

JUN 09, 2026 09:37 AM

IN THE SUPERIOR COURT OF PICKENS COUNTY  
STATE OF GEORGIA

CRAIG JOHNSTON, JR., )  
 )  
 Plaintiff, )  
 )  
 v. ) **CAFN**  
 )  
 BIG CANOE PROPERTY OWNERS )  
 ASSOCIATION, INC., )  
 )  
 Defendant. )

  
Jennifer E. Jordan, Clerk  
Pickens County, Georgia

**COMPLAINT FOR DAMAGES AND DEMAND FOR TRIAL BY JURY**

COMES NOW, CRAIG JOHNSTON, JR., (hereinafter “Plaintiff” and/or “Mr. Johnston”) files this Complaint as follows:

1.

Plaintiff is a now Florida citizen residing in Walton County and submits to the jurisdiction of this Court.

2.

Defendant BIG CANOE PROPERTY OWNERS ASSOCIATION, INC. (“Big Canoe”) is a Domestic Nonprofit Corporation registered with the State of Georgia and may be served with process via its Registered Agent, Scott Auer, at 12 Wolfscratch Drive, 10586 Big Canoe, Jasper, Pickens County, Georgia 30143.

3.

Defendant is subject to the jurisdiction of this Court pursuant to O.C.G.A. § 9-10-91, and venue is proper in Pickens County pursuant to O.C.G.A. § 33-7-11, as the cause of action where the tortious injuries occurred, which is within this Court’s jurisdiction.

## STATEMENT OF FACTS

4.

On August 17, 2024, Plaintiff was a patron at Defendant's golf course. Plaintiff was operating one of Defendant's golf carts when a thunderstorm began. While Plaintiff was attempting to return to the clubhouse to seek shelter from the storm, the golf cart rolled over just behind Hole #1. Plaintiff was ejected from the golf cart and thrown against a wooden guardrail.

5.

The cart path behind Hole #1 is notoriously steep and treacherous, particularly when wet from rain.

6.

Defendant had explicit prior notice of repeated rollover incidents at the same cart path location behind Hole #1, as confirmed by firefighter, developer, and cart-barn staff. Despite knowledge of the dangerous conditions and prior incidents, Defendant failed to implement any safety measures, including guardrails, warning signs, speed bumps, non-slip surfacing, or path closure protocols during rain.

7.

Along with the Defendant's golf course path being unsafe, Defendant's new fleet of golf carts was acknowledged by the developer as extremely sensitive and unsafe, exacerbating the danger.

8.

Defendant failed to warn Plaintiff or other golf patrons of the dangerous conditions or the risk of rollover.

9.

Even after the numerous incidents that have been reported to Defendant, Defendant failed to establish adequate emergency response planning for known high-risk, remote areas of the property.

10.

Shortly after Plaintiff's rollover incident, the first 911 call was made at approximately 6:15 p.m. Fire and Rescue did not arrive until approximately 7:00 p.m., a delay of 45 minutes after the first 911 call. An additional 18 minutes was required for ambulance transport.

11.

Plaintiff suffered on the ground for nearly an hour in severe pain and worsening weather conditions.

12.

Due to Defendant's negligence, Plaintiff suffered injuries including a sprain of the femoral attachment of the medial collateral ligament, complete tear of the quadriceps tendon associated with the attachment on the patella, three centimeters of retraction across the tear with fluid and hematoma, tearing of the medial patellar retinaculum, knee joint effusion, trace Baker's cyst, Grade 1 chondromalacia of the patella, and Grade 3 chondromalacia of the medial femoral condyle. Plaintiff was diagnosed with acute left traumatic tendon rupture that required surgery on August 27, 2024. Recovery required full-leg immobilization for over 30 days with continuing physical therapy. To this day, Plaintiff continues to experience significant pain with weight-bearing, kneeling, or direct pressure.

13.

As a result of the Defendant's negligence, Plaintiff has incurred substantial medical expenses, lost wages, and continues to experience daily pain and suffering. Plaintiff will require additional future medical expenses, including ongoing physical therapy, pain management, orthopedic follow-up care, and potential future surgical interventions.

**CLAIMS FOR RELIEF**

**COUNT I - NEGLIGENCE**

14.

Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 13 as if fully set forth herein.

15.

Defendant, as owner and operator of the golf course, owed a duty of care to Plaintiff to keep its premises and approaches safe for its patrons. O.C.G.A. § 51-3-1.

16.

Plaintiff was an invitee on Defendant's property, as a paying golf patron.

17.

Defendant breached this duty and was negligent in failing to implement safety measures, including guardrails, warning signs, speed bumps, non-slip surfacing, or path closure protocols, despite explicit prior notice of repeated rollover incidents at the same cart path location behind Hole #1.

18.

In addition, Defendant was negligent by continuing to have a cart path behind Hole #1 that was notoriously steep and treacherous, particularly when wet from rain; by operating with a new fleet of golf carts that were acknowledged as extremely sensitive and unsafe; and by failing to establish adequate emergency response planning for known high-risk, remote areas of the property.

19.

Defendant's breach of duty directly and proximately caused Plaintiff's injuries and damages.

20.

As a direct and proximate result of Defendant's negligence, Plaintiff suffered bodily injuries, incurred medical expenses, lost wages, and continues to experience pain and suffering.

21.

Defendant's negligence includes, but is not limited to, failing to have the same ordinary care owed to its patrons by keeping its premises and approaches safe from harm; and any other acts of negligence that may be proven at trial. *Robinson v. Kroger Co.*, 268 Ga. 735, 493 S.E.2d 403 (1997).

22.

Each of the foregoing acts and omissions constitutes an independent act of negligence. Plaintiff sustained severe and traumatic bodily injuries as a result of this negligence and breach of duty of ordinary and reasonable care. Therefore, Defendant is directly liable for Plaintiff's debilitating and long-term injuries that he will have to live with for the rest of his life.

23.

Plaintiff is entitled to recover all elements of damages allowed under applicable law pursuant to O.C.G.A. § 51-1-6 and supported by the evidence, including but not limited to:

- a) Personal injuries;
- b) Medical expenses;
- c) Lost wages; and
- d) All elements of pain and suffering, both mental and physical.

24.

Plaintiff has suffered damages in an amount to be proven at trial as a result of the incident and Defendant's negligence.

## **COUNT II – PREMISES LIABILITY**

25.

Plaintiff repeats and realleges the allegations set forth in paragraphs 1 through 24 as if fully set forth herein.

26.

Defendant owned and occupied the golf course property located at 10586 Big Canoe in Pickens County, Georgia.

27.

By operating a golf course open to paying patrons, Defendant extended an implied invitation to Plaintiff to come upon its premises for the lawful purpose of playing golf, to which Plaintiff accepted on August 17, 2024.

28.

Defendant failed to exercise ordinary care in keeping its premises and approaches safe.

29.

Defendant failed to install guardrails, warning signs, speed bumps, or non-slip surfacing on the cart path behind Hole #1, despite knowing the path was notoriously steep and treacherous when wet.

30.

Defendant failed to establish a protocol for closing the path during rain or severe weather.

31.

Defendant operated golf carts that were acknowledged as extremely sensitive and unsafe.

32.

Defendant failed to remedy these dangerous conditions despite explicit prior notice of repeated rollover incidents at the same location.

33.

Defendant's failure to exercise ordinary care directly caused Plaintiff's injuries.

34.

Plaintiff was lawfully on Defendant's premises as an invitee, when Defendant's golf cart rolled over on Defendant's dangerous cart path behind Hole #1.

35.

Plaintiff suffered severe and traumatic damages as a direct result of Defendant's negligence. Therefore, Defendant is the sole proximate cause of the extent of Plaintiff's injuries; pain and suffering; lost wages; and a loss of enjoyment of life as a result of his injuries.

36.

Defendant is liable for failure to exercise ordinary care in keeping its premises and approaches safe to protect its invitee's safety from unreasonable risks of harm of which Defendant had prior knowledge of. *Garcia v. KRC Alderwood Trails, LLC*, 348 Ga. App. 84, 819 S.E.2d 713 (2018).

### **COUNT III – NEGLIGENT ENTRUSTMENT**

37.

Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 36 as if fully set forth herein.

38.

Plaintiff is entitled to compensatory and punitive damages from Defendant due to the negligent entrustment of a golf cart to Plaintiff that Defendant knew was dangerous or defective and extremely unsafe, especially behind Hole #1.

39.

Defendant entrusted the unsafe golf cart to Plaintiff without adequate warnings about the dangerous characteristics of the golf cart.

40.

Defendant failed to exercise reasonable care in entrusting the golf cart to Plaintiff; failed to provide instructions regarding safe operation of the golf cart on steep or wet terrain; and failed to

implement safety measures to prevent use of the golf carts on dangerous cart paths during inclement weather.

41.

Plaintiff's injuries were proximately caused by Defendant's negligent entrustment.

#### **COUNT IV - PUNITIVE DAMAGES**

42.

Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 41 as if fully set forth herein.

43.

The conduct of Defendant as set forth above exceeds mere negligence and breach of duty to exercise ordinary care and amounts to a conscious indifference to consequences and is therefore sufficiently aggravated to demand, authorize, and require an award of punitive damages pursuant to O.C.G.A. § 51-12-5.1 in order to penalize, punish, and deter the Defendant.

44.

Plaintiff is entitled to recover punitive damages from the Defendant pursuant to O.C.G.A. § 51-12-5.1 as Defendant's negligence and actions "show willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would raise the presumption of conscious indifference to consequence."

#### **COUNT V – BAD FAITH INSURANCE PRACTICES**

45.

Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 44 as if fully set forth herein.

46.

Defendant has a commercial liability policy with Selective Insurance (“Selective”) under policy number 2582070, Claim No. 22663014.

47.

Selective owed a duty of good faith and fair dealing to Plaintiff in handling Plaintiff’s insurance claim.

48.

Selective breached this duty by unreasonably delaying payment of Plaintiff’s valid claim.

49.

Selective’s breach of duty was willful and in bad faith.

50.

As a result of Selective’s bad faith, Plaintiff has suffered additional damages, including financial hardship and emotional distress.

51.

Selective is liable to compensate Plaintiff for the damages suffered and all attorney’s fees for the prosecution of this action pursuant to O.C.G.A. § 33-4-6.

**COUNT VI – ATTORNEY’S FEES AND EXPENSES**

52.

Plaintiff repeats and realleges the allegations set forth in Paragraphs 1 through 51 as if fully set forth herein.

53.

Defendant has acted in bad faith, have been stubbornly litigious, and has caused Plaintiff unnecessary trouble and expense, such that Plaintiff seeks to recover from the Defendant all costs of

litigation, including attorney's fees and expenses, pursuant to O.C.G.A. §13-6-11, and all other applicable Georgia law.

54.

Defendant is liable for Plaintiff's attorney's fees and litigation expenses under O.C.G.A. §13-6-11, and all other applicable Georgia law.

**WHEREFORE**, Plaintiff prays that:

- a) Process issue as provided by law;
- b) Plaintiff have a trial by jury;
- c) Plaintiff be awarded actual damages in amounts to be shown at trial from Defendants;
- d) Plaintiff be awarded all general, special, compensatory, punitive, and other allowable damages in accordance with the enlightened conscience of an impartial jury from the Defendant and as permitted under Georgia law;
- e) Plaintiff be awarded bad faith penalties pursuant to O.C.G.A. § 33-4-6;
- f) Plaintiff be awarded attorney's fees and costs of litigation to the extent Defendant has been stubbornly litigious or acted in bad faith, O.C.G.A. § 13-6-11; and
- g) Plaintiff have any such other relief as this Court deems just and proper.

PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY

Respectfully submitted this 9th day of June, 2026.



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