WHAT’S A “BUNKER”?: THE CURIOUS CASE OF HOW DUSTIN JOHNSON LOST THE 2010 PGA CHAMPIONSHIP AND WHY THE PGA MUST REVISE THE NOW INFAMOUS LOCAL RULE AT WHISTLING STRAIGHTS

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I. INTRODUCTION

Dustin Johnson stood on the 18th tee on Sunday afternoon at Whistling Straights poised to capture his first major championship victory, a feat that had painfully eluded him in the final round of the U.S. Open at Pebble Beach only six weeks earlier in perhaps the most infamous collapse by a third-round leader in major golf championship history. Now, only a single hole stood between him and redemption in the form of the Wanamaker Trophy. Most players would have never recovered so quickly from the embarrassment that he had endured at Pebble Beach to put themself back in contention to win another major championship in the same season. But Johnson did. And anyone who might not have been a fan of the previously unknown South Carolinian at the U.S. Open back in June was at least now pulling for the amiable young

1 J.D., Whittier Law School, M.A., University of Akron, B.A., Capital University. This article is dedicated to the Pelanda family reunion of 2010 where we sat in Dad’s living room and watched the final moments of the 92nd PGA Championship unfold and argued on into the evening without any final resolution about the historic controversy that ensued. Dad’s constant refrain in that argument “What do the rules say?!” inspired this article. As countless other sons have reluctantly done and admitted to their fathers at one point or another in their lives, Dad, you were right.

2 Leading the field by three strokes after the first three rounds at Pebble Beach, Johnson triple-bogeyed the second hole, double-bogeyed the third hole, and bogeyed the fourth. He finished with an 82, the worst score for a third-round leader at the U.S. Open in ninety-nine years, ultimately finishing tied for eighth in the tournament. John Branch, In Stunning Losses, Winning Over Fans, N.Y. TIMES, Aug. 29, 2010, at SP 1.
linksman to redeem himself in what appeared to be one of the more remarkable comebacks in professional sports. Unfortunately, Johnson ended up as the tragic hero in yet another historically disappointing championship moment.

Just after finishing the final hole with what he and everyone else had thought was a bogey to put him into a three-way tie for first place in the championship and a playoff with Bubba Watson and the eventual champion Martin Kaymer, Johnson, to his surprise, was approached by rules official David Price about a possible rules infraction earlier on that hole. Price told him “I think you grounded your club in the bunker,” to which the flabbergasted Johnson replied, “What bunker?”

Johnson had launched his tee shot to the far right of the fairway into the middle of a sea of spectators. The crowd had narrowly parted around his lie, in what was a small grassless patch of earth that the officials eventually ruled was a bunker. The swarm of fans gathered closely around Johnson as he evaluated his shot, obscuring the topography of the area as they stood within only a few feet of his ball as he fired it toward the green. Everything seemed perfectly fine, Johnson having moved on after the shot and the officials not having indicated that anything was wrong. Unfortunately, Johnson’s possible violation of the rules for grounding his club while his ball was in a bunker on that shot wasn’t brought to the attention of the rules officials until after he had moved on to finish the hole for an apparent tie for first place.

After a long and drawn out meeting in the official scoring area that left spectators reeling for an explanation, the tournament committee penalized Johnson two shots according to the rules
for having grounded his club in what was an arguably unrecognizable bunker. The penalty dropped his name from atop the leaderboard and out of contention, down to a tie for fifth place. Martin Kaymer went on to outlast Watson in an anticlimactic three-hole playoff. Instead of cashing in for the $1.35 million grand prize, or the $660,000 that he at least would have won just for making it into the playoff, Johnson took home a check for $270,833.33.

Having one of the most coveted accomplishments in professional sports and more than a million dollars practically taken out of your hands by a murky ruling on a mere technicality is probably enough to make even the most rational person react irrationally. And it doesn't take much imagination to envision how John McEnroe or Bobby Knight might have responded had one of them been in Johnson's predicament. But the lanky 26-year-old out of Coastal Carolina University put on a clinic for how to show class in the midst of bitter disappointment. No temper tantrum. No whining. No accusations. No muttering under his breath. Nada. Disappointed for sure, but as most of the post-event news coverage of the incident surmised, Johnson might have been the only person not demonstrably upset with the ruling. When asked how Johnson reacted after having the devastating final ruling explained to him, co-chairman of the PGA of America’s

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6 Id. For a simplified breakdown of PGA prize money distributions see PGA Tour Prize Money Charts, http://frankosport.us/golf/Purse/ (last visited Apr. 3, 2011).
rules committee Mark Wilson said, “he couldn't have been more of a gentleman about it. He really couldn't have been.”

In a USA Today poll conducted just after the tournament that had more than 29,000 respondents, when asked whether they agreed with the penalty assessed against Johnson, 63% responded that they disagreed, while another 20% responded that they agreed but that there was room for doubt about the call. The overwhelming disagreement and doubt seems to have stemmed from legitimate confusion over the application of the rules that led to Johnson’s dramatic penalization.

The video replay had confirmed that Johnson had lightly tapped the ground with his club as he addressed the ball on his second shot, and he never denied having done so. At issue was whether he was actually in a bunker when he did it, because the rules explicitly prohibit players from touching the ground with their club prior to making a stroke when their ball lies in a bunker. “Never once did it cross my mind it was in a sand trap,” Johnson stated afterward. Now this is an interesting statement coming from a professional golfer, because even for those of us who are only casually familiar with the game of golf, we all know what a bunker is. Or do we?

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For someone who didn’t watch the coverage of the tournament held at Whistling Straights, a course located just off the coast of Lake Michigan in the town of Haven, Wisconsin, the thought of there being any question as to whether a player’s ball was in a bunker or not is likely to sound a bit perplexing. Bunkers are typically lightly colored sandy pits scattered throughout contrasting green grassy golf courses. But at Whistling Straights, that’s not necessarily the case. The incomparable links-style course boasts over a thousand bunkers strewn throughout its treacherous terrain, many of which the grounds-crew neither maintain nor groom and lay outside of the spectator ropes.11 By comparison, the Old Course at St. Andrews has 112 bunkers.12 Johnson’s second shot on his final hole came to rest on a small dusty barren patch of earth square in the middle of a throng of spectators. “I just thought I was on a piece of dirt that the crowd had trampled down,” he explained afterward.13

Whereas other tournaments often consider unmaintained bunkers outside of the rope-line to be “waste bunkers” that can be played as non-hazards, because of Whistling Straights’ uniquely “hazardous” landscape the PGA implemented a blanket local rule for the tournament that held that all areas of the course that were “designed and built as sand bunkers” would be played as hazards without exception.14 Tournament officials had provided all players with

13 Shipnuck, supra note 11, at 40.
written notice of the local rule prior to and throughout the tournament that further explained that many bunkers outside of the ropes would be unraked and would likely include numerous footprints from tournament patrons. Johnson admittedly failed to read and make himself aware of both the local rules sheet that had been provided to him, and the notices of the local rule that had been posted all around the course, one of which was actually located near his locker.

Of course, ignorance of the law is no defense. But while many have been quick to point out that it was obviously Johnson’s sole responsibility to be aware of the local rule on the play of bunkers and that “a rule is a rule,” there has been very little analysis of the collection of rules at issue and their application. The interplay of the actual rules and the factual circumstances

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15 Id.; Shipnuck, supra note 9, at 40.
16 Shipnuck, supra note 9, at 40.
17 See Kevin Scarbinsky, In Golf, a Rule is a (Dumb) Rule, BIRMINGHAM NEWS, Aug. 17, 2010, at D2 (“But a rule is a rule, especially when it’s printed on a rules sheet and posted in the locker room and handed to every player before the tournament begins.”); Jerome Solomon, Johnson’s Ignorance Proves Costly, HOUSTON CHRON., Aug. 17, 2010, at 1 (“Johnson has no one to blame but himself for his unfortunate mistake.”); Scott Michaux, Rules of Golf Can’t be Beaten, AUGUSTA CHRON., Aug. 16, 2010, at C1 (“[I]gnorance of the law is no defense in golf, and the law was posted for all to see in the locker room regarding the nearly endless array of random bunkers scattered all the way to the entrance of Whistling Straights.”); Greg Johnson, Local Rules Official Gets National Earful: GR native Wilson Explains Controversial PGA Shot, GRAND RAPIDS PRESS, Aug. 18, 2010, at C1 (“Johnson did this to himself by not paying attention to a rules sheet made specifically for the tournament. It pointed to that very specific violation.”); Gary D’Amato, Johnson Has No One to Blame But Himself, Aug. 17, 2010, MILWAUKEE J. SENTINEL, at SP (“Johnson should have known better . . . [he] didn’t read a rules sheet distributed to the contestants that clearly explained a local rule about bunkers . . . and in this case there was only one possible interpretation.”).
18 Quinn Hillyer of the American Spectator has provided the most insightful analysis to date of the factual circumstances and the actual rules at issue. Quinn Hillyer, A Badly Wounded Spirit of Golf, AMERICAN SPECTATOR (Aug. 16, 2010), http://spectator.org/archives/2010/08/16/a-badly-wounded-spirit-of-golf.
surrounding Johnson’s alleged infraction aren’t nearly as clear as some would like to believe.
For instance, after the incident, Bruce Patterson, a member of the PGA of America’s board of
directors, proclaimed “It’s very black and white to me. The rules were posted everywhere, and
it’s the player’s responsibility in golf to know the rules, period.” And according to Ed Mate,
the executive director of the Colorado Golf Association, “[I]t was Dustin Johnson’s
responsibility to know the rules, and he failed to follow them . . . It’s up to the players to know
the rules.” Rick Morrissey of the Chicago Sun Times wrote, “Rules are rules . . . If Johnson
didn’t know the rule, he should have.” Even Johnson himself chimed in along with the chorus
of his critics afterward, stating that while he obviously knew that the rules of golf don’t permit
players to ground their clubs in bunkers, “Maybe I should have looked at the [local] rule sheet a
little harder.”

The problem is that even had Johnson been aware of the local course rule on bunkers it
probably wouldn’t have mattered because he never once thought he was in a bunker. This may
be going too far to state the obvious, but it’s unlikely that a player will follow a rule specific to
playing a shot out of a bunker when the player either (A) isn’t in a bunker, or (B) isn’t aware that
he is in a bunker. Johnson never argued that he didn’t know that the alleged bunker was to be
played as a hazard – which is all that the local rule said – his excuse was that he didn’t know he

19 Teddy Greenstein, Players, Fans Tee Off on Bunker Penalty: PGA Says Rules Clear,
20 Mike Chambers, Golf Front Range Experts See Gaffe Differently, DENVER POST, Aug.
21 Rick Morrissey, Golf a True Role Model: Sport’s Regulations Might Seem
Oppressive, But They’re There to Be Obeyed, CHI. SUN TIMES, Aug. 18, 2010, at 66.
22 Shipnuck, supra note 11, at 40.
was even in a bunker to begin with. Thus, Johnson’s tragic incident complicated the heretofore seemingly basic question of what constitutes a bunker under the Rules of Golf, and raises questions as to whether the Local Rule on bunkers at Whistling Straights might have unexpectedly and impermissibly altered that definition.

While questionable rulings are an inherent aspect of any sport, the arc of analysis that this article swings is important for at least one reason. While Johnson’s mishap at the 2010 PGA Championship was enough to at least cause a reasonable person to pause for serious consideration of the bunker rules at issue, before the dust – or rather, the sand – had even settled around the controversy, the PGA announced on the day immediately following the tournament that it is unlikely that it will opt to change the ambiguous local rule when the championship returns to Whistling Straights in 2015.  

23 PGA President Jim Remy opined that there just wasn’t a practical solution for the bunker issue at the course. “Do you mark 900 of them not as bunkers and 300 as bunkers? How do you ever mark them?” he said. But the numerosity of bunkers on the course isn’t the real issue. The issue is a simple problem of identification. Remy announced the PGA’s apparent decision to maintain the current Local Rule—which states that all areas of the course that were merely designed and built as sand bunkers are to be played as hazards—in spite of the fact that the co-chair of its rules committee had actually admitted after the incident


that many of the estimated 1200 bunkers at Whistling Straights are so difficult to identify that “I think that even the superintendent and his staff would admit that they have never been able to count them all.”

Considering the fact that if the rule doesn’t change tournament officials will no doubt require the players to be aware of every conceivable bunker on the course regardless of what they might appear to be, it begs the question as to why the officials think it would be too burdensome and unimportant for them to even attempt to somehow mark or identify them. And furthermore, if the best professional golfers in the world such as Johnson have difficulty identifying some of the sand traps at Whistling Straights, there’s no reason to believe that tournament officials, who already expressly find it too difficult just to even find and mark all of the bunkers on the course, won’t have similar difficulties in identification the next time around.

The Rules of Golf have changed before in response to ambiguities and practical problems, and the PGA both must clarify the Local Rule at Whistling Straights, and clearly define the bunkers there. The real issue surrounding the 92nd PGA Championship isn’t about whether Dustin Johnson should have been aware of the rules, it’s about whether the rules were

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clear and their application sound. Players aren’t the only ones that must abide by the Rules of Golf. Tournament committees themselves also must adhere to the Rules, and under the Rules a committee can’t merely decide to call anything a bunker. If the location where Johnson incurred his ill-fated penalty was a bunker, the question thus becomes, what’s a bunker?

II. THE RULES AT PLAY

Promulgated jointly by the R&A (Royal and Ancient Golf Club of St. Andrews) and the United States Golf Association (USGA) for more than a century, the Rules of Golf are notoriously strict. So strict that one federal judge quipped in a decision published several decades ago that even “[f]ederal district court is no place for the strict rules of golf.”27 The austerity of the rules is one of the game’s singularly defining characteristics. More than a century ago as the USGA considered revisions to the official rules in 1907, an editorial in the New York Times advocated that for medal games, the term for tournament-style stroke play, “there should be the strictest provisions possible and no possible compromise with the letter of the law.”28 Countless rules decisions at competitive tournaments over the years since have held true to this request. And yet it hasn’t always been merely the strictness of the rules that fans and players have come to recognize; over the years their clarity and application has also been subject to fierce debate and criticism. One headline that ran in the New York Times in 1960 after a

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series of rules-related incidents in professional golf events read, “Golfers Advised to Hire Lawyer or Study Rules Book Carefully.”

Perhaps the most infamous rules violation to ever cost a player a major championship victory was the Argentinian Roberto De Vicenzo’s innocuous scorecard mishap at the 1968 Masters. Under circumstances strikingly similar to Johnson’s finale at Whistling Straights, De Vicenzo bogeyed the 18th hole in the final round at Augusta National to place him in a tie for a share of the lead and a playoff with Bob Goalby. While thousands of on-site spectators and millions of television viewers had witnessed De Vicenzo shoot a 65 for his final round, after finishing the round he had signed-off on and submitted the un-subtotaled scorecard that his paired playing partner Tommy Aaron had kept for him without noticing that the card mistakenly totaled to a 66. Aaron had erred by writing a 4 on de Vicenzo’s card for the 17th hole rather than the birdie 3 that he had actually scored. Under the Rules of Golf, “No alteration may be made on a card after the competitor has returned it to the committee. If the competitor returns a score for any hole lower than actually played, he shall be disqualified. A score higher than actually played must stand as returned.” A rule is a rule. So de Vicenzo’s mistake tacked an extra shot on to his overall score which in turn knocked him down to second place and fitted Bob Goalby into a Green Jacket.

Whereas the application of the rule in de Vicenzo’s case may have been harsh, the rule itself and the factual circumstances of the infraction were crystal clear. The same cannot be said, however, of the penalty assessed to Dustin Johnson at Whistling Straights.

The interplay of three distinct rules lies at the heart of the controversy that erupted in the final minutes of the 2010 PGA Championship. The first is the prohibition on grounding a club in a bunker, the second is the definition of a bunker, and the third is the local rule that the PGA implemented at Whistling Straights that any area that was designed to be a bunker would be played as a bunker. Any adequate analysis the application of the rules in Johnson’s situation must begin with the text of the rules themselves.

A. Rule 13-4. Ball in Hazard; Prohibited Actions

Johnson was penalized two strokes on the 18th hole for grounding his club in a bunker on his second shot. Under the rules of golf, a player is not permitted to improve the lie of his or her ball by pressing their club on the ground. However, the rules specifically state that a player incurs no penalty by “grounding the club lightly when addressing the ball,”31 so long as the ball does not lie in a hazard. Rule 13-4 expressly prohibits such an action. The text of the rule reads as follows:

Except as provided in the Rules, before making a stroke at a ball that is in a hazard (whether a bunker or a water hazard) or that, having been lifted from a hazard, may be dropped or placed in the hazard, the player must not:

a. Test the condition of the hazard or any similar hazard;

b. Touch the ground in the hazard or water in the water hazard with his hand or a club; or

c. Touch or move a loose impediment lying in or touching the hazard.32

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In essence, Rule 13-4b states that if a player’s ball lies in a hazard the player may not touch the ground in the hazard at all with his or her hand or club prior to striking the ball. The penalty for breach of the rule in stroke-play is two strokes. The policy underlying the rule is to prevent players from improving their lie when their ball is in a bunker. Grounding a golf club in a bunker prior to making a stroke could improve a player’s lie both because it would allow a player to test the condition of the sand and create additional space behind the ball prior to making a stroke, which would allow him to make cleaner contact with the ball. The only exceptions to the rule are when the player touches the ground in a hazard as a result of or to prevent falling, removing an obstruction, in measuring or in marking the position of, retrieving, lifting, placing or replacing a ball under any other Rule, or if the player actually places his entire set of clubs in a hazard.\footnote{Id. at Rule 13-4b.}

The video replay confirmed that Johnson did in fact lightly ground his club as he addressed his ball, and he admitted that he had done so.\footnote{Id. at Rule 13-4b.} Thus, the issue turned on whether his ball was in a hazard and hence whether Rule 13-4 governed the circumstances, or whether the general allowance for grounding the club prior to making a stroke applied. Fortunately, the rules also provide a definition for what constitutes a hazard.

\footnote{Scott Michaux, \textit{Rules of Golf Can’t be Beaten}, \textit{Augusta Chron.}, Aug. 16, 2010, at C1.}
B. Definition of Hazard

Similar to many statutory code titles, Section II of the Rules of Golf consists of a list of definitions for various terms used in the Rules of Play. And just like specific statutorily defined terms, these definitions are part of the rules themselves. Hence, the definitions are also rules.

Courts in the United States often invoke a doctrine known as “the plain meaning rule” when evaluating statutory language. According to the plain meaning rule, “where the language of an enactment is clear [or, in modern parlance, plain], and construction according to its terms does not lead to absurd or impracticable consequences, the words employed are to be taken as the final expression of the meaning intended.”35 In essence, if a rule is unambiguous according to the standard meanings of its terms, we won’t look to anything further to interpret its meaning. While American courts obviously don’t have jurisdiction over golf tournaments and although the Rules of Golf themselves don’t include a provision for the standard by which the Rules should be interpreted, the plain meaning rule is generally a sound rule and thus will be used here for analytical purposes.

The Rules define “Hazard” simply as “any bunker or water hazard.”36 “Bunker” itself is a defined term as well, and this is where the situation begins to get interesting. The definition reads as follows:

A “bunker” is a hazard consisting of a prepared area of ground, often a hollow, from which turf or soil has been removed and replaced with sand or the like.

Grass-covered ground bordering or within a bunker, including a stacked turf face (whether grass-covered or earthen), is not part of the bunker. A wall or lip of the

bunker not covered with grass is part of the bunker. The margin of a bunker extends vertically downwards, but not upwards.

A ball is in a bunker when it lies in or any part of it touches the bunker. 37

Under the definition above, a bunker has three distinct elements: it must consist of (1) a prepared area of ground, (2) from which the turf or soil has been removed, and (3) the space therein must be replaced with sand or the like. The structure of the sentence is perfectly clear: nothing can qualify as a bunker unless all three elements are present.

Analyzing the terms of each element, the second and third elements are straightforward: the turf or soil must be removed from the area and the remaining space must be filled with sand or the like. However, what constitutes a “prepared” area of ground under the first element is not so apparent at first glance. Nevertheless, we can look to the dictionary definition of “prepared” to understand the plain meaning of the word. According to the Merriam-Webster dictionary, “prepared” means “subjected to a special process or treatment.” 38 This definition clarifies any ambiguity that might be alleged to exist within the first element. The element should be properly construed to mean an area of ground subjected to a special process or treatment, and this makes sense when read in conjunction with following two elements. The removal of soil and its replacement with sand is consistent with the special treatment required under the first element. The three elements combine to create a practical rule for what constitutes a bunker: (1) there must be an area prepared to be a bunker, (2) the turf or soil must be removed from that area, and (3) the remaining space must be filled with sand or the like. Under the elements of this rule,

37 Id. at 6.
bunkers should be relatively simple to construct, and a properly designed bunker should be an easily recognizable feature on a golf course.

Applying the plain meaning rule, because the construction of the definition for a bunker according to its terms clearly does not lead to absurd or impracticable consequences, the words used in the rule itself should be taken as the final expression of the meaning intended. In other words, an area on a golf course will only qualify as a bunker if it adheres to the language of the rule. An area on the course won’t qualify as a bunker merely because the course designer or tournament committee intended for it to be a bunker.

This last point is where the controversy over the local rule on bunkers at Whistling Straights begins to emerge.

C. The Local Rule

Rule 33-8a of the Rules of Golf allows a committee in charge of a competition to “establish Local Rules for local abnormal conditions if they are consistent with the policy set forth in Appendix I.” In fact, Appendix I sets forth several policies, however only one of them could possibly apply to the conditions at Whistling Straights. Part A 4b states that “Adverse conditions, including the poor condition of the course or the existence of mud, are sometimes so general, particularly during the winter months, that the committee may decide to grant relief by temporary Local Rule either to protect the course or to promote fair and pleasant play.” The PGA Championship tournament committee allegedly came to the conclusion that the unusual overabundance of bunkers at Whistling Straights—especially those that are ungroomed and

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40 Id. at 101.
located outside of the ropes in high-traffic spectator areas, thus making them more difficult to identify—was an “adverse condition.” Rather than attempt to identify which bunkers should be played as hazards and those that shouldn’t, the committee apparently thought it would “promote fair play” by simply establishing a blanket rule that every area that was “designed and built” to be a bunker would be played as a bunker.\textsuperscript{41} In hindsight, it appears that the real effect of this rule was to make things easier for the tournament officials, as it shifted the entire onus onto the players for identifying what might and what might not be a bunker, even as the officials themselves simultaneously acknowledged the near impossibility of that task.

The fact that the tournament committee decided to implement a local rule for the championship is not problematic. And regardless of the wisdom or reasoning behind the Local Rule itself, even the committee’s intention to establish a blanket rule on the play of bunkers was not necessarily faulty. The actual rule that the committee adopted, however, does prove to be quite problematic.

Several days after the event, David Price, the rules official that walked with Johnson’s group during the final round, explained that “We told the players on the information we gave them that all sand on the course was considered a hazard, even if there were footprints or tire marks.”\textsuperscript{42} But the Local Rule that the committee adopted didn’t say that “all sand” was

\textsuperscript{41} See also Gary D’Amato, \textit{Johnson Has No One to Blame But Himself}, MILWAUKEE J. SENTINEL, Aug. 17, 2010.

\textsuperscript{42} Rick Morrissey, \textit{Golf a True Role Model: Sport’s Regulations Might Seem Oppressive, But They’re There to Be Obeyed}, CHI. SUN TIMES, Aug. 18, 2010, at 66.
considered a hazard.\textsuperscript{43} And even if it did, under the Rules, a tournament committee can’t just decide to call “all sand on the course” a hazard. For an area on a golf course to qualify as a hazard, it must meet all of the elements under the definition in the Rules. The Local Rule that the PGA implemented and its application strayed from this requirement.

In its entirety, the Local Rule stated as follows:

All areas of the course that were designed and built as sand bunkers will be played as bunkers (hazards), whether or not they have been raked. This will mean that many bunkers positioned outside of the ropes, as well as some areas of bunkers inside the ropes, close to the rope line, will likely include numerous footprints, heel prints and tire tracks during the play of the Championship. Such irregularities of surface are a part of the game and no free relief will be available from these conditions.\textsuperscript{44}

This rule effectively replaced the objective definition of what constitutes a bunker under the Rules with a new and subjective one. While the Rules require a bunker to be (1) a prepared area of ground, (2) from which turf or soil has been removed, and (3) replaced with sand or the like, the local rule redefined a bunker as being any area that was merely “designed and built” as a sand bunker. This essentially required the players to have an intimate knowledge of the architect’s plans for Whistling Straights, a course that was built more than a decade ago.\textsuperscript{45} And even if we were to presume for the moment that holding players responsible for being familiar

\textsuperscript{43} Scott Michaux was one of the few, if not the only reporter to take note of this mistaken understanding by the rules official. Scott Michaux, \textit{Only De Vicenzo Can Empathize With Johnson}, AUGUSTA CHRON., Aug. 22, 2010, at C1.


with the course’s architectural plans would be fair, we can’t reasonably apply such a
presumption in Dustin Johnson’s case because tournament officials actually admitted that the
reason they didn’t provide players with a map of all the existing bunkers on the course was
precisely because no such map even exists, primarily due to the fact that not all of them can be
readily identified. Among other things, this point raises the troubling question as to how the
tournament officials were thus ever able to conclusively determine whether Dustin Johnson
actually was in an area that was “designed and built” as a bunker when he took his second shot
on the 18th hole, but we’ve just been left to take their word for it.

Had Johnson been aware of the local rule as he should have been—despite the rule’s
obvious faultiness—it’s possible that he might have been more careful around areas that looked
like they could have been designed and built as bunkers. But what about areas on the course that
didn’t look like bunkers at all, but were supposedly “designed and built” as bunkers?

The problem with the local rule is simple. While the definition for a bunker under the
Rules of Golf requires a bunker to consist of (1) a prepared area of ground, (2) from which the
turf or soil has been removed, and (3) that the space therein be replaced with sand or the like,
under the language of the Local Rule it’s easy to imagine an unidentifiable-bunker-scenario
where the course architect supposedly had “designed and built” an area on the course to be a

46 Flash Interview With: Mark Wilson, PGA.com (Aug. 15, 2010),
Rules Official Mark Wilson” hyperlink).

47 As Berry Tramel of the Oklahoman newspaper wrote, “Frankly, if I was Johnson, I
might have asked the PGA honcho who popped me with the two-stroke penalty, ‘Did you build
that area of land? Did you design it?’ If the answer is no, then how the heck do you know?”
bunker, but the turf or soil from that area has since returned, or the sand has vanished—things that are more than likely to happen with thousands of spectators trampling through it over a six-day period and when the bunker itself isn’t maintained by the grounds crew. Under the Rules of Golf a bunker is required to be objectively identifiable, not subjectively determinable.

A couple of days after the championship, Johnson told the press, “Rules are rules. Obviously, I know the rules very well. I just never thought I was in a bunker, or I would have never grounded my club. Maybe walking up to the ball, if all those people hadn’t been there, maybe I would have recognized it as a sand trap. I knew there wasn’t [sic] any waste bunkers. But all the bunkers on the course had a darkish color to the sand. This was white dirt.”

Whether we find this to be a good explanation or not, the uniqueness of Whistling Straights and the Local Rule itself opened the door for debatable interpretations as to what constituted a bunker, and neither the players nor the officials were ever given sufficient information to be able to identify what areas were in fact “designed and built” to be bunkers.

III. SO, WHAT’S A “BUNKER”?

According to Rick Morrissey of the Chicago Sun Times, “By the PGA’s definition, it was a bunker, and that’s the only definition that matters.” This assessment is painfully mistaken. The only definition that matters is the definition that the USGA and the R&A have provided in the official Rules of Golf, and that definition requires that a bunker consist of (1) a prepared area

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of ground, (2) from which turf or soil has been removed, and (3) that the space therein be
replaced with sand or the like. From the visual pictures of the area where Johnson incurred the
penalty it wasn’t clear at all that the area was prepared to be a bunker, nor that any turf or soil
had actually been removed and replaced with sand. However, it is undeniable that there wasn’t
any grass within a few feet of where his ball lay and that the small area of ground was very dry
and dusty. Nevertheless, hundreds of spectators had encircled the ball and stood packed tightly
within only a club’s length of it, preventing Johnson from noticing any possible outer rim or lip
of the “bunker” that might have warned him of its existence (although even had the crowd been
held back it still probably wouldn’t have helped, considering that CBS television announcer
David Feherty went back and stood in the exact same spot after the crowd had left and he still
couldn’t identify it as a bunker). 50

As Ron Kroichick of the San Francisco Chronicle put it, “it still defies common sense to
think tournament officials considered the resting spot for Johnson’s drive a bunker. No way.
Not when spectators traipsed through it all week. Not when they stood there as he launched his
tee shot. Not when they surrounded him in the ‘bunker’ as he took his fateful swing.” 51 And

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Stewart Cink, the 2009 champion of the British Open, made the seemingly obvious suggestion that “Maybe Whistling Straights should rethink some of those obscure bunkerish features.”

Nonetheless, the PGA remains firmly behind its Local Rule. And the issue remains that the Local Rule itself both fails to give players adequate notice of what might constitute a bunker and might also have impossibly altered the definition of what constitutes a bunker.

Rule 33-1 of the Rules explicitly states that a committee in charge of a competition “has no power to waive a Rule of Golf.” Furthermore, Rule 33-8b goes on to say that “A Rule of Golf must not be waived by a Local Rule.” As it is, the Local Rule that the PGA implemented at Whistling Straights effectively waived a Rule of Golf by broadening the definition of what constitutes a bunker to anything that was merely designed and built to be a bunker. However, Rule 33-8b does carve out an exception to the no-waiver rule: “[I]f a committee considers that local abnormal conditions interfere with the proper playing of the game to the extent that it is necessary to make a Local Rule that modifies the Rules of Golf, the Local Rule must be authorized by the USGA.” There’s been no indication that the PGA Championship tournament committee sought or received such authorization.

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55 Id. at 96.
56 Id.
The existing definition of what constitutes a bunker under the Rules is sound. And under that definition, an area on a golf course doesn’t become a bunker just because a tournament committee says so, or because some sand or dirt by chance happens to be there. The requirement that a bunker consist of a prepared area of ground from which the turf or soil has been removed and replaced with sand or the like establishes an objective standard by which any reasonably observant player can easily distinguish between areas that are bunkers and areas that are not.

The Local Rule that the PGA implemented and plans to maintain at Whistling Straights altered this requirement by establishing that a bunker is any area that was simply “designed and built” to be a bunker, regardless of the area’s actual condition or appearance.

This Local Rule is problematic both in the sense that it requires players to know something of which they are not capable of knowing (i.e., whether an area was originally designed and built to be a bunker), and because it establishes that certain areas are to be considered bunkers even when they might not appear to be bunkers at all. Whistling Straights’ innumerable hazards make it a unique and challenging course for the world’s top golfers. And that’s fine. But if tournament officials are going to strictly construe the rules of the game against players, the rules must be unambiguous and comport with the standards that the official Rules of Golf set forth. The Local Rule at issue here doesn’t, and Dustin Johnson was the unfortunate victim of its ambiguity.
IV. Where to Go From Here

After Roberto de Vicenzo’s scorecard incident at the 1968 Masters, fans and even some other professional golfers denounced the seemingly unfair scorecard rule. While many argued that the rule should be changed or that an exception should have been made, others argued that there were other obvious measures that would have prevented the incident from happening, and the USGA immediately took steps to ensure that similar bookkeeping mishaps wouldn’t happen to players at events in the future.

De Vicenzo’s failure to notice that his scorecard erroneously gave him a par 4 on the 17th hole rather than the birdie 3 that he had made was mostly attributable to the fact that after he finished his round he didn’t have a quiet place where he could go to concentrate and review his card. After the incident, Don January, the PGA Champion from the previous year expressed that “I don’t think the rule should be changed but I think a separate area should be established at the 18th green at every tournament where players can go over their scores.” Joseph Dey, the USGA’s executive director agreed and proposed creating an isolation booth that would protect players from the crowd and provide them with a private location to check their scorecards after

58 Lincoln Werden, De Vicenzo's Loss in Masters Leads U.S. Open to Aid Scoring, N.Y. TIMES, June 12, 1968, at 53.
finishing their rounds.\textsuperscript{60} Dey followed through, and a few days prior to the U.S. Open later that season, the USGA’s president Hord Hardin announced that “the de Vicenzo incident has made us aware of what can happen here. All our people have been instructed to give players a quiet place at the 18\textsuperscript{th} green and [to] help them in every way.”\textsuperscript{61} Hardin even made sure to provide a rules official in the isolated scoring area who would offer to help players tabulate their cards before submitting them if they so desired.\textsuperscript{62} Ever since, almost all professional golf tournaments have provided players with a secluded place to review their scorecards. Problem solved.

The bunker controversy at the 2010 PGA Championship poses a problem of even greater magnitude that the PGA can’t afford to have repeated in the future. Whereas the de Vicenzo incident highlighted only the need to take certain measures to enable players to more easily comply with a perfectly clear rule, the Dustin Johnson incident highlighted an untenable ambiguity in the Local Rule on the play of bunkers at Whistling Straights, where even the tournament officials themselves admittedly couldn’t visibly identify all of the existing bunkers on the course.

Just as the USGA acknowledged that a curable problem had contributed to de Vicenzo’s mistake in the 1968 Masters and thereafter responded with an effective solution, the PGA should similarly acknowledge the inherent problem with its Local Rule at Whistling Straights and take appropriate steps to fix it for future events.

\textsuperscript{60} Lincoln Werden, \emph{Golf Rule Costly to Vicenzo Is Unlikely to Be Changed: Isolation Booth Proposed by Dey: Official Says Players Need Protection From Crowd in Checking Scorecards}, N.Y. TIMES, Apr. 16, 1968, at 58.

\textsuperscript{61} Lincoln Werden, \emph{De Vicenzo’s Loss in Masters Leads U.S. Open to Aid Scoring}, N.Y. TIMES, June 12, 1968, at 53.
Nothing can be done to change the outcome of the 92\textsuperscript{nd} PGA Championship. It’s sports. Bad calls happen. It’s just part of the game. The question is where we go from here. The PGA needs to ask itself whether it’s worth risking the possibility of another leaderboard-altering-unidentifiable-bunker-scenario when the tournament returns to Whistling Straights in 2015, or when it hosts the Ryder Cup there in 2020. It isn’t. The faulty Local Rule deprived Dustin Johnson of a chance to win the tournament in a playoff, and it deprived Martin Kaymer from a major championship victory untainted by controversy. For the sake of fairness and to prevent another bunker blunder, the PGA must change the now infamous Local Rule at Whistling Straights.

The very least that the PGA could do is (1) revise the Local Rule to state that only bunkers within the spectator ropes are to be played as hazards, and (2) mark any bunker that sits on both sides of the ropes so as to clearly identify the status of the area. This would mean that most playable bunkers would be free from the erosion of spectator foot traffic, making them easier to identify. And the questionable areas that would be subjected to foot traffic because they border spectator areas would be clearly identified for players. The tournament officials wouldn’t even have to locate every bunker on the course, but only the potentially confusing ones near the ropes. And if the officials also resolved to groom and maintain all of the bunkers within the ropes it would probably prevent an incident similar to the one Johnson suffered from ever happening again.

The confusion during the final moments of the 92\textsuperscript{nd} PGA Championship spoke for itself. The Local Rule on the play of bunkers at Whistling Straights simply cannot remain in effect.

\textsuperscript{62} Id.
during future tournaments without damaging both the PGA’s credibility and the game of professional golf.