

## ONE, TEE, THREE, FORE!

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The British Columbia Court of Appeal has recently ruled that, when golfing, it is not necessary to call “fore” unless a golfer knows the ball is on a dangerous trajectory. The infelicitous circumstances that gave rise to the case in question, *Matharu v. Nam*, occurred when the plaintiff, while teeing off on the 10th hole at Quilchena Golf and Country Club in Richmond, was struck in the eye by the defendant’s ball. The defendant, Mr. Nam, had been shooting in the opposite direction from the 18th fairway which ran alongside the 10th. Mr. Nam attempted to clear some trees to approach the green but his ball was too low, struck the trees that separated the 10th and 18th holes and ricocheted into the unfortunate Mr. Matharu.

The case is a succinct application of the law of negligence. The Court first found that both the golf course (also a defendant) and Mr. Nam owed a duty of care to ensure that golfers were not injured. Once the duty had been established, the Court turned to the question of the standard of care. In other words, what steps were necessary on the part of the golf course and Mr. Nam to ensure that other golfers were not injured?

The Court found that the golf course had satisfied the reasonable standard of care by designing the two holes so that there was a sufficient separation to make any injury to a golfer unlikely. The golf course had also planted trees and shrubs in an attempt to prevent balls passing from one fairway to the other.

With respect to Mr. Nam, it was argued by the plaintiff that as soon as the ball disappeared from view, the person striking it should have called “FORE!” giving the plaintiff an opportunity to take evasive action. The three-panel Court of Appeal said that, on the evidence, the ball was going in the direction intended, Mr. Nam had safely played the shot in the past and that the ricochet was not reasonably foreseeable. Given this set of facts, it was not necessary to call out a warning.

Besides the elegant application of the law of negligence, the case also stands for an interesting legal principle that, on occasion, three are greater than “FORE!”