

Are Match Officials Fair Game?

By Zane Shihab, Max Bitel Greene

Introduction

“Probably the worst decision I’ve ever witnessed in football”¹

When Stuart Attwell, the youngest referee in the history of the Premier League, awarded Reading the now infamous ‘phantom’ goal against Watford earlier this season the decision seemed so unfathomable it even attracted derision from the Reading players.

That decision came, rather incongruously for the Football Association, against the backdrop of the well publicised Respect campaign which was introduced for the 2008-09 season at professional and grassroots levels. The campaign was aimed at, amongst other things, referee recruitment and retention by tackling abuse towards match officials.²

The Respect programme followed a massive overhaul of the management, training and development for all match officials operating in the professional game which was introduced for the 2001/02 season by The Football Association, FA Premier League and Football League. As part of this revamp, each referee would be paid an annual retainer plus match fees whilst being allowed to continue in their chosen careers. At that time, Adam Crozier, then FA Chief Executive, proclaimed that:

“This is a big development for football. We will see a fundamental reorganisation of match officials which will lead to continuing improving standards of refereeing, which is a priority for everyone.”³

Whether turning professional has improved the standards of the match officials is a moot point. However, what is certain is that never before have the financial implications of the decisions of match officials been so great. With winning the UEFA Champions League worth an estimated £85 million,⁴ could Chelsea have sued referee Lubos Michel for not awarding them a penalty when Ferdinand brought down Malouda in the box in the final? Is it any more farfetched than Sheffield United winning their claim for compensation against West Ham for fielding the ineligible Carlos Tevez?

With millions at stake why should a match official be any different from other professionals and not be liable to compensate for the result of his or her negligent decision?

It’s a great game to imagine what famous refereeing mistakes you might litigate over. Cast your mind back to the 1978 World Cup where the controversial Welsh referee Clive Thomas (renowned for, amongst other things, his strong opposition to extravagant goal celebrations, going so far as to break them up) caused uproar when he blew the whistle for full-time between a corner being taken and Brazil’s Zico scoring directly from it with a header. Technically, Thomas may have been correct as the amount of time was at the discretion of the referee, however, what would the situation have been if the official was acting outside the rules of the game, would Brazil have been able to sue?

What about England suing the Tunisian referee Ali Bin Nasser for failing to spot Maradona’s infamous “Hand of God” goal in the 1986 World Cup...but could it happen?

The basis of the tort of negligence is a claim that the defendant failed to observe the necessary standard of care owed to the claimant and that this negligent act caused damage to the claimant. Thus, negligence is a measure of when a person’s conduct has failed to live up to that normally expected of someone in the defendant’s position and “requires the infliction of injury in circumstances where the tortfeasor had no intent, but his action or omission fell short of an appropriate objectively set standard”.⁵

There have been a number of sports specific cases that have resulted in the law of negligence developing from the broad ‘neighbourhood principle’ that was formulated by Lord Atkin in the 1930’s.⁶ The test applicable today involves the satisfaction of three criteria. The claimant must establish: (i) that the defendant owed him a common duty of care; (ii) that he breached that duty; and (iii) that damage resulted.

Are Match Officials Fair Game?

In the case of an action against a match official, therefore, five main issues arise: (a) whether the match official owed a duty of care to the participants and/or club; (b) if so, what standard of care is required; (c) whether the breach has resulted in injury or damage and that the injury or damage is sufficiently closely connected to the breach; (d) whether, and to what extent such voluntary participation in the sporting contest provides a defence to the claim and; (e) whether a claim will fail due to policy considerations.

(a) Does a Duty of Care exist between Match Officials and Clubs?

In *Caldwell v Maguire*⁷ Judge J stated that “a duty is owed to those who ought reasonably to be in contemplation as being affected by a particular act” and, further “the duty itself is to take reasonable care to avoid injury to another person or property”.

Whilst the application of this duty to sport remains controversial, it is well established that a duty has been found to exist between participants, participants and spectators and match officials and participants. This was confirmed in the High Court of Australia where Kitto J said:

“I cannot think that there is anything new or mysterious about the application of the law of negligence to a sport or game...an activity in which participants place themselves in a special relation or succession of relations with other participants so that adjudication under the common law upon a claim by one participant against another for damages for negligence in respect of injuries sustained in the course of the activity requires only that the tribunal of fact apply itself to the same kind of question of fact as arises in other cases of personal injury by negligence”.⁸

Both *Caldwell* and *Rootes* relate to a duty owed by participants of the sport, however, it has also been found that those refereeing or otherwise supervising the sport may be liable for any failure to display reasonable competence which results in damage. The two prominent decisions in relation to liability of officials are the cases of *Smoldon v Whitworth*⁹ and *Vowles v Evans*.¹⁰

In *Vowles*, the Welsh Rugby Union was held vicariously liable for injuries received by a participant (the loose-head prop of Mr Vowles’s team) during a game of rugby union. Without a suitably qualified substitute, the referee Mr David Evans (rather ironically a practicing solicitor specialising in personal injury), should have proceeded with uncontested scrums, a safety measure designed to account for the presence of inexperienced front row forwards. However, there was a faulty engagement of the scrum resulting in the injuries

received by the plaintiff. It was the first case in which an amateur referee in any sport has been held liable in the context of an adult amateur game.

Comparisons can clearly be drawn with *Smoldon*, another case involving Rugby Union. *Smoldon*, like *Vowles* was playing in the position of hooker and bore the full force of the competing packs when the scrums went down. In *Smoldon*’s case, the referee failed to deal with persistent collapses and furthermore failed to enforce rules designed specifically to maintain safety in scrums for junior players. The consequences of this failure were the match referee was held liable for the catastrophic injuries (paralysis from the neck down) received by Ben *Smoldon*.

The argument that match officials only owe a duty to their employers (and not clubs) can also be dismissed. In *Phelps v Hillingdon Borough Council*¹¹ Lord Nicholls posed and answered the following question:

“Take a case where an educational psychologist is employed by an education authority. In the course of his work he assesses a pupil whose lack of progress at school has been causing concern all round: to teachers and parents alike. The child has a learning difficulty. The psychologist sees the child and carries out an assessment. He makes a diagnosis and advises the education authority. The diagnosis is hopelessly wrong. No reasonably competent educational psychologist, exercising reasonable skill and care, would have given such advice. In consequence, the pupil fails to receive the appropriate educational treatment and, as a result, his educational progress is retarded, perhaps irreparably. When carrying out the assessment and advising the education authority, did the psychologist owe a duty of care to the child?

I confess I entertain no doubt on how that question should be answered. The educational psychologist was professionally qualified. He was brought in by the education authority to assist it in carrying out its educational functions. The purpose of his assessment was to enable him to give expert advice to the education authority about the child. The authority was to act on that advice in deciding what course to adopt in the best interests of the pupil with a learning difficulty. Throughout, the child was very dependent upon the expert’s assessment. The child was in a singularly vulnerable position. The child’s parents will seldom be in a position to know whether the psychologist’s advice was sound or not.

This seems to me to be, on its face, an example par excellence of a situation where the law will regard the professional as owing a duty of care to a third party as well as his own employer.”¹²

Are Match Officials Fair Game?

Although there are limits to the extent to which this duty lies. The concept of 'neighbourhood' for instance has been found not to require an international governing body to change its rules to make the sport safer¹³ or extend any duty to prevent disappointment to spectators.⁶

It is therefore apparent that whilst a match official does owe a duty to the participants of a sport it is less clear just how far that duty extends.

(b) What standard of care is required by a Match Official?

To consider which standard should apply to match officials it is first helpful to analyse the standard of care owed by players to other players and to spectators. In *Sumner*¹⁵ a rider in an equestrian competition lost control of the horse and hit and injured a press photographer standing on the edge of the arena. The Court held that spectators accept the risk of a lapse of judgment or skill in competitors who are going all out to win but do not accept the risk of participants having a 'reckless disregard' (to act consciously with respect to causing injury) for their safety. This judgement has been followed in subsequent cases.¹⁶

However, this interpretation was rejected in *Caldwell*¹⁷ where it reinforced that the test to be used is negligence in all the circumstances. The law is already used to applying the test of negligence to a wide range of activities, thus it should be more than able to be applied to sport as long as the relevant circumstances are properly taken into account. Reckless disregard was considered to be merely a useful evidential tool. In that case, Judge J asserted that:

"since both the identification of the individuals to whom the duty is owed and the existence and extent of the duty are substantially determined by conceptions of reasonableness, the facts of and relating to any given case will determine whether or not a duty is established and, if so, whether or not breach of that duty can be shown".

This rationale was supported by Kitto J in *Rootes* where he stated that:

"...the conclusion to be reached must necessarily depend, according to the concepts of common law, upon the reasonableness, in relation to the special circumstances, of the conduct which caused the plaintiff's injury...the tribunal of fact may think that in the situation to which the plaintiff's injury was caused, a participant might do what the defendant did and still not be acting unreasonably, even though he infringed the 'rules of the game'. Non-compliance with such rules, conventions or customs (where they exist)

is necessarily one consideration to be attended to upon the question of unreasonableness; but it is only one, and it may be of much or little or even no weight in the circumstances.

The question to be asked was 'was the defendant's conduct which caused the injury to the plaintiff reasonable in all the circumstances, including as part of the circumstances the inferences fairly to be drawn by the defendant from the plaintiff's participation in what was going on at the time?'

In *Caldwell*, Tuckey LJ said that the scope of the duty is "to exercise in the course of the contest all care that is objectively reasonable in the prevailing circumstances for the avoidance of infliction of injury to such fellow contestants".¹⁸

Accordingly, the concept of 'reasonableness' is central to establishing the appropriate standard of care. The duty of care between participants in competitive sports is a duty to take all reasonable care, taking into account the particular circumstances in which the competing players were placed. In addition, mere errors of judgement will not necessarily amount to negligence as the damage can occur in a matter of seconds.⁵

Similarly, in relation to match officials, *Smoldon* has determined that the level of care required of the official towards a player is a level appropriate in all the circumstances, taking full account of the factual context in which he was exercising his functions as referee. There would be no liability for errors of judgement, oversights or lapses of which any participant might be guilty of in the context of a fast moving contest. However, as Lord Bingham of Cornhill CJ states, the duty owed by referees to players and that owed by a participant to a spectator are not indistinguishable:

"in [the latter] cases it was recognised that a sporting competitor, properly intent on winning the contest, was (and was entitled to be) all but oblivious to spectators. It therefore followed that he would have to be shown to have very blatantly disregarded the safety of spectators before he could be held to have failed to exercise such care as was reasonable in all the circumstances. The position of a referee vis-à-vis the players is not the same of that of a participant in a contest vis-à-vis a spectator. One of his responsibilities is to safeguard the safety of the players. So, although the legal duty is the same in the two cases, the practical content of the duty differs according to the quite different circumstances"

Are Match Officials Fair Game?

Further, in a refereeing context he sets out the way in which the duty of care was to be applied:

"The level of care required is that which is appropriate in all the circumstances, and the circumstances are of crucial importance. Full account must be taken of the factual; context in which a referee exercises his functions and he could not be properly held liable for errors of judgment, oversights or lapses of which any referee might be guilty in the context of a fast moving and vigorous contest. The threshold of liability is a high one. It will not easily be crossed...[the learned trial judge] did not intend to open the door to a plethora of claims by players against referees, and it would be deplorable if that were the result. In our view that result should not follow provided all concerned appreciate how difficult it is for a plaintiff to establish that a referee failed to exercise such care and skill as was reasonably to be expected in the circumstances of a hotly contested game of rugby football..."

Therefore, player's duties to other players and to spectators have been found to be on an equivalent level but case law suggests that it takes much more to establish that the match official's actions were of such a degree of negligence that the duty was breached.²⁶

(c) Did the breach result in injury or damage and is the injury or damage sufficiently closely connected to the breach?

Once it has been established that a match official has breached his duty, the plaintiff must also show that, on the balance of probabilities, the breach has resulted in loss and that the loss is sufficiently closely connected to the breach. In the vast majority of sports related negligence cases causation is not a contentious issue. However, it is more problematic to establish a causal link in cases that involve breach by match officials.

There are two parts to the question of causation, causation in fact and causation in law. The starting point for establishing causation in fact is the 'but for' test. If the loss would not have been occasioned but for the defendant's breach, then there is a prima facie factual causation.²⁷ This poses difficulties for the plaintiff as it may be difficult to prove beyond reasonable doubt that a match official's negligent decision has changed the result of a game and, however flagrant the breach of duty, the claim will fail if the claimant would have suffered the same loss in the absence of the breach.²⁷

If factual causation can be established, it remains necessary to demonstrate causation in law. In general, this requires that the damage be not so remote from the breach that it is unjust to hold the defendant liable.

In *Re Polemis*²³ the Court of Appeal held that a defendant can be held liable for all consequences flowing from the wrongful conduct regardless of how unforeseeable. However, in *The Wagon Mound*²⁴ it was held that damage that is not itself reasonably foreseeable cannot be attributed to the defendant and this is now considered a better formulation of the law.

Further, under the law of negligence a claimant can be denied damages because, although the defendant did do something negligent, the chain of causation between that negligence and the injury is broken by a novus actus interveniens (a new intervening act). If, for example, defeat by a team is not a predictable consequence of a negligent refereeing decision because of new intervening acts, a negligence claim will fail.

Readers will remember the farcical scenes when in the World Cup 2006 Graham Poll, while refereeing a crucial 2-2 draw between Croatia and Australia, brandished the yellow card three times at the Croatian defender Josip Simunic. Under the Regulations of FIFA the two yellows warranted a red card and expulsion. But Mr Poll, unaccountably, forgot his first attempt to discipline the unruly Croat. As confusion reigned, Simunic was finally shown red after the final whistle, having uniquely received three yellow cards in one match. There was no doubt that this was negligence on the part of the referee but could the Soccerroos have sued him?

The obvious answer would seem to be no as it could not be shown that had he been sent off, Australia would have gone on to win. Yet a similar lack of causation argument seems to have failed in the "Tevezgate" affair.

The facts surrounding this dispute are well publicised. On 27th April 2007 the Hammers were fined £5.5 million by the Premier League for fielding two Argentinean internationals, Carlos Tevez and Javier Mascherano, who were owned by third-party companies in breach of Premier League rules. However, the Hammers escaped a points deduction and, on the final day of the 2006/07 season, Tevez scored the winning goal against Manchester United, to cement West Ham's Premier League status.

In August 2007 Sheffield United lost an initial appeal against their relegation but continued their fight and in September 2008 the Independent Tribunal ruled in their favour. In a confidential judgment leaked to the press the Tribunal stated:

"We have no doubt that West Ham would have secured at least three fewer points over the 2006-07 season if Carlos Tevez had not been playing for the club...Indeed, we think it

Are Match Officials Fair Game?

more likely than not on the evidence we heard that even over the final two games of the season West Ham would have achieved at least three points less overall without Mr Tevez. He played outstandingly well in the two wins West Ham secured in those last two games."²⁵

The Tevez case represents something of a milestone and is perhaps the single-most important development in establishing causation in sports-related negligence cases in recent years.

Take for example the recent San Diego v Denver NFL game where a refereeing error led to Denver getting an undeserved victory. The umpire, Ed Hochuli wrote afterwards that "Affecting the outcome of a game is a devastating feeling. Officials strive for perfection – I failed miserably."²⁶

This sounds like an admission of negligence and causation. Does this mean that he could be liable to San Diego if they miss out on the play offs by virtue of the lost points. As a trial lawyer, Hochuli should know better than to admit to such failings in open correspondence!

(d) Does a voluntary participation in the sporting contest provide a defence to the claim?

It could be argued that participants in the sport, for example the two competing football teams, impliedly and, in some cases, expressly²⁷ consent to taking risks which otherwise would be a breach of the duty of care.

There are two principal defences for tortious claims: (i) consent and; (ii) *volenti non fit injuria* ('no injury is done to a person who consents'). Both are complete defences and based on the principle that if you want contacts made with you, or are prepared to run the risks that contacts might be made with you, you cannot seek compensation for injuries caused by those acts.

Consent is a defence to trespasses against the person and therefore has little relevance to our hypothetical example concerning match officials suffice to say that despite previous rulings to the contrary²⁸ participants cannot consent to force that goes beyond that which is normally expected. Indeed, in *Condon v Basi*,²⁹ despite the fact that the Court noted that "in a competitive sport whose rules and general background contemplate that there will be physical contact between the players...By engaging in a sport or pastime the participants may be held to have accepted the risks which are inherent in that sport or pastime...", the Court went on to say:

*"but this does not eliminate all duty of care of the one participant to the other. Whether or not such a duty arises and if it does, its extent, must necessarily depend in each case upon its own circumstances. In this connection, the rules of the sport...may constitute one of those circumstances: but...they are neither definitive of the existence nor of the extent of the duty; nor does their breach or non-observance necessarily constitute a breach of any duty found to exist."*³⁰

Volenti operates to exonerate a defendant from liability for what would otherwise be an actionable breach of duty and allows a person to assess the degree of risk involved with an activity in order to decide whether or not to participate. If someone willingly places themselves in a position where harm might result, knowing that some degree of harm might result, they cannot then sue if harm does in fact happen.

However, where a match official has been found to be negligent because a decision was unreasonable and/or unexpected, the issue of *volenti* does not arise because participants run the risk of loss only from such acts as can be reasonably expected from a participant playing or officiating according to the reasonably accepted standard of play.

(e) Will a claim fail due to policy considerations?

Ultimately, claims against referees for failures to adhere to rules may fail on public policy grounds. In *Agar v Hyde*,³¹ in the High Court of Australia, where two rugby players suffered spinal injuries and claimed against members of the International Rugby Football Board alleging that the rules relating to scrums exposed them to unnecessary risks, it was held there was no duty. It was said that to impose a duty would diminish the autonomy of those who voluntarily participate in games and would deter regulators from continuing to supervise the game lest they be held liable for an individual's free choice.

A similar example can be found in the American case, of *Bain v. Gillespie*.³² Referee Jim Bain made a controversial call late in the Big Ten Conference basketball championship game between the University of Iowa and Purdue University that allowed a Purdue player to make a free throw that gave Purdue a last-minute victory. John and Karen Gillespie operated a novelty store in Iowa City specialising in University of Iowa sporting goods and souvenirs. The Gillespies claimed that Bain's malpractice caused Purdue to eliminate Iowa from the championship of the Big Ten Conference, thereby destroying a potential market for

Are Match Officials Fair Game?

the Gillespie's memorabilia touting Iowa as the Big Ten champion. However the Judge found that:

"It is beyond credulity that Bain, while refereeing a game, must make his calls at all times perceiving that a wrong call will injure (the) Gillespie's business ... and subject him to liability. Heaven knows what uncharted morass the court would find itself in if it were to hold that an athletic official subjects himself to liability every time he might make a questionable call. The possibilities are mind boggling."

Or, as one sporting saying has it; the referee is always right, even when he is wrong.

This standpoint is shared by the Court of Arbitration for Sport which has consistently maintained that the autonomy of match officials is unchallengeable except in very limited circumstances. This position is based on the rationale that the "the game must not be constantly interrupted by appeals to a judge", purely technical rules of the sport were "the responsibility of the federation concerned" and the panel were "less well placed to decide than the referee in the ring or the ring judges".⁵³

Indeed "CAS arbitrators do not review the determinations made on the playing field by judges, referees, umpires, or other officials who are charged with applying what are sometimes called 'rules of the game'...[T]hey are not, unlike on-field judges, selected for their expertise in officiating the particular sport".³⁴ In other words, the match official's decision is final, refereeing mistakes are all part of the game and the participants have to accept that risk.

However, CAS has stopped short of ruling out all challenges to the decisions of match officials and have gone as far to say that even a technical rule or decision could be reviewed where there is an error of law, an arbitrary decision, or malicious intent,³⁵ and when "decisions are taken in violation of ... social rules or general principles of law".³⁶ Further, CAS has stated that the Court can declare a referee's decision invalid where he has no power under the rules.³⁷

Watson v British Board of Boxing Control³⁸ also confirmed that policy considerations would not necessarily prevent the Court from finding that a duty of care was owed. In this case the boxer Michael Watson brought an action against the Board claiming that it had been under a duty of care to see that all reasonable steps were taken to ensure that he received immediate and effective medical attention and treatment should he sustain injury in the fight. He contended that they were in breach of this duty with the consequence that he did

not receive the immediate medical attention at the ringside that his condition required. As a result, Watson sustained serious brain damage. On 24 September 1999 Ian Kennedy J, gave judgment in favour of Watson. Against that decision the Board appealed but in finding with the original judgment Lord Phillips MR stated:

"Mr Walker [Counsel for the British Boxing Board of Control] also suggested that a finding in favour of Mr Watson in this case would involve postulating that other sporting regulatory bodies, such as the Rugby Football Union, owed duties of care to the participants in their sports in relation to their rules and regulations."

It does not follow that the decision in this case is the thin end of a wedge. The facts of this case are not common to other sports. In any event it would be quite wrong to determine the result of the individual facts of this case by formulating a principle of general policy that sporting regulatory bodies should owe no duty of care in respect of the formulation of their rules and regulations. I conclude that the Judge correctly found that the Board owed Mr Watson a duty of care"

Conclusion

Criticism of referees, particularly in the world of football, is nothing new and the late Bill Shankly famously remarked that "the trouble with referees is that they know the rules, but they do not know the game".³⁹

However, with the very recent developments in the Tevez case, match officials and their pay masters should fear more than mere disparagement. The seemingly insurmountable hurdle of remoteness no longer appears to be so overwhelming and consequently there is a real prospect of a club who suffers financial loss as a result of a match official's negligent decision being successful in a claim for negligence. Indeed, there have been a number of recent reports suggesting that clubs have considered taking legal action against referees for seemingly incomprehensible decisions.⁴⁰

The most obvious defendant in cases of negligence is the person who causes the loss, i.e. the match official's themselves. However, it is well established that the plaintiff can join the defendant's employers to the claim on the basis of vicarious liability if the defendant employee's negligent actions were performed during the course of employment. This means that in the case of the match officials operating at the highest level in football in England, the Premier League would be liable for a match official's negligence.

Are Match Officials Fair Game?

In a recent Court of Appeal judgment⁴¹ Redruth Rugby Club was held vicariously liable for the actions of one of its semi-professional players. It was held that it was fair and just to hold Redruth vicariously liable for a punch by one of its players, so that the claimant could obtain an adequate and just remedy and so that clubs are encouraged to attempt to minimise the risk of foul play in the future by their players. The decision is likely to have far reaching consequences for both professional and semi-professional sports clubs across the country.

The vicarious liability of employers therefore provides an additional defendant who is likely to be better able to pay any compensation; a potentially invaluable doctrine in the case of a club suing a match official for loss of profits due to a negligent decision.

Thus with governing bodies so exposed to the threat of litigation, the age-old technology debate resurfaces. Sports such as cricket, tennis and rugby have embraced technological progress to great effect. However, despite undertaking numerous trials,⁴⁷ football has been extremely reluctant to implement any such technology.


The arguments emanating from the traditionalists are well established. They maintain that technology will disrupt the beautiful game by making it too stop-start due to the delay between the incident and final decision. They also assert that on occasions even video replays are inconclusive (Geoff Hurst's second goal in the 1966 World Cup final providing a case in point).

However, where fail-safe technology is available to the governing body, it could be contended that failure to put it into operation could in itself be negligent. Technology is already used to some extent in football⁴⁸ and advancements such as a device to indicate when the ball has crossed the goal line appears to represent natural progression. In acknowledgment of this, in March last year the Football Association voted in favour of the implementation of goal line technology at the Annual General Meeting of the International Football Association Board.

Despite the obvious benefits, football's lawmakers, led by FIFA president Sepp Blatter and UEFA head Michel Platini opposed the Football Association and voted to abandon all further goal-line technology research in favour of an experiment of two additional referees, one behind each goal.⁴⁹ David Collins, general secretary of the Football Association of Wales (who voted with FIFA), said: "Football is a game played by human beings, and there was a feeling technology can hinder the flow of the game...Other sports have embraced technology – but they are far more stop-start."⁴⁵

This decision has been met with widespread incredulity throughout the game and even prompted the Premier League Chairman, Sir David Richards, to accuse Platini of "killing football".⁴⁶

Sir David is right to be concerned. At the time of writing Watford are struggling against relegation from the Championship to the third tier of English football. If they were to be relegated, will they seek compensation from the Football League over the 'phantom' goal awarded to Reading by Atwell (a mistake that would surely have been avoided had goal line technology been utilised) if the three points they might have secured proves the difference between relegation and survival?

Watch this space. 

Are Match Officials Fair Game?

- 1 <http://www.telegraph.co.uk/Sport/football/leagues/championship/3043039/Altwell-in-clear-after-pworst-ever-decision--Football.html>
- 2 <http://www.thefa.com/TheFA/Respect/>
- 3 <http://www.thefa.com/TheFA/Refereeing/NewsAndFeatures/Postings/2002/06/13045.htm>
- 4 <http://uk.reuters.com/article/footballNews/idUK12043b8620080521>
- 5 *The Field of Play*, Michael J Beloff QC and Rupert Beloff, para 5, p. 153 Halsbury's Laws: centenary essay collection
- 6 *A person will owe a duty of care not to injure those who it can be reasonably foreseen would be affected by their acts or omissions* (Donoghue v Stevenson [1932] AC 562)
- 7 *Judge J Caldwell v Maguire* [2001] EWCA Civ 1054, [2002] PIOR P6, [2001] All ER (D) 363 (Jun)
- 8 *Rooves v Shelton* [1968] All ER 33 at 37
- 9 [1997] PIOR P133, CA
- 10 [2003] EWCA Civ 316
- 11 [2000] 3 WLR 726 at p. 802
- 12 See also *Perrett v Collins* [1998] 2 LL.R. Rep. 255
- 13 *Agar v Hyde* [2001] HCA 41
- 14 *MacDonagh v FIFA*, *The Times* 7th January 1999
- 15 *Woolridge v Sumner* [1963] 2 QB 43
- 16 *Condon v Basi* [1985] 1 WLR (involving participant violence)
- 17 *Caldwell v Maguire and Fitzgerald* [2001] EWCA Civ 1054
- 18 *Caldwell v Maguire and Fitzgerald* [2001] EWCA Civ 1054 at [11], [2002] PIOR P6 at [11]
- 19 See *Pitcher v Huddersfield Town FC* *transcript*, 17 July 2001.
- 20 See *Allport v Wilbraham* [2004] EWCA Civ 1663 for an example of where such negligence was not established
- 21 Although the defendant hospital had been negligent in failing to examine the deceased, there was no proof that the deceased's death was caused by that negligence (*Barnett v Chelsea & Kensington Hospital* [1968] 1 All ER 1058).
- 22 Although the defendant was in breach of the duty of care owed to the claimant's husband, the breach was not factually causative of his death (*McWilliams v Sir William Arrol* [1962] 1 WLR 295 (HL)).
- 23 *Re an Arbitration between Polenus and Furness, Withy & Co. Ltd.* [1921] 3 K.B. 560.
- 24 *The Wagon Mound* [1961] AC 388 (PC)
- 25 <http://www.guardian.co.uk/football/2002/sep/23/premierleague/sheffielddunited?guic=rss&feed=networkfront>
- 26 http://www.signonsandiego.com/uniontrib/20080916/news_1n16ref.html
- 27 For example, Premier League football clubs agree to be bound by the decisions of a match official
- 28 *Hawkins J held in R v Coney* that "It may be that consent can in all cases be given so as to operate as a bar to a civil action; upon the ground that no man can claim damages for an act to which he himself was an assenting party"
- 29 *Condon v Basi* [1985] 1 WLR 866, where the defendant tackled the plaintiff during a football match in such a manner as to lead to the plaintiff to suffer a broken leg.
- 30 *Barwick CJ* at p.34 in *Rooves v Shelton* [1968] All ER 33
- 31 See Footnote 11 *supra*
- 32 357 N.W.2d 47 (Iowa App. 1984)
- 33 *Mendy v Association Internationale de Boxing Amateur (AIBA)* (CAS OG Atlanta 1996/006 Digest Vol 1, p.413 para. 13)
- 34 *Segura v International Amateur Athletic Federation (IAAF)* (CAS OG Sydney 2000/13, Digest Vol.2 p. 680, para 17)
- 35 *HN Neykova v International Rowing Federation (FISA) & International Olympic Committee (IOC)* (CAS OG Sydney 2000/12), where the losing Bulgarian rower queried the photo-finish that placed her second in her event at the Sydney Olympics. CAS felt that this was "different to that of a typical official's field of play decision" (CAS OG Sydney 2000/12 Digest Vol.2 p.674, para. 13)
- 36 *Mendy v Association Internationale de Boxing Amateur (AIBA)* (CAS OG Atlanta 1996/006 Digest Vol 1, p.413 para. 13 – 14)
- 37 *Canadian Paralympic Committee (CPC) v International Paralympic Committee (IPC)* (2000/A/305, Digest Vol.2 p. 567) here, the principle that a sporting federation must follow its own rule seems to have trumped any principle of autonomy.
- 38 [2000] LTL C7200353
- 39 http://en.wikiquote.org/wiki/Bill_Shankly
- 40 <http://www.dailyrecord.co.uk/sport/2009/05/12/dunfermline-united-plan-to-sue-referee-over-rangers-match-blunders-86908-20415162/>
- 41 *Andrew Gravil v Richard Carroll and Redruth Rugby Football Club, Redruth Rugby Football Club* [2008] EWCA Civ 689
- 42 For example, <http://www.telegraph.co.uk/sport/football/international/2350844/New-trial-for-goal-line-technology.html>
- 43 For example, where an incident is not seen by the officials during the game, the Football Association can analyse TV footage, photographic evidence, etc before deciding on whether to take disciplinary action against the player.
- 44 <http://www.fifa.com/aboutfifa/federation/bodies/media/newsid=707751.html>
- 45 <http://uk.eurosport.yahoo.com/08032008/1/goal-line-technology-trials-scrapped.html>
- 46 <http://www.guardian.co.uk/football/2008/mar/1/1>