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Tee'd Off Women Golfers!

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■ INTRODUCTION

Over the past three decades American society has fought hard to eliminate religious and racial discrimination with remarkable success. Yet, society has not been overly concerned about equal treatment of women, particularly women engaging in the professional environment. Society needs to be more sensitive to the needs of professional women engaged in business, education, law, and medicine. During the remainder of this decade and the beginning of the next century, society must fight to eliminate sex discrimination as vigorously as it has to eliminate other forms of discrimination.

Men, over the years, have developed the "good ol'boy" network. They have organized private clubs that were devoid of African-Americans, Jews, and women. At first these clubs were formed for political reasons, but as time passed, deliberate discrimination became the primary purpose for the existence of the private clubs. It is true Americans have the Constitutional right of freedom of association. This right opens the door to the right to discriminate if a group of individuals wants to form a genuinely selective and exclusive, truly private club. Yet, at the same time, Americans have the right to equal protection under the law and not to be discriminated against. These two rights appear to be in conflict; but, maybe not if the purposes for forming a genuinely selective and exclusive, truly private club is based on freedom of association. However, if for example, a golf club is formed by white males for the purpose of improving the business networking environment and excludes African-Americans, Jews, and women, the courts might not see this as an appropriate reason for discrimination. However, if the club is formed for purely social reasons, the court most likely would not tread on the memberships right to discriminate.

The purpose of this paper is to: (1) describe the nature of "truly private" clubs, (2) define the meaning of public accommodation and outline the impact on private clubs, (3) discuss the issues that surround the freedom of association and the right to discriminate, and (4) provide the reader with some strategies to open the doors to so-called private clubs.

Professional women who choose to join golf and other clubs to expand their business network are learning that swinging a club can be easier than joining one. Women golfers suffer from discrimination, similar to the Jews and African-Americans, when it comes to joining private golf clubs. Not long ago Dan Quayle canceled a second round at Monterey's all-white Cypress Point because he felt it might look bad to play there, but he had no problem playing at all-male Burning Tree, where he holds an honorary membership (Maclean,1991).

Many private golf clubs all over America discriminate against women in subtle ways. Other clubs bar women altogether and go to extremes to protect their policy to do so. However, outright exclusion of women from courses is rare among the nation's 5,276 private clubs (PGA, 1991). Nevertheless this is a form of deliberate sex discrimination and it should be pursued as vigorously as racial discrimination.

GOLF LITIGATION

The game of golf has generated an enormous amount of litigation (Sawyer, 1990). Golf litigation arises from one of four basic sets of circumstances.

- The first involves the golfer who hits the ball in the intended direction. He/she is held to two duties:
  - he/she must make sure no one is within the area toward which the ball is aimed; and
  - he/she must give an audible warning prior to hitting the ball.
- The second situation occurs when the defendant's shot 'hook's' or 'slices' in a completely unanticipated direction and strikes someone or something on the course. When this happens, and the defendant provides an audible warning as soon as the shot begins to deviate from the intended direction, the defendant is not liable, and the injured plaintiff is held to have assumed the risk. However, if the defendant fails to provide the audible warning the results of the suit could change dramatically in favor of the plaintiff (See *Houston v. Escott*, 1949; *Westborough Country Club v. Palmer*, 1953; *Augusta v. Golf Association, Inc.*; 1971; *Carrigan v. Roussell*, 1981; and *Knittle v. Miller*, 1985).
- A third circumstance is when a golf ball injures a person or damages property adjacent to the golf course. The defendant owner of the golf course has generally been held to be liable (See *Booth v. City of Minneapolis*, 1925; *Farfour v. Minosa Golf Club, Inc.*, 1954; *Townsley v. State of New York*, 1954; and *Baker v. Mid Maine Medical Center, et.al.*, 1985).
- Finally, the private club exemption contained in Title II to the Civil Rights Act of 1964 (42 U.S.C.A. 2000 a(e)), operating as a limitation on the Civil Rights Act of 1966 recently has begun to generate litigation and legislation in some states such as Minnesota and Michigan. (*Warfield v. Peninsula Golf and Country Club* (1989), and *Bardshaw v. Yorba Linda Country Club and American Golf Corporation* (1989)).

TEE-TIME CONTROVERSY: THE PRIVATE CLUB

The Bradshaw Case *(Bradshaw v. Yorba Linda Country Club and American Gold Corporation):*

Jan Bradshaw, an avid golfer with a 14 handicap, enjoyed regular rounds at Yorba Linda Country Club in Orange County, California, when she could. However, Yorba Linda rules prevented her from teeing off during the prime-time morning hours because the club barred women before 11 a.m. Saturday and noon on Sunday. Ms. Bradshaw, who owned and operated an interior design business, paid $14,000 plus $200-a-month dues for a full golfing membership in January, 1988. She was totally unaware that women had no voting rights. Subsequent votes by the male members and all-male board gave men three times more exclusive access to the course than women.

Bradshaw filed suit in 1989, charging Yorba Linda Country Club and American Golf Corporation (parent company) with sex discrimination. The American Golf Corporation is a Santa Monica company that owns and manages approximately 100 clubs across the country. Bradshaw charged that she was denied the same playing privileges and voting rights as her male counterparts, and that the defendants violated California Unruh Civil Rights Act (Cal.Civ.Code 51) by discriminating against women. She sought unspecified damages and a court order to halt the allegedly biased practice. In 1989 the case was settled out of court when Yorba Linda agreed to equalize tee times and allow women full voting privileges. These changes were also instituted at other golf clubs owned or managed by the American Golf Corporation. Ms. Bradshaw switched golf clubs before the suit was settled.

Bradshaw's experience is not uncommon. Private golf clubs all over America discriminate against women in subtle ways, such as:

- unequal tee times,
- restricted access to club rooms,
- restricted voting rights,
- bar women altogether, and
- terminating memberships of deceased or divorced male members.

■ WHAT IS A "TRULY PRIVATE" CLUB?

According to Black's Law Dictionary (1990) private is defined as, "affecting or belonging to private individuals as distinct from the public in general (*People v. Powell*, 1937)." Club is defined as, "a voluntary, incorporated or unincorporated association of persons for common purposes of a social, literary, investment, political nature, or the like. Association of persons for promotion of some common object, such as literature, science, politics, good fellowship, etc., especially one jointly supported and meeting periodically, and membership is usually conferred by ballot and carries privilege of exclusive use of club quarters, and word also applies to a building, apartment or room occupied by a club". Therefore a **private club** might very well be a group of private individuals, regardless of race, religion or gender, joined together exclusively to participate in the activity of golf. A **private golf club** would have periodic meetings, membership conferred by ballot, exclusive use of the club quarters, and could exclude (discriminate) individuals (i.e., race, religion, and gender) who do not share the views and values that the club's members wish to promote.

In *Wright v. Salisbury Club, LTD* (1979, 1980), *U.S. v. Eagles* (1979), *Perkins v. New Orleans Athletic Club* (1976), *Cornelius v. Benevolent Protective Order of Elks* (1974), *Solomon v. Miami Woman's Club* (1973), *Moose Lodge No. 107 v. Irvis* (1972), *Sims v. Order of United Commercial Travelers of America* (1972), *Tillman v. Wheaton-Haven Recreation Association, Inc.* (1971, 1973), *Daniel v. Paul* (1969), *Sullivan v. Little Park Hunting Club* (1969) and *Nesmith v. Young Men's Christian Association of Raleigh N.C. Inc.* (1968) the courts have begun to define the characteristics of a "truly private" club. The term "truly private" was established by the Supreme Court in *Tillman v. Wheaton-Haven Recreation Association* (1973) to distinguish between "private" in the sense of non-government and "private" in the association sense. The courts have adopted criteria to be considered for determining whether or not an organization is a "truly private" club within public accommodations provision, including, but not limited to:

- genuine selectiveness of group in admission of its members,
- existence of formal membership procedures,
- degree of membership control over internal governance, particularly with regard to new members,
- history of organization,
- use of club facilities by nonmembers,
- substantiality of dues,
- whether organization advertises,
- whether club is profit or nonprofit,
- purpose of club's existence, and
- formalities observed by club (Civil Rights Act of 1964).

In *Wright v. Salisbury Club LTD* (1980,1979) the court found that whether a particular club is "truly private" is a determination to be made in the light of the facts of each case. Further the test for private club status is whether, without regard to race, the club's membership policies and practices manifest a plan or purpose of exclusiveness. The principal consideration in determining whether a club is "truly private" is whether the club is genuinely selective and exclusive (*Olzman v. Lake Hills Swim Club* (1974) and *Clover Hill Swimming Club, Inc. v. Goldsboro* (1966)).

The Salisbury Club (*Wright v. Salisbury Club, LTD*, 1980, 1979) membership policy indicated that membership was not tied to a limited geographic area and the procedures consisted of the following steps: (1) one must file an application, (2) receive the endorsement of two members, (3) be recommended by the membership committee, (4) be approved by seventy-five percent of the board of directors present at the meeting in which the vote is taken, and (5) payment of a substantial initiation fee and membership dues.

Interestingly enough the Salisbury Club was found to be genuinely selective and exclusive as determined by the membership procedures. However, the Salisbury Club engaged in extensive advertisement and membership solicitation and had become the crown jewel of the developer's marketing effort, which the court found to be inconsistent with the genuinely selective and exclusive nature of a "truly private" club. The court determined that exclusive means that a club does not advertise extensively for new members, does not link itself with other entities, like subdivisions, does not become part of a developer's marketing effort, and does deny

membership to prospective members.

In *Solomon v. Miami Women's Club* (1973) the court indicated that selectivity has often been said to be the essence of a private club and selection by recommendation serves to draw a line of demarcation between admitting the general public and only a select few. Other courts have noted that the requirement of member recommendations may be a significant indication of exclusivity (*Durham v. Red Lake Fishing and Hunting Club, Inc.*, 1987; *Lloyd Lions Club of Portland v. International Association of Lions Clubs*, 1986;*U.S. Power Squadrons V. State Human Rights Appeal Board*, 1983, 1981; *Golden v. Biscayne Bay Yacht Club, City of Miami*, 1973; *Smith v. Young Men's Christian Association of Montgomery, Inc.*, 1972; *Wright v. Cork Club*, 1970; *U.S. v. Johnson Lake, Inc.*, 1970; *U.S. v. Jack Sabin's Private Club*, 1967; and *Nesmith v. Young Men's Christian Association of Raleigh, N.C., Inc.*, 1967).

In *Sullivan v. Little Hunting Park, Inc.* (1969) and later in *Tillman v. Wheaton-Haven Recreation Association* (1973), the court determined if a club is "truly private", there cannot be any connection between club membership and property necessary to implicate civil rights statutes dealing with the right of all persons to acquire property. In *Tillman* the Supreme Court found that when an organization links membership benefits to residency in a narrow geographical area, that decision infuses those benefits into the bundle of rights for which an individual pays when buying or leasing within that area.

Further in *Cornelius v. Benevolent Protective Order of Elks* (1974), the court found that Elks and Moose Lodges did discriminate racially with respect to membership. Since they do, they stand to forfeit state aid, direct or indirect, which amounts to "encouragement". Moreover, only genuinely selective and exclusive "truly private" clubs are exempted from the 1966 and 1964 civil rights statutes. Those who believe that racial exclusion fosters fraternity are free to act out their belief, but they may not promote prejudice for profit. If a lodge were to diverge from their ways and become an establishment where economic opportunity was the attraction, it would cease to be exempt. To have their privacy protected, clubs must function as extensions of the member's home and not as extensions of their businesses.

Finally, other decisions have looked at the extent to which the membership exercised rights of control over the alleged clubs. Courts denying the private club exemption have considered as relevant evidence that (A) members did not own club facilities (*Daniels v. Paul*, 1969); (B) profits from the use of the club facilities were retained by the operator (*U.S. v. Richberg*, 1968); and (C) members had no control over the operations of the establishment (*Wright v. Cork Club*, 1970).

■ WHAT IS PUBLIC ACCOMMODATION?

A primary force behind the passage of the 1964 Civil Rights Act was the need for antidiscrimination legislation covering "**public accommodations**". The public accommodations title exempted from its coverage "private club[s and] other establishment[s] not in fact open to the public (42 U.S.C.A. 2000 a(e))." The exemption reflects the simple fact that the harm to which the legislation was primarily addressed was discrimination in public accommodations rather than in private groups.

According to the United States Code Annotated (1992) any place or organization defined as a public accommodation will be without discrimination or segregation on the grounds of race, color, religion, sex, or national origin. Further all persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, advantages, and accommodations of any place of public accommodation (*Delaney v. Central Valley Golf Club,* 1941).

A public accommodation is defined as:

- any establishments affecting interstate commerce or supported in their activities by State action as places of public accommodation;
- lodgings, such as inns, hotels, motels, and any other establishment which provides lodging to transient guests;
- facilities principally engaged in selling food for consumption on the premises, such as restaurants, cafeterias, lunchrooms, lunch counters and soda fountains;
- gasoline stations;
- places of exhibition, amusement, or entertainment, such as motion picture houses, theaters, concert halls, sports arenas or stadiums, or race tracks;
- any establishment which is physically located within the premises of a public accommodation; and
- any establishment which holds itself out as serving patrons of a public accommodation (42 U.S.C.A. 2000 a(e), 1992).

The courts have developed a number of factors which could be examined to determine whether, under the public accommodations title, alleged clubs were "truly private" or in fact "sham clubs" actually open to the (white male) public, including, but not limited to (A) the absence of formal membership selection procedures (*Stout v.YMCA*, 1968); (B) failure to reject a significant number of white applicants (*Nesmith v. Young Men's Christian Association of Raleigh, N.C., Inc.*, 1967); (C) extending club facilities to nonmembers in disregard of club bylaws (*U.S. v. Jack Sabin's Private Club*, 1967); (D) the absence or insubstantiality of dues and exceedingly large membership lists (*Bradshaw v. Whigham*, 1966); and (E) several courts have cited advertising as evidence of a lack of selectivity (*U.S. v. Jordan*, 1969).

In *Evans v. Laurel Links, Inc.* (1966), it was decided that a lunch counter at a golf course was an "establishment affecting commerce" within the public accommodations provisions of the Civil Rights Act of 1964. The lunch counter did serve and offered to serve the general public, including interstate travelers. And because the lunch counter was located within the golf course facilities, it brought the entire golf course within public accommodation provisions.

Annually at Laurel Links, a Virginia golf course, a golf team from the District of Columbia played in a tournament. The court determined that tournaments and/or team matches which are played on the defendant's facilities (Laurel Links) make it a place of exhibition and entertainment within the public accommodation provisions. The court further decided the operation of such an establishment affects commerce if it customarily presents athletic teams which move in commerce (across state lines). "Custom" is defined (Black, 1990) as habitual practice or course of action that characteristically is repeated in like circumstances (*Jones v. City of*

Chicago, 1986). The golf team from Washington, D.C. played on the course on a regular annual basis, and the court determined that greater frequency is not required to establish that it is "customarily presented" (*Fuller Brush Co. v. Industrial Commission of Utah*, 1940).

Some courts have looked at the intent of the organizers of the club, denying an exemption where the club was formed to evade public accommodations provisions, including when (A) a country club owned and operated for profit-making corporation was not a "private club" (*Bell v. Kenwood Golf & Country Club, Inc.*, 1970); (B) a recreational facility which was a business operation for profit with none of the attributes of self-government and member-ownership traditionally associated with private clubs (*Daniel v. Paul*, 1969); (C) a beach club which sells season and individual tickets, refreshments and other accommodations is not a 'private club' (*U.S. v. Johnson Lake*, Inc., 1970); (D) a health and exercise club which did not exercise selectivity and which was a business operated for profit and not controlled by club membership was not exempt from Equal Accommodations Act (*Vidrich v. Vic Tanny Intern, Inc.*, 1980; *Gardner v. Vic Tanny Compton, Inc.*, 1960); (E) an organization which admits members based upon objective, and not subjective, criteria may not be considered a "private club" (*U.S. Power Squadron v. State Humans Right Appeal Board*, 1981, 1983; *People of State of N.Y. by Abrams v. Ocean Club, Inc.*, 1984); and (F) a golf club, whose formal admission procedures did not operate in practice to make club's membership selective, was a place of public accommodation (*Brown v. Loudoun Golf and Country Club, Inc.*,1983).

The results of *U.S. v. Lansdowne Swim Club* (1989) define more clearly how the "public accommodation" section of the Civil Rights Act of 1964 should be applied. The following are the highlights of the courts findings:

- The club was a place of entertainment affecting interstate commerce since the club's diving board, which was manufactured in a foreign state (Texas), and out-of-state residents who used the facility were in fact sources of entertainment customarily presented by the swim club.
- Snack bar located in swim club was a covered establishment, rendering the swim club place of "public accommodation", and club held itself out as serving patrons of the snack bar. Since snack bar was a facility principally engaged in selling food for consumption on the premises, and operations of the snack bar affected interstate commerce because it served and offered to serve interstate travelers and substantial portion of food served moved in interstate commerce. Further in *Brown v. Loudoun Golf and Country Club, Inc.* (1983) the court notes an alternative ground which the club might be held to affect commerce. The Club, for instance, might affect commerce by purchasing food equipment or services from out-of-state or by selling memberships to persons from other states.
- Club's membership procedures were not genuinely selective on reasonable basis, origins of club suggested it was intended to serve as a community pool for families in the area, not as a private club, and club facilities were used regularly by non-members.

FREEDOM OF ASSOCIATION AND THE RIGHT TO DISCRIMINATE

In the *Yale Law Journal* (1975) an article dealing with the rights of private groups to discriminate appeared. The article made the following interesting points relating to private clubs and discrimination, and affirm points already discussed.

Jones v. Alfred H. Mayer Co. (1968) revitalized the Civil Rights Act of 1966 as an instrument with which to attack racial discrimination by private clubs and private schools. Jones consequently reawakened the conflict between **freedom of association**, which many have believed gives private groups a right to discriminate, and **freedom from racial discrimination**, guaranteed by the **principles of equality** undergirding the Thirteenth and Fourteenth Amendments.

Freedom of Association (*NAACP v. Alabama*, 1958; *Shelton v. Tucker*, 1960; *NAACP v. Button*, 1963; *Gibson v. Florida Legislative Investigating Commission*, 1963; and *U.S. v. Robel*, 1967) evolved to protect the ability of an individual to join with others for the expression or promotion of political ideas. This freedom of association has little to do with a right to exclude others on the basis of race. Indeed, the right to exclude arguably impairs the freedom to associate of the person who wants to join. Most social and golf clubs are apolitical and would find it difficult to prove that they require a right to discriminate for the purpose of political expression (*Yale L.J.*, 1975).

Because the freedom of association cases did not deal with the exclusive question, some commentators have suggested that the question of a right to discriminate could be better conceptualized as deriving from the right of privacy. Supreme Court cases (*Griswold v. Connecticut*, 1965; *Stanley v. Georgia*, 1969; *Eisenstadt v. Baird*, 1972; and *Roe v. Wade*, 1973) have established this right to freedom from government intrusion in specific situations involving the family, procreation, and the home, but in several cases (*Roe v. Wade*, 1973; *Paris Adult Theater I v. Slaton*, 1973; *U.S. v. 12 200-ft Reels of Super 8mm Film*, 1973; and *Village of Belle Terre v. Boraas*, 1974) the court has specifically refused to extend the right beyond these limited contexts. Therefore, while the concept of a zone of privacy might be the best foundation upon which a constitutional right to discriminate could be based, no decision has yet established that right as a matter of law (*Yale L.J.*, 1975).

At What Cost Do We Protect Private Discrimination?

The greatest cost of protecting private discrimination is denial of equal opportunity.

White- and white male-only private social and golf clubs have denied access to non-white and females for generations (country clubs, city clubs, athletic clubs, fraternal clubs). These private clubs have been a part of American society and more than likely will remain as a tradition. Membership in some clubs can be an important source for business opportunities and networking. Country clubs and downtown clubs are often the setting for new business contacts and business entertaining. There is evidence that executive job promotion is often dependent on the club membership. In some areas clubs may hold a local monopoly on a particular type of recreational facility or dining establishment. The continuance of blanket racial, religious, and gender exclusion would deny these advantages to African-Ameri-

cans, Jews, and women, regardless of how well they might meet other nonracial or gender admissions' criteria.

In resolving the conflict between private groups and individual quality, the courts should recognize the existence of several alternative solutions for reconciling the opposing interests. The courts can maintain a meaningful freedom for private groups to choose social intimates without granting a blanket and absolute right to practice racial, religious, and/or gender discrimination.

■ STRATEGIES TO OPEN THE DOORS TO SO-CALLED PRIVATE CLUBS

American society is very complicated and always in flux. Everyone must be patient and continually apply diplomatic pressure toward clubs that discriminate against women and minorities as one positive way to encourage change. Beyond this effort, here are a few examples of actions every individual can take and questions that can be asked:

- Check your company's policies regarding private clubs.
  - Does it hold meetings or events at clubs that discriminate in any way?
  - Does it offer memberships to discriminatory clubs to executives?
  - If you answered yes to either or both of the above, strive to have the policies changed.
- Check your organization's policies on fundraising events.
  - Are they held at private clubs that exclude different groups?
  - If there's no policy regarding this, suggest that one be drafted.
- Check your city, county, and state's policies relating to private clubs. Many regional governments have defined 'private club' narrowly, forcing those who do not meet the definition to abide by nondiscrimination statutes for public accommodations. If your area does not have such a law, call or write your legislator.
- If you belong to a club that has discriminatory policies, find allies within the club and work together to change them or take them to court.
- Investigate whether or not the club is 'truly private' and can pass the private club exemption test ...
  - does the club ...
  - have an admission procedure that is genuinely selective ?
  - have formal membership procedures?
  - have a degree of control over its governance?
  - make a profit?
  - have a history of selectivity?
  - allow nonmembers to use the facilities?
  - have substantial dues? advertise for members?
  - have a statement of purpose that is consistent with its actions?
  - have formalities?
  - operate a food stand that is open to nonmembers and interstate travelers?
  - have annual tournaments that involve nonmembers from other states?
  - allow visiting athletic teams to play on its course?
  - link membership benefits to residency in a narrow geographical area?

- reject a significant number of applicants for membership?
- purchase equipment or food products from another state?
- have a liquor license?
- allow the furtherance of business opportunities for members?
- have a lower tax rate?
- Develop your own private club to your needs.

A FINAL THOUGHT ...

While discrimination (whether it be equal access to admission into a club, equal tee times, or equality in governance) is unacceptable in any forum, the right to form and belong to private clubs is also a basic American right (freedom of association and right to privacy) no matter how distasteful it is. These issues create polarities that need to be managed.

Recently a great deal of attention has been given to discrimination issues in golf. The LPGA and the PGA tours have taken strong positions against discrimination. While some clubs have refused to change their policies, many clubs are considering the minority and women's issues very seriously.

Kerry Graham,(Graham, 1991) president of the LPGA's teaching division and a teaching professional at McCormick Ranch Golf Club (Scottsdale, AZ), indicates that separate tee times have historical reasons for existing. For many years, when most women did not work, women golfers were pleased to play their primary golf on weekdays, leaving weekends golf times for the men. Golf mirrors our cultural transitions, so as women play a bigger role in business, government, and corporate America, women want greater accessibility and control of their leisure time.

When the difficult economic conditions are added to the cultural transitions, more and more clubs (new ones in particular) are trying to attract minorities and women as members and customers. Further, current trends of continued cultural change are evidenced clearly by litigation and legislation across the country in the past ten years. Minnesota, Michigan, and California (Graham, 1991) have taken action by passing laws against discrimination in private clubs. As a result, many clubs are searching for ways to reduce restrictions, such as restricted tee times.

Graham suggests the following creative solutions to reduce restrictions, such as 'priority membership' systems, 'special fees' for priority times, and priority tee times by 'handicap'. She further indicates that we are in a period of increasing women's involvement and leadership. The pressures to continue toward more equal tee times access, etc. will continue. While it cannot happen overnight, private clubs will need to be creative in finding ways to serve women.

Is there any reason for a private golf/tennis club not to have gender-neutral rules regarding membership and use of the facilities?

In Minnesota (Mackenzie, 1991) a recently passed state law denies a lower property tax rate for private golf courses that discriminated on the basis of gender. Tee-time restrictions based on sex disappeared.

The broader issue behind the tee-time controversy is the clash between the traditional right of the private clubs and associations to make their own rules about

membership and privileges versus the obligation of government to act to prevent discriminatory conduct.

Changing societal values have caused state legislatures and courts to re-evaluate this issue. They have decided that government-regulated privileges, such as property tax benefits, liquor licenses, and environmental permits, may be withheld from private clubs that discriminate. They have decided that some clubs that receive revenue from nonmembers or where the club is used for furtherance of business opportunities are places of public, not private, accommodation. Therefore they are subject to the same rules that apply in the workplace and school.

Across the country, numerous laws and ordinances addressing these questions will be passed. Many are in existence currently, and many are being introduced by state or local governments as legislators respond to the urging of constituents, primarily women. With courts more willing to uphold the validity of such legislation, there is no question that there will be more laws passed soon. While some clubs (very few) will be able to remain "truly private" by eliminating nonmember revenue, paying higher taxes, and foregoing liquor licenses, the majority will be forced to change their policies.

In closing, given the minimal impact of the changes on most private clubs, the war over open tee times might be a battle clubs should have never fought. This small controversy has ignited a greater challenge for society, and that is to equally protect the rights of all citizens regardless of their race, religion or gender. The battle has been actively fought for the last three decades to protect the rights of African-Americans and Jews with success. It is now time for the fight to include women and continue until all discrimination is eliminated.

References

Augusta Golf Association, Inc. v. United States, 338 F.Supp. 272 (S.D.Ga. 1971).

Bell v. Kenwood Golf & Country Club, Inc., 312 F.Supp.753 (D.C.Md. 1970).

Baker v. Mid Maine Medical Center, et.al., 499 A.2d 464 (Me. 1985).

Bardshaw v Yorba Linda Country Club and American Golf Corporation settled out-of-court (1989) reported in Maclean, P.A. (1991). Tee'd Off. *Women's Sports & Fitness*, 64, 41- 48.

Booth v. City of Minneapolis, 203 N.W. 625 (Minn. 1925).

Bradshaw v. Whigham, 11 Race Rel. L. Rep. 934 (S.D. Fla. 1966)

Brown v. Loudoun Golf and Country Club, Inc., 573 F.Supp. 399 (D.C. Va. 1983).

Carrigan v. Roussell, 426 A.2d 517, (N.J. 1981).

Civil Rights Act of 1966, 42 U.S.C.A. 1981 (1970).

Civil Rights Act of 1964, 42 U.S.C.A. 2000a (1970).

Clover Hill Swimming Club, Inc. v. Goldsboro, 219 A.2d 161, 47 N.J. 25 (N.J. 1966).

Cornelius v. Benevolent Protective Order of Elks, 382 F.Supp.

1182 (D.C.Conn. 1974).

Daniel v. Paul, 395 U.S. 298, 89 S.Ct. 1697, 23 L.Ed. 318 (1969).

Delaney v. Central Valley Golf Club, 28 N.Y.S.2d. 932, aff'd 31 N.Y.S.2d 834, 263 App.Div. 710, appeal denied 32 N.Y.S.2d 1016, 263 App.Div. 870, aff'd 43 N.E.2d 716, 289 N.Y. 577 (N.Y.Sup. 1941).

Durham v. Red Lake Fishing and Hunting Club, Inc., 666 F.Supp. 954 (W.D. Texas 1987).

Eisenstadt v. Baird, 405 U.S. 438 (1972).

Evans v. Laurel Links, Inc., 261 F.Supp. 474 (E.D.Va. 1966).

Farfour v. Minosa Golf Club, Inc. et.al., 81 S.E.2d 375 (N.C. 1954).

Fuller Brush Co. v. Industrial Commission of Utah, 104 P.2d 201, 203 (Utah 1940).

Graham, Kerry (1991). Private clubs must change with society. **USA Today**, October 29, C10.

Gardner v. Vic Tanny Compton, Inc., 6 Cal.Rptr. 490, 182 C.A.2d 506, 87 A.L.R.2d 113 (Cal.App. 1960).

Gibson v. Florida Legislative Investigating Committee, 372 U.S. 539 (1963).

Golden v. Biscayne Bay Yacht Club, City of Miami, 370 F. Supp. 1038 (S.D. Fla. 1973).

Griswold v. Connecticut, 381 U.S. 479 (1965).

Houston v. Escott, 85 F.Supp. 59 (Del. 1949).

Jones v. City of Chicago, 787 F.2d 200, 204 (7th Cir. 1986)

Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968).

42 U.S.C.A. 2000 a(a)(b)(c)(d)(e) (1970)

42 U.S.C.A. 1981 (1970)

Knittle v. Miller, 709 P.2d 32 (Colo.Ct.App. 1985).

Lloyd Lions Club of Portland v. International Association of Lions Clubs, 724 P.2d 887, 81 Or.App. 151 (Or. App.1986).

Maclean, P.A. (1991). Tee'd Off. Women's Sports & Fitness, 64,41- 48.

Mackenzie, Reed (1991). Open tee times test positive after Minnesota passes law. USA Today, October 29, C10.

Moose Lodge No. 107 v. Irvis, 407 U.S. 163, 92 S.Ct. 1965, 32 L.Ed. 627 (1972).

NAACP v. Alabama, 357 U.S. 449 (1958).

NAACP v. Button, 371 U.S. 415 (1963).

Nesmith v. Young Men's Christian Association of Raleigh, N.C., Inc., 397 F.2d 96 (C.A.N.C. 1968)

Nolan, J.R. and Nolan-Haley, J.M. (1990). Black's Law Dictionary. St. Paul,MN: West Publishing Co..

Notes (1975). Section 1981 and Private Groups: The Right to Discriminate Versus Freedom from Discrimination.*Yale Law Journal*, 84:1441-1476.

Olzman v. Lake Hills Swim Club, 495 F.2d 1333 (C.A.N.Y. 1974).

Paris Adult Theater I v. Slaton, 413 U.S. 49 (1973).

People V. Powell, 274 N.W. 372, 373 (Mich. 1937).

People of State of N.Y. by Abrams v. Ocean Club, Inc., 602 F.Supp. 489 (D.C.N.Y. 1984).

Perkins v. New Orleans Athletic Club, 429 F.Supp.661 (E.D.La.1976).

PGA (1991). Annual membership report.

Roe v. Wade, 410 U.S. 113 (1973).

Sawyer,T.H. (1990). Unpublished study completed by students in an undergraduate sports law class.

Shelton v. Tucker, 364 U.S. 479 (1960).

Sims v. Order of United Commercial Travelers of America, 343 F.Supp. 112 (1972).

Smith v. Young Men's Christian Association of Montgomery, Inc., 316 F. Supp. 899, modified 462 F.2d 634 (D.C.Ala 1972).

Solomon v. Miami Woman's Club, 359 F.Supp.41 (D.C. Fla 1973).

Stanley v. Georgia, 394 U.S. 557 (1969).

Stout v.YMCA, 404 F.2d 687 (5th Cir. 1968).

Sullivan v. Little Park Hunting Club, 396 U.S. 229, 90 S.Ct. 400, 24 L.Ed. 2d 386 (1969).

Tillman v. Wheaton-Haven Recreation Association, Inc., aff'd, and certiorari granted, 451 F.2d 1211 (4th cir. 1971), denied rehearing, 451 F.2d 1225 (4th cir. 1971), rev'd and remanded, 410 U.S. 431, 93 S.Ct. 1090, 35 L.Ed. 2d 403 (1973).

Townsley v. State of New York, 164 N.Y.S.2d 840 (N.Y. 1957).

U.S. v. Eagles, 472 F.Supp. 1174 (E.D.Wis.1979).

U.S. v. Lansdowne Swim Club, 713 F.Supp. 785 (E.D.Pa. 1989), rehearing denied, 894 F.2d 83 (3rd Cir. 1990).

U.S. v. Jack Sabin's Private Club, 265 F.Supp. 90 (La. Ct. App. 1967).

U.S. v. Johnson Lake, Inc., 312 F.Supp. 1376 (D.C.Ala 1970).

U.S. v. Jordan, 302 F.Supp. 370 (E.D.La. 1969).

U.S. Power Squadrons V. State Human Rights Appeal Board, 445 N.Y.S.2d 565, 84 A.D.2d 318 (N.Y.A.D. 1981); Aff'd 465 N.Y.S.2d 871, 59 N.Y.2d 401, 452 N.E.2d 1199, reargument dismissed 468 N.Y.S.2d 107, 60 N.Y.2d 682, 455 N.E.2d 666 (N.Y.A.D. 1983).

U.S. v. Richberg, 398 F.2d. 523 (5th Cir. 1968).

U.S. v. Robel, 389 U.S. 258 (1967).

U.S. v. 12 200-ft Reels of Super 8mm Film, 413 U.S. 123 (1973).

Vidrich v. Vic Tanny Intern, Inc., 301 N.W.2d 482, 102 Mich.App. 230 (Mich. App. 1980).

Village of Belle Terre v. Boraas, 416 U.S. 1 (1974).

Warfield v Peninsula Golf and Country Club, 262 Cal.Rptr. 890 (Cal.Ct.App. 1989).

Westborough Country Club v. Palmer, (8th Cir. 1953).

Wright v. Cork Club, 315 F.Supp. 1143 (D.C. Tex 1970).

Wright v. Salisbury Club, LTD, 479 F.Supp. 378 (D.C.Va. 1979). rev'd on other grounds, 632 F.2d 309 (C.A.Va. 1980).