

IN THE SUPREME COURT OF FLORIDA  
Tallahassee, Florida

CASE NO. 64,223

MILDRED K. MEISTER and  
ABRAHAM MEISTER, her  
husband,

Petitioners,

vs.

PAUL FISHER, EMERALD HILLS  
COUNTRY CLUB, INC., CONTINEN-  
TAL INSURANCE COMPANY and  
ALLSTATE INSURANCE COMPANY,

Respondents.

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BRIEF OF ACADEMY OF FLORIDA TRIAL LAWYERS  
AS AMICUS CURIAE, IN SUPPORT OF POSITION  
OF PETITIONERS

THE ACADEMY OF FLORIDA TRIAL LAWYERS

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**FILED**

OCT 5 1983

SIR J. WHITE  
CLERK SUPREME COURT

Chief Deputy Clerk

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ISSUE

SHOULD GOLF CARTS BE INCLUDED WITHIN THE  
DANGEROUS INSTRUMENTALITY DOCTRINE?

Unquestionably a golf cart is a motor vehicle within practically any definition of same, including Section 316.003(21), Florida Statutes (1981). It further appears from the case cited by the Fourth District, that as issues have been raised in Florida regarding whether various motor vehicles are dangerous instrumentalities, the courts have answered the question in the positive. It further appears that the liability of the owner of a motor vehicle for operation has not been restricted to the public highways.

Certainly this Court can take judicial notice of the numerous golf courses all over Florida, particularly in the South Florida area which has been so heavily developed in recent years. This Court can also judicially notice that the vast majority of people utilizing the golf courses are retirees. The older the golfer the more likely the use of a cart. Hot weather also leads to the use of more golf carts and in fact many golf courses require the use of carts as a means of speeding up play and thus increasing its profits both from the rental of carts and the additional golfers.

It is difficult to think of any policy reason why a

golf cart should not be considered a dangerous instrumentality. Certainly if the cart were equipped for operation on the public highway and was operated on the public highway there would be no question about the liability of the owner for the negligence of the driver. Since there is no real distinction between the operation of a golf cart on the highway or off the highway there appears no reason to distinguish golf carts from motor vehicles.

The holding that a golf cart is a dangerous instrumentality will undoubtedly help promote safety on golf courses. It will lead to a greater safety consciousness in regard to the design of cart paths and the carts themselves. It will also encourage better maintenance, because if the owner of the golf carts knows it will be liable for accidents it will take steps to avoid the accidents.

Our research has revealed nothing which we could add to the arguments set forth in the briefs of the parties or the authorities cited by the Fourth District, which would not be redundant. We respectfully submit that the certified question should be answered, yes.

THE ACADEMY OF FLORIDA TRIAL LAWYERS

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LARRY KLEIN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished, by mail, this 3rd day of October, 1983, to:

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