

Golf Cart Negligence - The plaintiff was left a quadriplegic after a roll-over accident on a golf cart – settling with the golf cart

manufacturer and the golf course on the eve of trial, the matter advanced against the golf cart distributor alone

Kessnick v. Century Equipment, 06-0080

Plaintiff: Meredith L. Lawrence, Warsaw and James B. Helmer, Jr., Paul B. Martins and Erin M. Campbell, *Helmer Martin Rice & Popham*, Cincinnati, OH

Defense: John W. Walters and Brandy B. Berry, *Golden & Walters*, Lexington

Verdict: Directed verdict

Circuit: **Gallatin**, J. Schrand, 8-10-08

Kevin Kessnick, then age 39 and a trucker, was golfing on 9-8-05 at the Sugar Bay Golf Club in Gallatin County. He was in a foursome that included his father, Gary. On the seventh hole, one of the foursome hit a shot into the rough. Kessnick was a passenger in a golf cart driven by his father.

The golf cart was manufactured by Club Car and had been distributed (a total of 50 golf carts) by Century Equipment. As the father descended a hill in the rough, he swerved to avoid a berm. Kessnick jumped out as the golf cart started to roll. It continued on and rolled on top of him (it weighed 600 pounds), in the process fracturing his vertebra at the C4-5 level and resulting in a catastrophic spinal injury. The injury has left Kessnick a permanent paraplegic. He now lives in a nursing home, his claimed damages totaling some \$45 million.

Kessnick sued Club Car and alleged a defect in the golf cart. He also presented a claim regarding the design of the golf course against Sugar Bay. Finally against Century Equipment, he was critical of it for distributing the golf carts, but doing no inspection of the course to assure they could be used safely. Century Equipment for its part diminished its role as a simple middle-man that supplied the golf carts.

On the eve of trial, Kessnick settled with Club Car and Sugar Bay Golf Club. Advancing against Century Equipment on a negligence claim, the case lasted until the end of the plaintiff's proof. The trial judge granted the defendant's motion for directed verdict, concluding that it had no duty to maintain the carts or evaluate their use on the golf course and in any event, there was no evidence a duty was breached or that any breach caused Kessnick's injury. Three weeks

later, there was no order in the record on directed verdict.