"Reed"-ing the Green: How Patrick Reed's Defamation Lawsuits Point to the Contours and Rifts in Professional Golf

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“REED”-ING THE GREEN: HOW PATRICK REED’S DEFAMATION LAWSUITS POINT TO THE CONTOURS AND RIFTS IN PROFESSIONAL GOLF

Rachel Coers*

Abstract

The birth of LIV Golf, coupled with its tentative merger with the PGA Tour, has set the stage for much conversation regarding professional golf, competition, and the ethics of funding sporting events. Patrick Reed, a professional golfer who began his career on the PGA Tour before joining LIV Golf, has initiated multiple lawsuits against various news stations and broadcasters alleging that they have defamed his reputation in their reporting of the events surrounding LIV Golf. This Note argues that Reed’s various lawsuits are unpersuasive and constitute a “weaponization” of defamation law. However, this approach may be a creative strategy to keep Reed in the news, even if he has been deemed a “villain” in the golf world.

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INTRODUCTION

The yearning to play a better game of golf is a national mania in America. No man who golf[s] is so stubborn, so conceited, so arrogant or so accomplished that he is not constantly striving to improve his score. He may not admit this to others. He may pretend that mediocrity is enough for him (“I shoot in the 90s and I have a lot of fun. That’s good enough for me.”). This man is telling a white lie and he knows it. He wants desperately to break 90 and when he does, he will want just to just as desperately to break 80. Let him shoot in the high 70s and he will have but one dream: par or better.¹

The game of golf has intrigued, enchanted, and enraged amateur and professional players for centuries. Founding Father Benjamin Rush, a Declaration of Independence signatory and prominent physician, once pointed out that, “[g]olf is an exercise which is much used by a gentleman in Scotland . . . . A man would live 10 years longer for using this exercise once or twice a week.”² For those bewitched by the sometimes infuriating game, Dr. Rush’s plan of care is an attractive one. To get in a round once or twice a week could mean rising before dawn to take the earliest tee time, being paired with a stranger who happens to be quite the “chatterbox,” or foregoing dinner to chase a twilight round—but for the golfer, these are all minor sacrifices. And for those professional golfers on the Professional Golfers Association Tour (PGA, PGA Tour, or the Tour), the attraction is even more compelling than for the casual player. For example, in the 2021–2022 season, the Tour paid out over $421 million in total prize money.³

Golf is constantly in flux. Evolutions in professional players’ salaries, celebrity status, equipment technology, course management and design, grassroots promotion of the game, and media rights represent but a fraction of the changes the golf world has experienced. However, no recent development has changed the landscape of professional golf like the emergence of the LIV Golf League (LIV or LIV Golf). In the summer of 2022, LIV Golf emerged as a major competitor to the PGA Tour, the premier league for professional golfers.⁴ LIV Golf, which is funded by

1. Sidney L. James, foreword to Ben Hogan, BEN HOGAN’S FIVE LESSONS, 5 (First Fireside ed. 1985).
Saudi Arabia’s Public Investment Fund, offers players major contracts and huge monetary payouts. In the aftermath of this new league’s inception, and its attempt to take on the PGA Tour as professional golf’s most prominent stage, professional players, commentators, and fans alike have debated ethics, monopolization of the game, and player worth. Golfer Patrick Reed is a major player in these debates.

Reed, who defected from the Tour to LIV Golf soon after its inception, has filed multiple lawsuits alleging that his presence in the controversy subjected him to a campaign of character assassination. Reed has sued golf news outlets and broadcasters for claims such as defamation, seeking hundreds of millions of dollars in damages. The web of lawsuits, some of which have been dismissed by federal judges, displays Reed’s willingness to take his troubles to court. At surface level, Reed may simply be attempting to resurrect his character in the golfing world and to seek reimbursement for the alleged harm he suffered. But these suits must also be viewed in the context of the broader climate of professional golf: Reed versus the Media cannot be viewed without also considering the PGA Tour versus LIV Golf.

I. BACKGROUND

A. History of the PGA Tour

The PGA Tour was created in 1968 by a group of players who split from the PGA of America, which had been formed in 1916. As interest in the game grew in the United States during the early part of the 20th century, structure became necessary in organizing tournaments for players. Importantly, when Deane Berman began his tenure as the second commissioner of the PGA Tour, the Tour’s assets grew from $730,000 in 1974 to over $200 million by 1994. In 2017, current PGA Tour commissioner Jay Monahan took office, with the PGA’s assets reaching over $346 million.

Much like the National Basketball Association (NBA), the National Football League (NFL), or the Major League Baseball (MLB) are for their respective sports, the PGA Tour is the highest level of professional golf in the United States (and internationally). The PGA Tour operates

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5. Id.
7. Id.
8. Id.
9. Id.
11. PGA Tour History, supra note 6.
tournaments across the globe, and players compete for a season-long FedExCup based on points earned at each tournament that year. For collegiate golfers or players working their way up the ranks of the lower-level circuits that operate as a pipeline to the PGA Tour, there is no greater goal than making it on the Tour and competing against its golfers.

B. Reed’s Original Complaint

In a complaint filed in August of 2022, on the heels of a contentious summer in the golf world, Patrick Reed initiated a civil suit against Brandel Chamblee and Golf Channel for $750 million in damages. Reed alleged defamation as a result of the connected actions of Chamblee and Golf Channel that harmed Reed’s reputation and livelihood. After being “constructively terminated” from the PGA Tour, Reed alleged that Chamblee and Golf Channel, together with the PGA Tour and Commissioner Jay Monahan, defamed him for over a decade. He claimed that the defendants maliciously misrepresented information which included the following:

actively targeting Mr. Reed since he was 23 years old, to destroy his reputation, create hate, and a hostile work environment for him, and with the intention to discredit his name and accomplishments as a young, elite, world-class golfer, and the good and caring person, husband and father of two children, he is.

In his original lawsuit, Reed claimed not only to have lost “multiple multi-million dollar sponsorship deals” thanks to Chamblee and Golf Channel, but that they, along with the PGA Tour, “continue to use the same and or similar tactics to defame other LIV players, and LIV, with the intention to destroy them and their families professionally and personally, and thus eliminate them as competitors to the PGA Tour and the DP World Tour.”

Reed’s allegations of defamatory remarks against him regarding his transition to LIV Golf must be viewed in the broader context of past incidents involving Reed during his time on the PGA Tour. Reed is admittedly one of the best golfers in the world. He claimed back-to-back NCAA Championships, won nine PGA Tour Tournaments, and became

15. Id. ¶ 11.
16. Id.
17. Id. ¶ 12.
the youngest World Golf Champion, edging out Tiger Woods by twenty-six days. However, he has also been at the center of a number of controversies. Prior to winning two NCAA titles for Augusta State in 2010 and 2011, Reed spent a year on the University of Georgia’s golf team before being dismissed. According to Reed, his dismissal was a result of alcohol violations. However, in Shane Ryan’s book, Slaying the Tiger: A Year Inside the Ropes on the New PGA Tour, Ryan revealed that Reed allegedly cheated and stole from his teammates. Later, Reed was caught on camera making a homophobic slur. He also once commented that Jordan Spieth would have gotten a more favorable ruling than he received at a tournament. Then, in 2018, Reed complained about the location of his free, PGA Tour-provided seats at a Red Sox game. However, Reed’s most controversial action was likely his rules violation during the Hero World Challenge, which led to a CBS Sports reporter claiming that he had witnessed Reed improving lies “up close” in the past.

Reed’s past accomplishments and public struggles provide an important backdrop for his defamation suit against Chamblee and Golf Channel—one that expounds upon the ongoing LIV Golf versus PGA Tour controversy that began in the summer of 2022. According to Reed’s complaint, since his entrance into professional golf, “Mr. Reed has been abused and endured more than any other golfer from fans or spectators who have been allowed to scream obscenities only to be glorified by NBC’s Golf Channel for doing so, because it gets Defendants Chamblee and Golf Channel ‘clicks,’ viewership, ratings and increased revenue.” He claimed that chants from fans including “[e]veryone hates you, cheater!” and “[w]hy don’t you dig a grave and bury yourself in it!” have been maliciously and intentionally caused with actual malice by

18. Id. ¶ 7.
20. Id.
21. Id.
23. Berhow, supra note 19.
24. Id.
25. Id.
27. Compl, ¶ 11, supra note 13.
Chamblee and Golf Channel. And this defamatory conduct, he alleged, continued from Reed’s past controversies into his transfer to LIV Golf.

According to the complaint, Chamblee, “at the direction of and as an agent of Golf Channel and PGA Tour and DP World Tour,” appeared on Travis Fulton’s podcast “where he published the following numerous malicious and defamatory statements of and concerning Mr. Reed.”

Speaking of the Saudi Crown Prince and his connection with LIV Golf, Chamblee commented that the players of LIV were “aligning themselves with a tyrannical, murderous leader . . . [and a] centralizing power, [that is] committing all these atrocities . . . I mean[,] would you have played for Stalin . . . [or] for Hitler[?]” Reed contended that this false statement would be like claiming that LeBron James aligned himself with a “tyrannical, murderous leader” because he plays for the NBA, which is connected with the Chinese government and its suppression of the Uyghur people. The complaint pointed to a number of other comments made by Chamblee, some questioning the morals of all players who moved to LIV Golf, and some pointing specifically to Reed and his past controversies.

In late September 2022, Reed withdrew his original complaint from a federal court in Texas, only to refile the suit in the Middle District of Florida and add defendants Shane Bacon, Damon Hack, and Eamon Lynch—all of whom are Golf Channel commentators. The amended complaint requests the same $750 million in damages, and it is unclear why Reed’s attorney chose to move the case from Texas to Florida. However, some have speculated that the move may have been due to forum shopping (Reed’s case was originally assigned to Texas judge Alfred H. Bennett, who is reportedly an avid golfer and rules stickler) or

28. Id. ¶ 18.
29. Id. ¶ 29 (“In retaliation for Mr. Reed’s decision to sign with LIV, Defendants Chamblee and Golf Channel, conspiring and acting in concert with the PGA Tour, DP World Tour, and OWGR, have engaged in a pattern and practice of maliciously defaming Mr. Reed, as well as LIV and other golfers signed with LIV.”).
30. Id. ¶ 31.
32. Compl., ¶ 34, supra note 13.
33. See generally id. ¶¶ 29–72.
36. Id. ¶ (a).
37. Sens, supra note 34.
an issue with his attorney’s ability to represent Reed (Larry Klayman). Reed’s lawyer, has been suspended from practicing in Washington, D.C., and a local court rule may have prohibited him from representing Reed in Texas. Regardless of the reason, Reed’s suit will now be tried in Ponte Vedra, Florida, a suburb of Jacksonville, Florida, which happens to house the PGA Tour headquarters.

C. The Birth of LIV Golf

Reed’s original complaint, filed just over two months following LIV Golf’s inception, pointed to a larger adversarial event in the golf world. In June 2022, Saudi-backed LIV Golf entered the professional golf scene and instantly divided the golf community. LIV Golf, on a mission to “reinvigorate golf,” sought to situate itself as a direct competitor to the PGA Tour. LIV adopted structural features to distinguish itself from the PGA Tour, including having fewer players per tournament, having no player cuts, and, most notably, offering staggering payouts to top players. These paychecks sparked much of the initial intrigue surrounding LIV Golf, with Phil Mickelson topping the chart, receiving a contract for $200 million, after switching allegiances from the PGA Tour.

38. Larry Klayman has been entrenched in Washington politics for decades. Klayman, a conservative attorney, founded Judicial Watch and is known for filing multiple lawsuits against the Clinton Administration during the 1990s. He also vocalized concerns that Barack Obama was not born in the United States and more recently challenged the National Security Agency’s (NSA) storage of American citizens’ data. Klayman also found himself parodied on the hit show The West Wing. See ABC News, Meet Larry Klayman: Man Behind the NSA Lawsuit, ABC News (Dec. 19, 2013, 1:58 PM), https://abcnews.go.com/Politics/meet-larry-klayman-man-nsa-lawsuit/story?id=21278998 [https://perma.cc/7U3Y-PYPN]. In 2022, the District of Columbia Court of Appeals found that Klayman violated the Rules of Professional Conduct after he began expressing his romantic feelings for a client and continuing to act on her behalf after she asked him to drop the suit and discontinue representation. Ultimately, Klayman’s eighteen-month suspension requires a showing of fitness before he can practice in the District of Columbia. See also In re Larry E. Klayman, No. 20-BG-583 (D.C. Cir. 2022), https://fingfx.thomsonreuters.com/gfx/legaldocs/dwpkrxyoavm/In%20re%20Klayman%2020-BG-583.pdf [https://perma.cc/4KYZ-JYNV].

39. Sens, supra note 34.
40. PGA Tour History, supra note 6.
41. See generally id.
Tour to LIV. Mickelson’s shift came after a Golf Digest interview in which he blamed the PGA Tour’s “obnoxious greed” for causing him to seek other golfing opportunities. On June 9, 2022, Mickelson and Dustin Johnson, then the number thirteen golfer in the world, headlined the field for the opening LIV Golf tournament. The purse for the inaugural London Tournament was $25 million.

Another notable name in golf, Greg Norman, was tapped as LIV’s CEO. In September 2022, Norman travelled to Washington to promote LIV’s mission and to quell concerns about the Saudi-backed organization. This meeting stirred its own controversy; Tennessee Congressman Tim Burchett “express[ed] dismay that members of Congress were discussing a golf league backed by Saudi funds[,]” adding that Norman’s lobbying for LIV was nothing short of “propaganda.”

But Republican members of Congress were not the only ones deriding LIV Golf. Democratic Senator Dick Durbin Tweeted in September, “[t]his weekend, a golf glove will try and cover a blood-stained hand as the LIV golf Tournament comes to Chicago in the Saudi government’s continued, desperate attempt to up its image.” Durbin later commented, “[m]oney shouldn’t be allowed to cover up the murder and dismemberment of a journalist or the imprisonment and harassment of activists like Raif Badawi, Waleed Abu Ak-Khaair, and Salma al-


47. Id.


The controversy that surrounded LIV Golf has not, to say the least, been immune from the American political sphere. The money LIV Golf promised the world’s top talent caused a significant rift in the golf community. The Saudi Arabian sovereign wealth fund promised to siphon “an estimated $2.4 billion into LIV over the next couple of seasons to get the league off the ground.” The source of the funding sparked fierce debate due to the Saudi Crown Prince’s role in the murder of U.S. journalist Jamal Khashoggi, alleged involvement with the 9/11 terrorist attacks, and other purported human rights violations. In response, the PGA Tour shelled out $360,000 to DLA Piper, one of the largest law firms in the world, to lobby Washington legislators against Saudi-backed golf. To complicate this matter even further, former President Donald Trump—unquestionably one of the most controversial politicians of the last decade—is a supporter of LIV Golf, while the ongoing debate over fair pay for athletes and ethics surrounding Saudi funding continues.

One prominent name in golf remained absent from involvement with LIV Golf. A favorite among golf fans around the world, Tiger Woods, remained steadfast in his refusal to join the new entrant into the golfing world. According to Golf Digest, the former best golfer in the world and winner of eighty-one PGA Tour events had a “mission, as a self-appointed shadow commissioner,” to “reshape the PGA Tour in a way that enough new money will flow to ensure top players will want to stay, while giving himself a slice of the pie and more of a say in how the Tour operates.” Woods allegedly met with fifteen players to discuss a LIV-Golf league.

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53. Birnbaum, supra note 44.
55. See id.
57. Jay Busbee, Tiger Woods, Rory McIlroy Chart Golf’s New Path Forward, YAHOO SPORTS (Aug. 22, 2022), https://sports.yahoo.com/tiger-woods-rory-mc-ielroy-chart-golfs-new-path-forward-145534352.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAC5BQi-upVVDOPHQPc-scS6plOLD9ogpphKxVXxMensnC1UnZoFALiohAMl-wheE0s5EHEvThVRhdYCvVF7oWS-iBmPWy1SCWi3T8mvVSmrRWDrspJbK4w6G2MnGu09DJNBLYufraDyHcqqq_3Z6oyu6UQ6Ju0ln3y9o77gP82 [https://perma.cc/6XY6-ZNT7].
58. Id.
like format (a “tour-within-the-tour”) that would include no cuts, smaller fields, and huge payouts.⁵⁹

D. PGA Tour Antitrust Suit

In August 2022, eleven players, including Phil Mickelson and Bryson DeChambeau, filed suit against the PGA Tour.⁶⁰ At the center of this lawsuit was the players’ contention that “the Tour has evolved into an entrenched monopolist with a vice-grip on professional golf.”⁶¹ Further, the players alleged that the Tour’s bans against anyone willing to defect to LIV served to “threaten irreparable harm to the players and their ability to pursue their profession.”⁶² This “unlawful strategy,” according to the players, was implemented to deter the competition that emerged from LIV Golf because “the Tour explained to the players that it was [employing this unlawful strategy] precisely because LIV Golf is attempting to compete with the Tour.”⁶³ Specifically, they claimed that the Tour’s Conflicting Events Regulation (prohibiting players from participating in a non-PGA Tour events in North America in the same week in which a Tour-sanctioned event takes place) and the Media Rights Regulation (prohibiting players from playing in “any golf contest, exhibition or play” that appears on any media at any time, regardless of geographic location) effectively foreclosed the players, who are independent contractors, from participating in events that compete with the PGA Tour.⁶⁴

The players pointed to “six practices, each of which is patently exclusionary, anticompetitive and unlawful under the Sherman Act.”⁶⁵ These practices include: (1) threatening lifetime bans for joining LIV Golf; (2) expanding the Conflicting Events and Media Rights regulations; (3) “orchestrat[ing] a group boycott with the European Tour to ensure that” anyone considering joining LIV, including the plaintiffs, “cannot pursue his career and livelihood anywhere in the global golf ‘ecosystem[,]’” (4) the encouragement of PGA of America to ban LIV players from participating in the PGA Championship and the Ryder Cup; (5) the threatening of agents and business partners of the players involved with LIV; and (6) the threatening of sponsors and instruction to sever

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⁵⁹. Id.
⁶¹. Id. ¶ 1.
⁶². Id. ¶ 3.
⁶³. Id. ¶ 5.
⁶⁴. Id. ¶ 8.
⁶⁵. Id. ¶ 11.
relationships with LIV players. Ultimately, the players posited that injunctive relief was necessary to combat the Tour’s anticompetitive behavior, and without such relief, they would be “irreparably harmed” through the denial of financial and competitive opportunities. To support this assertion, the complaint provided information on each of the eleven players, including tournament titles and professional accomplishments, personal accolades, and, at the end of each section, a note that the player “desires to continue to be a member of the Tour and to play in events on the Tour.”

The players contended that until LIV Golf entered the golf sphere, “no other Tour came close to the PGA Tour in terms of money, exposure, quality of on-course competition for players, fan interest, advertising or sponsorship opportunities[,]” and specified the ways in which the Tour operated in a harmful and anticompetitive way. Ultimately, the Tour countered that, through the players’ suit, “LIV asks the Court to invalidate these wholly legitimate provisions [of the Tour’s Regulations] with the stroke of a pen after inducing the remaining Player Plaintiffs to violate those same regulations with hundreds of millions of dollars in Saudi money.”

E. The Merger

On June 6, 2023, the PGA Tour and LIV announced that they would be joining forces in a surprising merger. The two entities plan to come together in a for-profit entity currently named “NewCo.” This move, though far from finalized, includes “a pledge to dismiss acrimonious litigation.” Still unknown is the distribution of wealth each entity will contribute to the partnership. When this news broke, many PGA Tour players expressed their disappointment in the proposed merger: “[t]hey were blindsided by the news, learning of the agreement when the public did, and they did not seem to understand why the Tour waged a legal war against LIV and a war of morality against Saudi money, only to invite the wolf into the henhouse.” Those who had left the Tour for LIV had a

66. Id. ¶ 11.
67. Id. ¶ 15.
68. Id. ¶ 16.
69. Id. ¶ 42.
70. Answer to Am. Compl. at 1:21, Jones v. PGA Tour, Inc., No. 5:22-cv-04486-BLF (N.D. Cal. 2022).
72. Id.
73. Id.
74. Id.
75. Id.
decidedly different reaction—after raking in the cash, they now have the chance to return to the biggest stage in professional golf, an option made more enticing by LIV’s declining viewership. 76

Ultimately, professional golf is a business. The Tour likely would have been unable to operate if the Saudi Private Investment Fund gave its full backing to LIV over the next five to ten years. 77 By joining forces, the Tour has a chance to revive the game and remove some of the longstanding and outdated ideas of what golf should be. The two entities, all but enemies just months ago, have the opportunity to set aside their differences and forge a new path in professional golf. But a few colossal obstacles—namely the Department of Justice and the Federal Trade Commission—stand in their way. 78

F. The Continuing Saga of Patrick Reed’s Litigation

This Note focuses specifically on Patrick Reed’s defamation suit against Brandel Chamblee, Golf Channel, and a number of others. But litigation does not occur in a vacuum—like many other cases, whether high-profile or not, Reed’s suit has evolved, and the timeline has become more complex. The view that Reed’s pleading strategy is not creative, but rather suggests a disrespect for the legal system and game of golf writ large, may be a dramatic take on what is unfolding. But considering his pleading strategy, which has been dubbed a shotgun pleading by the United States District judge deciding the case, it appears that Reed is unafraid to make a bold statement to the golf world regardless of the repercussions it may have on his career and reputation. Importantly, the new agreement by the Tour and LIV to drop all litigation does not prohibit Reed from pursuing his private lawsuits. 79

On November 1, 2022, Reed’s attorney filed a new complaint in the Middle District of Florida alleging that more members of the sports media


77. See Draper, supra note 71.

78. See Draper, supra note 71 (explaining that the Department of Justice and the Federal Trade Commission review mergers between companies the size of the PGA Tour and LIV Golf to ensure that the merger does not violate U.S. anti-trust laws).

79. A.J. Perez, Patrick Reed’s Legal Fight Continues Amid Pro Golf Peace, FRONT OFF. SPORTS (June 29, 2023, 8:52 AM), https://frontofficesports.com/patrick-reeds-legal-fight-continues-amid-pro-golf-peace/ [https://perma.cc/X482-TP7Y] (explaining that the nature of Reed’s lawsuits as being separate from the litigation between LIV Golf and the PGA Tour that was ongoing before the merger allows him to continue pursuing his claims).
world defamed him.\textsuperscript{80} This suit, seeking $250 million in damages, "charges that the defendants knowingly reported false information about Reed in an effort to undermine the LIV Tour, which cost Reed lucrative sponsorships and other business deals."\textsuperscript{81} These new defendants include Shane Ryan (who has recently written books about LIV Golf), the Associated Press, Fox Sports, the New York Post, and others.\textsuperscript{82} This suit mirrors Reed’s earlier complaint filed against Chamblee and Golf Channel, opining that Reed has been defamed based on a number of statements made regarding his new role as a member of the LIV Tour.\textsuperscript{83}

The new complaint states that "[t]he Defendants in the Chamblee Case—much like the Defendants here—are all widely known mouthpieces for The Golf Channel, which again, is an admitted partner of the PGA Tour, so they are more than willing to spread false, malicious, and defamatory statements and commit other illegal acts of and concerning Mr. Reed and other LIV golfers because it serves their own interest to ensure that PGA Tour remains by far number one."\textsuperscript{84} In the midst of the contentious climate between the PGA Tour and LIV, Reed’s attorney took advantage of the sentiment that the Tour was attempting to monopolize professional golf. Indeed, Klayman did not hold back when it came to pointing his finger toward the PGA Tour as the ultimate enemy against his client Patrick Reed.

In a move that could be added under the headline, “but wait, there’s more,” Reed’s attorney authored a letter, sent to CNN, providing a new twist to the “Patrick Reed versus the (golf) world” saga. Klayman noted in his letter that he and Reed have taken offense to CNN reporters Jake Tapper and Bob Costas, who “aired a highly defamatory piece titled, ‘The Court Fight Between PGA Tour and LIV Golf Escalates as the Saudi-backed LIV Tries to Avoid Handing Over Information.’”\textsuperscript{85} Further, Klayman argued the following:

[t]his widely viewed broadcast in Florida, the nation and internationally, was not only defamatory but also designed to incite ridicule, hatred and violence against LIV Golf players, such as my client Patrick Reed, a world champion professional golfer, by publishing that he takes ‘blood

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{81} Id. ¶ (a).
\item \textsuperscript{82} Id. ¶ 7–14.
\item \textsuperscript{83} See generally id.
\item \textsuperscript{84} Id. ¶ 32.
\item \textsuperscript{85} Evan Bleier, LIV Golfer Patrick Reed Threatens CNN and Bob Costas with $450M Lawsuit, INSIDE HOOK (Jan. 19, 2023, 1:42 PM), https://www.insidehook.com/daily_brief/sports/liv-golfer-patrick-reed-cnn-costas-lawsuit [https://perma.cc/W6CV-SBSC].
\end{itemize}
\end{footnotesize}
money’ from the Saudi Public Investment Fund, in the wake of the 9/11 tragedy twenty-two (22) years ago.\textsuperscript{86}

The letter included the threat of a $450 million suit against CNN if “an on-air public apology is not immediately made to Mr. Reed” and the network fails to discipline Tapper and Costas.\textsuperscript{87}

In yet another letter, this time sent to Bloomberg and its CEO, Klayman asked for a similar story, authored by reporter Erik Larson, connecting LIV Golf with the 9/11 terrorist attacks to be removed from the site.\textsuperscript{88} Importantly, “[n]either the CNN segment nor the Bloomberg story referenced Reed, a nine-time PGA Tour winner and the 2018 Masters champion, or mentioned him by name. Nonetheless, Klayman gave both Bloomberg and CNN five days to comply with the guidelines set out in the letter or risk the consequences.”\textsuperscript{89} These threats, on top of the hundreds of millions of dollars of damages requested in Reed’s defamation suit against defendants, who may not have been properly identified,\textsuperscript{90} suggests that Klayman will go to seemingly any length to silence those critical of Reed, or those critical of LIV Golf in general.

II. LEGAL ANALYSIS

A. A Brief Overview of Defamation Law

As the Restatement (Second) of Torts explains, “[a] communication is defamatory if it tends so to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him.”\textsuperscript{91} Defamation law encompasses the state torts of written defamation (libel) and spoken defamation (slander).\textsuperscript{92} In these cases, the constitutional rights of free speech and press of the defendant accused of defaming the plaintiff must be considered. But there are limits to these constitutional rights, and courts must conduct a balancing act in each defamation case. As the Court in \textit{Time, Inc. v. Hill} pointed out, courts should consider “the factors which arise in the particular context.”\textsuperscript{93} On one hand, defamation law seeks to protect individuals from words that could cause serious reputational harm. On

\textsuperscript{86} Id.
\textsuperscript{87} Id.
\textsuperscript{88} Id.
\textsuperscript{89} Id.
\textsuperscript{91} RESTATMENT (SECOND) OF TORTS § 559 (1977).
\textsuperscript{92} See RESTATMENT (FIRST) OF TORTS § 568 (1938).
\textsuperscript{93} 385 U.S. 374, 390 (1967).
the other hand, the First Amendment is a bedrock principle protected by courts to give individuals freedom to speak their minds.

As the Court determined in *New York Times v. Sullivan*, “[t]he constitutional guarantees require, we think, a federal rule that prohibits a public official from recovering damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with ‘actual malice’—that is, with knowledge that it was false or with reckless disregard of whether it was false or not.” In *Curtis Pub. Co. v. Butts*, the Court extended the rule of *New York Times* to cases where the plaintiff in a defamation suit is a “public figure” rather than a public official. The Court in *Butts* recognized that “dissemination of the individual’s opinions on matters of public interest is for us, in the historic words of the Declaration of Independence, an ‘unalienable right’ that ‘governments are instituted among men to secure.’”

Public figures are those individuals who are “intimately involved in the resolution of important public questions or, by reason of their fame, shape events in areas of concern to society at large.” Those individuals, who we might today label influencers, play such an important role in shaping society that the press and public need ample room to criticize them. Unlike a private individual (who need only prove negligence in a defamatory falsehood, rather than actual malice), “public officials and public figures have voluntarily exposed themselves to increased risk of injury from defamatory falsehood concerning them.” The Court in *Butts*, in its consideration of a public figure’s defamation suit, instructs a focus on conduct, not just the truth or falsity of a statement, to guide these legal analyses.

Ultimately, a public figure “may also recover damages for a defamatory falsehood whose substance makes substantial danger to reputation apparent, on a showing of highly unreasonable conduct constituting an extreme departure from the standards of investigation and

94. 376 U.S. 254, 279–80 (1964). This Note will focus primarily on the reckless disregard prong of actual malice.
95. 388 U.S. 130, 155 (1967).
96. Id.
97. Id. at 149.
99. Id. at 344–45; see also Eugene Volokh, *Dean Lyrissa Lidsky on the Nicholas Sandmann Litigation*, THE VOLOKH CONSPIRACY (Aug. 25, 2020, 1:55 PM), https://reason.com/volokh/2020/08/25/dean-lyrissa-lidsky-on-the-nicholas-sandmann-litigation/ [https://perma.cc/R99A-22RV] (“The distinction between public figures and private figures is crucial in defamation law, because private figures can recover for defamation by proving the defendant published a defamatory falsehood about them negligently, but public figures must prove actual malice, that is, that the defendant published the defamatory falsehood knowing or with reckless disregard of the truth.”).
100. See 388 U.S. at 152–53.
reporting ordinarily adhered to by responsible publishers." The test for determining liability for defamatory statements against public figures is a showing of actual malice, which is "subject to a clear and convincing standard." Public-figure plaintiffs must also prove the falsity of the defamatory statement.

In addition to considering whether a plaintiff is a public figure, the Court in *Gertz* split public figures into two possible categories: general public figures and limited purpose public figures. General public figures "occupy positions of such persuasive power and influence that they are deemed public figures for all purposes." A limited purpose public figure, rather than having broad fame based on their position or occupation, becomes known because of a particular dispute or issue. As the Court in *Gertz* notes, a limited purpose public figure is one who "voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues."

*Foretich*, which states the following, provides a helpful five-factor test to determine whether a plaintiff is a limited purpose public figure:

1. The plaintiff had access to channels of effective communication;
2. The plaintiff voluntarily assumed a role of special prominence in the public controversy;
3. The plaintiff sought to influence the resolution or outcome of the controversy;
4. The controversy existed prior to the publication of the defamatory statement; and
5. The plaintiff retained public-figure status at the time of the alleged defamation.

If a plaintiff meets either the general purpose public figure or limited purpose public figure threshold, he or she will need to prove actual malice—that is, knowledge of the falsity of the statement or reckless disregard for its falsity.

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101. *Id.* at 155.
103. *See N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 279 (1964) (discussing the “self-censorship” that would occur if a defense of truth was implemented in defamation law and stating that, in such a case “with the burden of proving [truth] on the defendant… [not] only false speech will be deterred”).
105. The Court also considered a third category of public figure, one who becomes a public figure through no purposeful action of his own, but the Court indicates that this category is exceedingly rare. *Id.* at 345.
106. *Id.* 351.
107. *Id.*
108. *Id.*
To establish actual malice, a plaintiff must provide “sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication.” For example, if a story “is fabricated by the defendant, is the product of his imagination, or is based wholly on an unverified anonymous telephone call,” the plaintiff would likely prevail in establishing actual malice. Additionally, if a statement is “so inherently improbable that only a reckless man would have put them in circulation,” or if there are “obvious reasons to doubt the veracity of the informant or the accuracy of his reports,” actual malice will likely be established. But “[f]ailure to investigate does not in itself establish bad faith.”

Courts must also consider the distinction between statements of opinion and statements of fact. As the Court in Gertz noted, “[u]nder the First Amendment there is no such thing as a false idea. However pernicious an opinion may seem, we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.” The court in Milkovich explained that this passage in Gertz does not allow for a wholesale protection of defamatory statements disguised as opinions; some opinions imply that the speaker is resting his or her ideas on objective facts. The Court provides a helpful illustration:

"[i]f a speaker says, “[i]n my opinion Jones is a liar,” he implies a knowledge of facts which lead to the conclusion that Jones told an untruth." Even if the speaker states the facts upon which he bases his opinion, if those facts are either incorrect or incomplete, or if his assessment of them is erroneous, the statement may still imply a false assertion of fact. Simply couching such statements in terms of opinion does not dispel these implications; and the statement, “[i]n my opinion Jones is a liar,” can cause as much damage to reputation as the statement, “Jones is a liar.”

After examining the line of cases balancing factual statements and public debate, the Milkovich Court explained that “where a statement of ‘opinion’ on a matter of public concern reasonably implies false and defamatory facts regarding public figures or officials, those individuals must show that such statements were made with knowledge of their false

112. Id. at 732.
113. Id.
114. Id. at 733 (citing N.Y. Times Co., 376 U.S. at 287).
117. Id.
118. Id. at 18–19.
implications or with reckless disregard of their truth." Actual malice is the critical piece in this defamation puzzle, and Reed will need to show, by clear and convincing evidence, that the defendants published these statements despite knowing they were false, or with a reckless disregard for their truth or falsity.

B. Applying Defamation Law to Reed’s Lawsuits

Under Milkovich, a professional golfer with Reed’s resume and accolades should be considered a public figure for purposes of defamation law. Reed’s status as a professional golfer may place him in the general purpose public figure category, given his pervasive fame and notoriety. At a minimum, he is a limited purpose public figure with respect to the LIV Golf controversy. Applying the five factors from Foretich, each requirement appears to be satisfied. Reed’s status as a professional golfer affords him access to the media that is not enjoyed by non-public figures; additionally, his pursuit of numerous lawsuits against those who attempt to speak against him and LIV Golf points to Reed assuming his role in the controversy, as well as an attempt to resolve the controversy (at least by striving to gain public support for LIV Golf). Finally, the LIV versus PGA Tour controversy existed before Chamblee or anyone else made their statements regarding Reed, and since these statements, Reed has retained his status as a public figure.

The proposition in Gertz that “those classed as public figures have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved” seems particularly important in Reed’s case. The history of Reed’s run-ins with ruling officials, fans, and ultimately golf media must be considered because it is clear that Reed has “invite[d] attention and comment” regarding each of the instances when his character has been called into question by the press and public generally.

The actual malice requirement from New York Times “requires that plaintiff impute to defendant a ‘doubting state of mind’ . . . or that

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119. Id. at 20.
120. See David A. Anderson, Is Libel Law Worth Reforming? U. Pa. L. Rev. 448, 500 (1991) (“The Court [in Rosenblatt v. Baer, 383 U.S. 75, 85 (1966)] extended the requirements of New York Times v. Sullivan . . . to plaintiffs who hold no official position, but ‘are nevertheless intimately involved in the resolution of important public questions or, by reason of their fame, shape events in areas of concern to society at large.’ The lower courts have tended to view both the public official and public figure categories expansively. . . . The public figure category includes not only those who seek to influence public affairs, but also those who attract media attention by success in their careers or avocations or by their relationships with celebrities.’”).
123. Id.
defendant ‘knew or had reason to suspect’ falsity.”124 Failing to conduct research about a subject or individual is not enough to meet this standard, but instead, “[t]here must be sufficient evidence to permit the conclusion that the defendant in fact entertained serious doubts as to the truth of his publication. Publishing with such doubts shows reckless disregard for truth or falsity and demonstrates actual malice.”125 The absence of any suggestion in Reed’s complaint that Chamblee or Golf Channel entertained any doubts concerning their statements, and a lack of proving knowledge, falsity, or reckless disregard for the falsity of their statements, suggests that Reed will be unable to overcome the actual malice requirement from New York Times.

Reed also has not shown that the statements against him were false. Chamblee and Golf Channel, as part of the American fabric of sports broadcasting, do not have unlimited freedom to proclaim false factual statements. But many of the statements at issue in this case are opinions protected by the First Amendment.126 Although Reed’s Complaint is rife with accusations of the defendants, this “shotgun pleading[,]” as Judge Corrigan would say, fails to allege anything beyond legal conclusions.127 Chamblee’s comments relating to the public controversy surrounding LIV Golf and Patrick Reed should not be chilled, and public debate regarding these issues should remain “uninhibited, robust, and wide-open.”128 Reed has failed to allege knowledge of falsity or reckless disregard of the truth by the defendants, making his lawsuits frivolous.

C. The Creative (But Weaponizing) Strategy of Reed’s Pleading

This Note argues that Reed’s defamation suit, though potentially a creative pleading strategy, is unpersuasive and a means of exploiting the law for his own gain.

Ultimately, Reed’s suit does not show that the allegedly defamatory statements were made with actual malice. In their article analyzing the attempts of powerful individuals to “weaponize the law,” Schafer and Kossef point out that, “[t]oday, the wealthy, famous, and otherwise powerful regularly resort to libel threats and libel lawsuits not to redress a cognizable injury to their reputation but instead to silence and punish


126. See Milkovich v. Lorain J. Co., 497 U.S. 1, 20 (1990) (“Hepps ensures that a statement of opinion relating to matters of public concern which does not contain a provably false factual connotation will receive full constitutional protection.”).

127. See Order at 1–2, supra note 90.

their critics and make to-be critics think twice before speaking.” This “weaponization” of defamation law is exactly what Reed and his attorney are attempting to achieve through Reed’s various lawsuits and threatening letters.

This suit speaks to the broader issue surrounding the LIV Golf versus PGA Tour saga that unfolded before golf fans across the globe over the past year. Reed’s attempt to throw his own suit into the ring during the height of litigation between LIV and the Tour points to, some may say, a creative pleading strategy—by timing his suit alongside all that the Tour was facing in the media and the courtroom, Reed and his litigation-happy attorney may have hoped for a settlement. Even if they received a fraction of their $750 million in claimed damages, Reed could see settlement as a win against his foes at Golf Channel and the Tour.

But Reed’s strategy has already been exposed as a poor one. Judge Timothy Corrigan of the United States District Court for the Middle District of Florida dismissed Reed’s original complaint, finding that it failed “to give Defendants adequate notice of the claims against them and the grounds upon which each claim rests . . . because Reed alleges 120 factual allegations, then proceeds to incorporate all 120 allegations into each and every count.” Reed has been given a chance to amend his complaint to comply with the judge’s orders.

Whether Reed’s original complaint against Chamblee is properly amended and whether litigation continues, one thing is clear: Reed’s attorney will continue searching for ways to denounce and silence Reed’s critics. The new litigation against Shane Ryan, the Associated Press, Fox Sports, and others, along with the letters threatening suit against CNN and Bloomberg, signal to anyone watching this saga unfold that Reed and his attorney do not plan on allowing LIV detractors to speak without a fight. With the uncertainty surrounding the merger, a disruption in professional golf over the next few years is inevitable. Whether or not that disruption includes the chilling of speech against other LIV detractors, thanks to a ruling in favor of Reed, remains to be seen.

D. Embracing the “Villain” Character

Ultimately, Reed’s numerous suits point to an interesting, albeit potentially career-damaging, strategy. Reed and his litigious attorney chose to embrace a character that would be less than appealing to most

130. Order at 1–2, supra note 90 (where Judge Corrigan, in the first page of the order, candidly points out that Reed’s complaint “is a shotgun pleading,” noting the issues surrounding notice and pointing out failure to comply with Federal Rule of Civil Procedure 8(a) (requiring “a short and plain statement of the claim showing that the pleader is entitled to relief”) and a possible failure to identify the correct defendants).
professional athletes. Prior to the LIV Golf controversy and following a questionable drop at the 2021 Farmers Insurance Open, Sports Illustrated published an article titled “Patrick Reed, golf’s No. 1 villain, strikes again on PGA Tour.” Its sub-title and opening lines are indicative of the general consensus regarding Reed: “Reed runs away with 5-stroke victory at Torrey Pines but proves to be game’s biggest loser in more meaningful category: Integrity . . . . It’s official. Patrick Reed is the most hated man in golf.” This article is nothing short of scathing in its overview regarding Reed’s character and his perception, especially among the golf community. But for all Reed’s shortcomings, has he truly earned such a severe title as “the most hated man in golf?”

As noted above, Reed has run into more than a few issues during his career on (and off) the Tour. Most of the reputational harms Reed has suffered have been arguably self-induced.

There’s a difference between being a self-centered jerk and a cheater. Reed is creating the appearance that he’s both. There is plenty of evidence of the former and so much circumstantial evidence of the latter that it’s difficult to disbelieve. In the court of public opinion, Reed has already lost.

In a sport where integrity is king (an opinion some may say is no longer correct), Reed may have been destined to lose from the beginning. After the scandalous departure from his first university, numerous rulings issues, and now several lawsuits, it is easy to see why Reed has been crowned golf’s number one villain. And, maybe, that is to his credit.

Certain professional athletes have long endured being placed into the category in which Reed now finds himself. NBC Sports’ list of “The biggest villains in recent sports history” includes Tom Brady and should include “basically anyone who has played basketball for Duke.”

Reed won’t find himself on this list, but in an article titled “Introducing The Professional Golfer Villain Rankings[,]” Reed comes in third behind Bubba Watson and Bryson DeChambeau, two other players golf fans love to hate (and who left the Tour for LIV Golf). And, as the “No. 1


132. Id.

133. Id.


Villain” article from Sports Illustrated notes, “[w]inning makes up for character flaws in sports . . . . Reed’s mantra is that he’s not here to be liked; he’s here to win championships. So far, he’s succeeding on both fronts.” Whether or not Reed planned on becoming one of professional golf’s most infamous villains, the role is his. So, is Reed’s embracing the character of a sports villain actually a great move for his career? The answer is no. Not only should he lose his defamation case against Chamblee and the Tour, but Reed’s current status as golf’s antihero is doing more harm to his career than good. Although some may think that all press is good press, it certainly is not good press to be known as one of golf’s most notorious rule violators, and adding on a number of high-profile, high-dollar lawsuits only serves to make matters worse for Reed. As Gary van Sickle aptly points out, “Reed has set himself up as an international rules-fudger. He has no one else to blame. Once you get that tag, you can never lose it. Worse, a charge like that can taint a player’s legitimate successes.”

Golf’s history as a game of integrity, honor, and virtue does not play in Reed’s favor. For instance, the “Standards of Player Conduct” in the governing rules of golf state that “[a]ll players are expected to play in the spirit of the game by: [a]cting with integrity . . . [and] [s]howing consideration to others.” The First Tee, which operates to provide children with opportunities to play golf and learn about the game, says it best: “[g]olf is a game of etiquette and composure. Players are responsible for their actions and personal conduct on the golf course even at times when others may not be looking.” But should a player like Reed (or other well-known “villains” like Bryson DeChambeau or Bubba Watson) be asked to put winning in the backseat in order to put integrity and ethics in the driver’s seat? In other words, should the “hotheads” of golf really be villainized for wanting to be the best in the world?

The recent history of golf counsels us on these issues. Tiger Woods has not been asked to give up his place as the best player in the world so that he can appear more honorable to fans. Tiger is an emotional player—just watch his final putt at the 2019 Masters. But nobody has asked Tiger to give up his status as one of the greatest golfers in history, and he has held this title even through a slew of public controversies which put

136. Gary van Sickle, supra note 131.
137. Id.
139. Living with Integrity, FIRST TEE, https://firsttee.org/impact/nine-core-values/living-with-integrity/ [https://perma.cc/LWX4-UDY7].
him in a very unfavorable light.\textsuperscript{141} Tiger’s continued top-tier performance has been much different than the approach taken by Reed.\textsuperscript{142}

And ultimately, the LIV Golf versus PGA Tour controversy is an interesting mirror to a Reed-Woods comparison. It speaks to the overarching conflict that has been felt by golfers and fans alike, beginning with the initial rift in professional golf when LIV entered the scene. At surface level, Tiger stayed loyal to the Tour despite a massive offer from LIV to jump ship (in fact, Greg Norman first reported that Woods’ offer was between $700 million and $800 million, although he later clarified that “[the offer was a summation of potential value based on part ownership of a LIV franchisee”]).\textsuperscript{143} Regardless, the offer was likely astronomical. And now, Tiger is joining the Tour’s board of directors to quell player concerns about their representation during the merger.\textsuperscript{144}

The ethical and moral implications of the pending merger reach far beyond the scope of this Note. However, it is important to consider the interests directing actors such as Reed in the midst of this controversy. Perhaps Reed sees this split in the golf world as an opportunity to boost his fame or status, and he could be embracing the role of a sports villain in an effort to increase his notoriety with the media. But, ultimately, athletes are driven by wins and losses. No professional golfer could survive the ultra-competitive nature of the game by wanting to be famous based on clout or media coverage alone; those are secondary to performance, and becoming a well-known player comes with competing at the highest level. Ultimately, the numerous lawsuits amounting to a “weaponization” of defamation law illustrate Reed’s determination that a rift in the golf world may be his ticket to more fame, power, money, and likely much less popularity.


CONCLUSION

Patrick Reed is undeniably one of the best golfers in the world regardless of whether his recent and past conduct is advisable. His world ranking at 68 overall is no small feat, and he should not be labeled as only a power-hungry, overly-litigious individual. At the same time, though, golf’s integrity is at stake. Members of the media, like Brandel Chamblee, should not be silenced in their criticisms of professional athletes who have chosen to enter the arena of the public eye. Every American citizen has the freedom to form an opinion and express that opinion through the freedoms of speech and press. Recognizing the importance of balancing this freedom—especially in the midst of “cancel culture”—and the protections individuals have from being defamed is an incredibly fine line to walk. However, it must be done.

In this case specifically, Patrick Reed’s defamation suits should fail. But we, as fans, must individually determine whether we think his conduct is suitable for the world of professional golf. Acknowledging that Patrick Reed may deserve the freedom to act in a way we may otherwise think is inappropriate for a professional athlete can be a hard pill to swallow; but, the American public is not responsible for contributing rules, determinations, or handing down decisions in defamation lawsuits. We, as golf fans, are responsible for shaping a fan-base that is respectful of the game’s integrity while also recognizing the ongoing shortcomings in our game, both on and off the course.

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