

## Sports law case review: Court of Appeal declines to issue judgment in golf spectator appeal

Insights - 26/06/2023

### | Significance of the case

In [Part 1 of this article](#), we considered the Irish High Court decision to dismiss a claim from a spectator who was struck by a golf ball while attending the West of Ireland Amateur Golf Championship in 2016. In this Part 2, we will consider the recent Court of Appeal decision.

The High Court decision was significant for sports clubs, tournament organisers and event spectators in Ireland as it considered the duty of care owed to spectators. The question of whether greater clarity would be provided was awaited with the Court of Appeal decision.

### Background and arguments

The Court of Appeal in Dublin heard the Plaintiff's appeal, reserved judgment, and subsequently listed the matter to hand down its judgment to the parties. However, in the intervening period, the Plaintiff's solicitors indicated to the Court that the dispute had been resolved and that he was withdrawing his appeal. It was also requested that the Court not deliver its judgment. This left the Court of Appeal to decide whether, notwithstanding the settlement of the dispute, there was merit in issuing its judgment.

The Court of Appeal held that it had a right to give its judgment, even after a matter is settled. It relied on *McDonagh v Sunday Newspapers* [2018] 2 IR 79, where the Court published its judgment in similar circumstances because the judgment dealt with matters which were of general public importance. The Court of Appeal also referred to the reasons relied on in the UK case of *Barclays Bank PLC v Nylon Capital LLP* where the UK Court issued judgment because the judgment had been substantially complete at the time, a number of issues were of general significance and it was a purely commercial matter.

## Decision

The Court of Appeal decided against issuing their judgment, citing the following factors as relevant to its exercise of its discretion in that regard:

- The fact the parties were agreed that judgment should not be published;
- Publication of the judgment could have undermined the status and value of the settlement from the perspective of one or other of the parties and deter other litigants from pursuing settlement;
- There were no allegations of deliberate wrongdoing in the proceedings;
- The appeal focused on issues of fact, rather than a novel legal issue. The most significant issue was the factual issue of where the Plaintiff was standing relative to the 11th green when he was struck;
- The parties are not commercial entities.

Another factor mentioned by the Court was that settlement generally saves judicial resources. However, this did not arise in this case since the appeal was heard and the judgment prepared.

## Takeaways

While the Court of Appeal decision is relevant to the timing of settlement of disputes, it does not have a wider impact on golf or other participation sports. Even if judgment on the appeal was handed down, the Court of Appeal indicated that it had focused on factual evidence, rather than legal issues.

The High Court decision, as considered in [Part 1 of this article](#), remains instructive for sports clubs, tournament organisers, venues and governing bodies. Events with ticketed and paid spectators should take reasonable steps to reduce the risk of litigation by pointing out the inherent dangers of their respective sport with warnings on tickets, and by erecting signs or barriers where necessary.

*Ogier Leman are sports law specialists in Ireland. We represent national governing bodies, clubs and athletes from every sporting code as well businesses operating in the sports industry. For information and advice on sports law, please contact Paddy ([paddy.murphy@ogier.com](mailto:paddy.murphy@ogier.com)).*

## About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

## Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

## Meet the Author



[Paddy Murphy](#)

Senior Associate

[Ireland](#)

E: [paddy.murphy@ogier.com](mailto:paddy.murphy@ogier.com)

T: [+353 1 584 6311](tel:+35315846311)

## Related Services

[Dispute Resolution](#)

## Related Sectors

[Sports](#)