

## Ryder Cup | Front 9

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CATEGORY:  
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### #CareerCourse

Whether you are team Europe or team USA, a golf fan, or an occasional viewer, there is no doubt that the Ryder Cup is a key moment in the sporting calendar. It is an opportunity to see fresh talent battle against the brightest stars in the game. During the lead up and throughout the event, we'll be looking at legal issues that golfers, and sports people in general, face at different stages of their career. Follow us as we navigate you through how to avoid tricky bunkers and read the greens during the front nine and back nine of a sporting career, and how to make the most out of retirement in the clubhouse\*.

### Hole 1 – Teeing off right

For players starting out in golf it can be quite daunting making choices that may have a lasting impact on their career. However, there are five key tips for talented young golfers to keep golf fun and exciting and ensure that they stay on course in their chosen career. First, 'know your purpose'. A player should be clear on why they took up the sport to start with to really help them evaluate their goals and priorities. Too many young athletes don't spend enough time asking the question 'whose career is it anyway' and may find that they lose interest in the sport, plateau too early, incur injuries etc if they play golf for their parents rather than themselves. Second, players need to have a lot of patience for the game of golf and have a time-horizon that plans for the long term. Golf is quite unique from other sports as professionals can play competitive golf well into their senior years. Third, the player should surround himself with great people and relentlessly seek out advice and support from mentors to PGA professional instructors, from workshops that back talented youngsters to professional advisors etc. Fourth, adopting a 'holistic approach' to their golfing career. This includes staying healthy and injury free, getting the best school/college education that they can and learning as many 'life skills' as possible so that they can fall back on these qualities if they desire a second career after their golfing career. Fifth, 'be the best that you can be in everything that you do'. If a player can start seeing himself, from an early stage, as a role model for other young golfers or fans – this will serve them well as they achieve success as sponsors will want to be associated with their personal brand.

**Anthony Indaimo, Partner, corporate, London, Milan, Singapore**

### Hole 2 – To go pro, or not to go pro

The overarching goal of any athlete is to turn pro. Within the unique, US student-athlete system, competing interests exist between universities and student athletes. Universities want their student-athletes to remain enrolled for the entirety of their four-year commitment, whereas student-athletes want to turn pro as soon as they become eligible. While there is value to graduating and receiving a degree, each additional season spent as an amateur risks an unforeseen injury that could potentially end a career or drastically reduce the potential professional compensation. Recently, student-athletes taking out insurance policies against injury that could adversely affect their eventual draft position has become more common. It is important to stay apprised of the every changing amateur and professional eligibility rules. The question as whether to turn pro or remain an amateur is unique and personal to each athlete.

**Michael Rueda, US Head of Sports and Entertainment, Greenwich**

### Hole 3 – Finding a 'caddie'

Much like a caddie, an agent/manager can be an enormous benefit and help to any golfer. However, signing up to unfavourable terms, such as a very long term with no option to break, or where there is an unusually long tail on commissions can cause problems in the long run. Whilst many first agreements may be described as a 'standard form', it is still essential for the player to understand the key provisions they are signing up to and to take advice where appropriate. In particular, understanding how the agent/manager makes money is key, as is how and when the player can

terminate the agreement. Parents of minors may also be asked to sign management agreements alongside the player and should ensure that they understand the capacity in which they are signing and what their obligations are.

**Luca Ferrari, Partner, corporate, Milan**  
**Libby Payne, Associate, employment, London**

Hole 4 – Avoiding the bunkers when it comes to sponsors

Success off the course will be shaped by the sponsorship and endorsement deals secured by a player. However, the first deal on the table is not always the right one and an all-encompassing endorsement deal is not the only option. Players should consider whether the sponsor's brand is relevant to them and what added value it offers. If players want greater flexibility to mix and match equipment brands on the course, then they must ensure they retain the rights to do so. For example, equipment endorsement deals which require players to wear their brand prominently on certain items of clothing may hamper any planned apparel endorsement deals in the pipeline.

**Ashley Williams, Associate, intellectual property and technology, London**

Hole 5 – Marriage and pre-nuptial agreements

It is not uncommon for what is happening in a player's personal life to (positively or negatively) affect performance on course and getting married is a key milestone for many professional players. It is increasingly common for people to enter into pre-nuptial agreements before their marriage to address how financial issues should be resolved in the event of a divorce. These agreements are becoming ever more enforceable in the Courts. They enable parties to avoid contested litigation and the stress and strain of on-going court attendance and hearings all of which can have an impact on a professional's on field performance. Financial exposure can be limited and crucially, for those within the media gaze, unwanted publicity can be avoided as disputes on divorce are prevented.

**Brett Frankle, Partner, divorce and family, London**

Hole 6 – Moving from one course to the next

The global footprint of golf means that players can be taxed not just in the place in which they live but also where they play. The tax authorities in a number of jurisdictions, such as France (in the case against the tennis player Richard Gasquet, which applies equally to golfers), have had professional athletes in their sights for some time. This complexity of tax reporting means even well-advised athletes can be unknowingly underpaid by their sponsors. Withers is pioneering the recovery of substantial underpayments in this area. Contact us for more information!

**Ceri Vokes, Partner, private client and tax, London**

Hole 7 – Ironing out personal brand protection

Players on the road to success may find their name and image becoming commercially valuable as a brand. While sponsorship agreements will enable the commercialisation of that brand, it is important to ensure that the brand is also protected, and the player's reputation upheld. Players should consider whether to register their name as a trade mark (and where), and think about how to go about managing their online presence. What domain names and social media profiles should be registered to ensure that the player is operating the majority of the key sites and social media profiles in their name?

Protecting a brand also means doing more than just registering it as a trade mark and purchasing domain names. Players should think about what steps need to be taken to maintain their reputation, to ensure that their brand is not used in any way which contradicts their brand values, and enforce any third party infringement of their brand. This may mean stopping someone from using their name or image in connection with a campaign or product the player is not formally endorsing, or instructing social media sites to take down content which is using the player's brand or image without permission.

**Charlie Lyons-Rothbart, Associate, intellectual property and technology, London**

Hole 8 – Getting the right grip on tax planning

The career of a professional athlete can be relatively short. With statistics reporting as many as 40% bankrupt within 5 years of retiring from sport, safeguarding wealth from an early stage is vital. Properly planned and managed, structures like trusts can offer asset protection, privacy and succession planning, as well as tax savings to athletes. The key will be to ensure flexibility for their future needs and those of their families.

**Ceri Vokes, Partner, private client and tax, London**

Hole 9 – Finding the fairway in a media crisis

What a player can do in the event of a media crisis – whether this is a pre-publication enquiry from a journalist or they have been unfairly or inaccurately named and shamed on Twitter – is affected, as with any golf-swing, by timing. Early advice and a clear strategy will often shape the result, so it is vital to seek counsel as soon as a problem emerges or threatens. Working with trusted advisors (lawyers, PR team etc) and sponsors can help prevent unauthorised disclosures, inaccurate reporting and limit reputational damage if a story breaks. Acting quickly can stop a story in its tracks or completely take the sting out of a proposed publication leading to a more accurate, yet less sensational article that will be tomorrow's chip-paper.

Three top for players approached by a journalist for comment:

1) Don't speak off the record – ultimately, if it's a good story, a comment "off the record" doesn't exist!

2) Don't say "no comment". At best this is meaningless and at worst it could be reported as "refused to comment" making it look like there's something to hide.

3) Do take the contact details of the journalist and request his/her press deadline and when he/she would like to hear back from you so you have the time and the ability, to consider, take advice, and not react on the hoof.

**Andrew Fremlin-Key, Associate, litigation and arbitration, London**

*\*The information and comments in this blog are for the general information of the reader and are not intended as legal advice or opinions to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.*

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