CLIENT ALERTS & INSIGHTS

Jack Nicklaus's $50M Redemption and The Limits of The Litigation Privilege

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Key Takeaways

- A Florida jury awarded Jack Nicklaus $50 million after finding that his former business partners defamed him by widely publicizing false statements from a court complaint, damaging his reputation.
- This case highlights that the litigation privilege-which generally protects statements made in legal filings-has limits. If parties intentionally spread defamatory statements outside of court to harm someone's reputation, they risk losing that protection and could face significant liability.
- Businesses and individuals should exercise caution when discussing or sharing allegations from legal proceedings outside the courtroom. Proactively review public communications related to litigation to avoid exposure to defamation claims and substantial damages.

On October 21, a jury in West Palm Beach awarded $50M to one of the most revered and recognizable players in professional golf history, Jack Nicklaus. The award compensated Nicklaus for harm done to his reputation as a result of false statements made by his former business partners at Nicklaus Companies (the "Company"), accusing him of "exploring a deal to endorse LIV over the PGA tour." (LIV Golf was formed in 2021 by Golf Saudi, a division of Saudi Arabia's public investment fund, to compete directly with the PGA.) False statements made by the Company further alleged that the Company was forced to "save Mr. Nicklaus from himself" by extricating him from negotiations with LIV, and likened him to a dad who needed his car keys taken away.

What's significant about the Golden Bear's win in Florida is that the defamatory statements his claim relied on were made in the context of a (separate) New York litigation. The Company had filed suit against Nicklaus in New York state court in 2022, asserting breach of contract, breach of fiduciary duty and tortious interference claims. In that complaint, the Company alleged that in early 2021, "Mr. Nicklaus encouraged Golf Saudi to recruit him to endorse their controversial golf league program. [F]ortunately for Nicklaus Companies-and Mr. Nicklaus-the Company was eventually able to convince Mr. Nicklaus to stop exploring a deal for the endorsement of the Saudi-backed league. … The Company essentially saved Mr. Nicklaus from himself by extricating him from a controversial project that could have not only tarnished his legacy and reputation, but severely damaged the Nicklaus Companies' name, brands and business." This allegation, publicized just as the Memorial Tournament (Nicklaus's home tour) was getting underway, led to widespread backlash against

Nicklaus that left a mark on his all-American reputation. Nicklaus brought his Florida defamation claim as a result.

Six residents of West Palm found that the Company knew or should have known that these statements were demonstrably false. Nicklaus had never considered endorsing LIV or abandoning the PGA. The Company knew he had turned down the offer the moment it was made, with no input from the Company whatsoever. Still, the Company apparently believed (and argued in court) that its false allegations were protected by the litigation privilege, since the statements were originally made in a court-filed complaint. Where did they go wrong?

The Company's exposure here came about because of what it did with its own false statements *after* filing them in New York. According to the Florida court's summary judgment opinion, the Company hired an attorney (and author of the book "In the Court of Public Opinion: Winning Your Case With Public Relations") to help disseminate and draw attention to the complaint. Specifically, the Company appeared to focus on publicizing the false allegations that Nicklaus had planned to endorse LIV. Company employees also sent the complaint and articles written about it to a number of their clients, reiterating the allegations as if they were true. In those communications, one employee repeatedly likened Nicklaus to a dad whose keys needed to be taken away, implying to business partners that Nicklaus was suffering from a mental disability associated with old age.

Because the Company intentionally disseminated the complaint, and because it made new, false and defamatory statements in the course of that dissemination, the Florida court allowed Nicklaus's defamation claim to reach the jury. In Florida, the court held, any party who "seeks to repeat or republish statements made during litigation in order to litigate issues in 'the court of public opinion[']' may lose the litigation privilege and expose itself to liability for defamation." *Nicklaus v. Milstein*, No. 2023-CA-009653-MB, 2025 WL 2721736, at *8 (Fla.Cir.Ct. May 16, 2025) (*citing Ball v. D'Lites Enters., Inc.*, 65 So. 3d 637, 641 (Fla. 4thDCA 2011)). The judge left it to the jury to decide whether the Company's post-filing interactions with media outlets and customers merited the protection of the litigation privilege. The jury, clearly, declined to extend that protection, and found the Company liable for defamation.

This big win for Nicklaus serves as a cautionary tale for other litigants who make defamatory statements in court. The litigation privilege is not a blank check, and courts will pull it back if the litigant intentionally uses false allegations in a court filing to damage another party's reputation. In this case, there was evidence that the Florida defamation defendant deliberately set out to maximize the reputational harm done by its New York state court complaint. The Company knew precisely how damaging its allegations would be for one of the co-founders of the PGA tour. The Company publicized the complaint at a time when all eyes were on Nicklaus. And, the Company placed its defamatory statements in media outlets that would do the most harm to Nicklaus's reputation-like the Columbus Dispatch, which reached Nicklaus's hometown audience. This calculated takedown was an abuse of the litigation privilege, and the defendant lost that privilege (along with $50M) as a result.