn't very long before Trevino had recovered enough of his sense of humour to coin his famous one-liner about using a one iron in stormy weather because "even God can't hit a one iron."

OK, at this point I know what lawyer minds are already thinking: Sure, sure, cardiac arrest, burns, nerve damage and one iron jokes are interesting but what about the law? Is there potential liability here? Can a golf course be held responsible for injuries or death caused by lightning strikes?

Let’s take a look at a couple of actual cases.

Although it was cold and raining on Sunday, March 29, 1993, Spencer Maussner and three of his regular golf partners decided to play golf at the Atlantic City Country Club in New Jersey. The weather soon turned worse but like many golfers they were undeterred and carried on, getting as far as teeing off on a third hole. That’s when they saw a lightning bolt and voted to head for the clubhouse.

As Maussner and his buddies crossed a fairway he decided it was a good time to put up his umbrella. Within seconds a lightning bolt found its tip, delivering severe burns to 25 per cent of Van Maussner’s body, nerve damage to his right hand, left foot and ankle, as well as permanent scarring to various parts of his body. He was injured badly but lucky to be alive.

He sued the club for negligence (*Maussner v. Atlantic City Country Club Inc.* 691 A.2d 826 (N.J. Super. Ct. App. Div. 1997). The club defended on the basis that it could not be expected to defend their patrons from the unforeseeable forces of nature; i.e., acts of God.

For guidance the New Jersey court looked to a similar situation that had occurred in Tennessee in 1991 at a state-owned golf course. There, a Mr. Hames had played only 25 minutes of golf before a sudden thunderstorm and lightning drove him and his two friends to seek shelter under a tree. Within minutes Hames was dead, the result of cardiac arrest caused by electrocution from a lightning bolt.

Hames’ wife sued. The club defended on the same basis as Maussner — there was nothing we could do. Mother Nature can be nasty.

That court then looked to a 1963 decision of another Tennessee court, *Davis v. Country Club Inc.* (53 Tenn. App. 130, 381 S.W.2d 308 (1963)). In July 1961, 14-year-old Phyllis Davis headed out to play golf with her friend, John Reitz. The weather started to take a turn but — like many golfers — they played on. Within a half hour they knew they could not finish given the storm so, in a downpour, they headed for a wooden weather shelter near the 16th green. Once there John, realizing he should have covered their clubs, turned around and headed back to their cart. A lightning bolt hit the shelter, seriously injuring Phyllis and knocking Reitz unconscious.

The shelter, one of several on the course, was constructed to tempt fate with a gabled roof that peaked approximately 10 feet off the ground, making it nearly the highest point near the 16th green.

Phyllis’s father sued. The club defended based on ... you guessed it. Act of God.

Where do these cases lead us?

Phyllis Davis? Case dismissed. A lightning bolt hitting a structure designed to provide shelter was too remote to conclude that the course had not exercised reasonable care to protect golfers. Act of God. However, this case was decided on facts from a 1961 incident, before any industry standards had developed around lightning and golf course safety.

Mr. Hames? Case dismissed. Yes, the course owed a duty to golfers to take reasonable care to protect them but Hames had not met the burden of proving that its conduct fell below that standard. Act of God. The court noted that it was significant that (as of 1991) there were no industry standards to implement warning devices or build shelters that are lightning proof. It didn’t help that Hames and his buddies decided to take shelter under a tree, a well-known no-no, whether on a golf course or at a local park.

As *Spencer Maussner* showed*,* golfers on a course have an elevated status. They have been invited onto the property so to speak and the owners and operators of the course therefore have a duty to exercise care to keep the course in reasonably safe condition. That duty includes warning golfers, employees and spectators about any dangerous condition which the owner-operator ought to have known about.

The New Jersey court noted that safety measures available to golf courses had increased. Instructional posters about the danger could be posted in the clubhouse (for a current example, see the Lightning Policy posted on a website of that fine Walter Travis-designed course Lookout Point in Fonthill, Ont.), electronic weather tracking as well as lightning location and prediction systems exist.

Clubhouses and shelters can be made lightning proof. Sirens and warning signals are available.

Even as of 1993, the United States Golf Association (USGA) had long implemented guidelines for lightning warnings — one long siren, three consecutive sirens, two short sirens — which are used to indicate when to leave and return to a course threatened by lightning (see bosshorn.com for some of the loud options currently available.)

Bottom line? Courses have a duty to take reasonable steps to protect golfers from dangers. Those dangers may now include lightning bolts if in your area there is a reasonable prospect of such storms. If there is a threat then risk management practices would dictate sirens, shelters, explicit warnings, tips on what to do and not do if a storm approaches and even sending staff out to get golfers (and spectators) off the course.

Now back to the odds. What are the odds that you will be playing golf this summer? What are the odds that while golfing the weather might take a nasty turn? What are the odds that when the weather takes that turn your foursome will bravely soldier on because “it’s gonna pass”? What are the odds that you might even take shelter for a few moments under a tree with your metal clubs in hand? What are the odds that if you were one of those four golfers at Bethesda, 50 yards from finishing your round on the 18th, you would say, “Close enough guys, let’s pack it in”? I didn’t think so. After all, it’s only one in 15,300 that you might get hit by lightning. You’re more likely to get a hole in one!

Do you feel lucky?

This is the fourth part of a series: Part one: Hosel rockets: Dispatches from the pettifogging lawyer. Part two: Hosel rockets: The case of nuisance and Benny the Cat. Part three: Hosel rockets: Time to drop the glove(s)?

Michael Cochrane is a Toronto lawyer and the author of Olympic Lyon: The Untold Story of the First Gold Medal for Golf *about Canadian George Lyon’s victory at the 1904 Summer Olympics. He is a member of the Golf Journalists Association of Canada, the Golf Historical Society of Canada and an avid golfer. See his other writings at michaelcochrane.ca.*

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