

LATEST LEGAL CASE

Exclusive: Graham Gibbons being sued by Freddy Tylicki in £6 million court case

Arguments over blame for 2016 fall will be heard in court in November



Lawyers for Graham Gibbons deny he is responsible for the injuries suffered by Freddy Tylicki

Mark Cranham

1 of 1

By Chris Cook

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The one-time highflying Flat jockey Graham Gibbons is being sued by his former weighing-room colleague Freddy Tylicki over the 2016 fall that ended the latter's career and left him paralysed, in a case with a potential value of £6 million.

A five-day hearing with the specific aim of determining whether Gibbons is liable has been set down to take place from November 29 at the Royal Courts of Justice on the Strand in London.

Court documents obtained by the Racing Post spell out the arguments put forward on Tylicki's behalf. They claim Gibbons caused his injuries by making a manoeuvre to go back towards the inside rail on Madame Butterfly, the eventual winner of the Kempton race, cutting across Tylicki on Nellie Deen, who then clipped heels and fell, bringing down two other runners.

A detailed line of defence has also been lodged by lawyers acting for Gibbons, denying that he is liable for the incident. The hearing is likely to be a matter of intense interest for jockeys, anxious to know where the line is drawn by the law in terms of the duties they owe to one another to avoid danger mid-race.



Freddy Tylicki: does not accept the findings of the 2016 stewards' inquiry
Edward Whitaker ([racingpost.com/photos](https://www.racingpost.com/photos))

Tylicki's claim includes a vivid description of the incident that occurred around the final bend of the mile race for maiden fillies. It argues that Gibbons, holding a lead of about half a length, "caused his horse to move across to her right, towards the rail, and across into the path of the claimant's horse, which could not move to her right to avoid contact by reason of the presence of the rail".

Tylicki is said to have tried to alert his rival jockey to the imminent danger by shouting "Gibbo!" in an effort to "discourage him from persisting on his path into the space alongside the rail which was legitimately occupied" by Nellie Deen.

The claim states that Gibbons had his whip in his right hand throughout and could have used it as a means of keeping his mount from moving to her right, but that instead he "can be seen deliberately persisting in manoeuvring his horse to her right (by use of the right rein) towards the rail".

As a result, it is claimed, Gibbons caused his mount "first to bump and thereafter to trip" Nellie Deen. In the view of Tylicki's legal advisers, this amounts to riding that was either dangerous or showing reckless disregard for the safety of others and was not up to "the standard reasonably to be expected of an experienced professional jockey".

Defence arguments lodged on behalf of Gibbons state he was unaware of the position of Tylicki's horse on his inside "until around the time at which the horses first made contact", and specifically deny that he caused Madame Butterfly to move into the path of Nellie Deen. Instead, it is claimed that Tylicki "rode his horse forward . . . in circumstances in which there was insufficient room between the defendant's horse and the rail for the claimant's horse to be able to travel safely through".

The cry of "Gibbo" is said by the defence to have come at about the same time as the initial contact. At that point, Gibbons is said to have looked behind him and the clipping of heels then occurred within about a second.

"It was a racing accident occasioned by the horses coming together," the defence states. "The defendant was not even guilty of a careless misjudgement."

An inquiry held on the day by the Kempton stewards found that the incident was accidental, although it resulted in the remainder of the card being abandoned because "the overwhelming feeling of the jockeys was that racing should not continue as a mark of respect to those injured".

Tylicki's claim states that he "does not accept the findings of that stewards' inquiry, or the substance of the evidence that was given to the stewards by the witnesses", noting that he and Jim Crowley were prevented from taking part by their injuries. Crowley was also taken to hospital but was later discharged, having suffered a broken nose.





Freddy Tylicki wins the Group 1 Prix de l'Opera on Speedy Boarding (near) at Chantilly in 2016

Caroline Norris (racingpost.com/photos)

The more serious consequences for Tylicki, 34, are stated at length, starting with the fact that he was rendered permanently paraplegic and wheelchair-bound. In addition to devastating damage to his spinal cord, he broke 18 ribs and had to spend the next four months in hospital, where he developed an infection and sepsis.

A case of this gravity is the latest in a long line of troubles for Gibbons, who first made his name in the sport 20 years ago, being described by one trainer as "the best 7lb claimer since Jamie Spencer". An early bump in the road came in 2007 when he was banned from riding for 35 days after failing a breath test for alcohol at Hamilton.

His most recent known interaction with racing officials resulted in a two-year ban in 2017 after he tested positive for cocaine, the sample having been taken a month after the race in which Tylicki was injured. Gibbons was also [found to have coerced an apprentice jockey](#) into providing a urine sample he could present as his own. In 2019, [he was jailed for 16 weeks](#) after a fourth conviction for drink-driving.

It was reported at that stage that he had hoped to recover his jockeys' licence, having not ridden since December 2016. The 39-year-old is currently riding out for David O'Meara.

If the initial hearing finds that Gibbons is liable, a second hearing will be necessary to determine the appropriate level of damages. Tylicki's claim states these "are likely to exceed £6m" and would include his loss of earnings as well as the cost of the care he will require for the rest of his life, along with necessary adaptations to his home and any vehicles he drives.

The claim notes that Tylicki "is doing his best to mitigate his losses by seeking alternative employment", including his work as a pundit with Sky Sports Racing. Those earnings will be deducted from the sum which Gibbons, or his insurers, would otherwise have to pay if Tylicki's case succeeds.

Tylicki's interests are represented by Stewart-Moore solicitors, who have regularly been involved in racing-related matters in the past, and his case is to be presented by Lord Faulks QC, a former

minister of state for justice and a brother to the novelist, Sebastian.

Gibbons is represented by Ashfords, another firm with regular work in horseracing, and the defence pleadings were drafted by Patrick Lawrence QC, whose father, the late John Oaksey, was a founder of the Injured Jockeys Fund. There was no immediate comment from either firm of solicitors.

Read more:

[Freddy Tylicki: facing up to my new reality one year on from life-changing fall](#)

[Freddy Tylicki achieves 'milestone' moment on horseback](#)

[Freddy Tylicki out of hospital and beginning rehabilitation](#)

[Jockey Graham Gibbons jailed for fourth drink-driving conviction](#)

[David Barron backs Graham Gibbons to make successful return to riding](#)



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LATEST COURT CASE

Punter sues Paddy Power over disputed £286,000 winning bet at Wolverhampton



Paddy Power: bookmaker considers itself "bound in honour" to pay £28,600 to a punter

Edward Whitaker (racingpost.com/photos)

1 of 1

By Chris Cook

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Paddy Power are being sued by a punter after crediting his account with £286,000 for a winning bet, only to claw it back two days later on the grounds that he had originally wanted to place a much smaller bet.

The dispute is expected to result in a High Court hearing at the end of this month, at which one of the issues to be put before the judge will be the fairness and legality of the 'error' rule commonly used by bookmakers, which has so often been the cause of

complaint among punters denied a payout to which they believed they were entitled.

James Longley backed Redemptive when she [won at Wolverhampton](#) in September 2019, phoning up Paddy Power to ask for £1,300 each-way at the 16-1 that was then on offer. The operator who took the call said she would seek authorisation from a trader, as the maximum stake for his account was £203.

At this point, the operator mistakenly relayed the bet to a trader as a request for £13,000 each-way. The bet was approved and the operator relayed that information to Longley, who says he was happy to be allowed a much larger bet than the one he had sought.

Longley's phone call was recorded and a transcript has been included in court documents from the defence, seen by the Racing Post. It shows the operator telling him: "I got that cleared with a trader for you" and adding: "So that's going to be twenty-six thousand coming from [account name], is that correct?"

Longley replied: "Yeah, that's it, yeah". The parties do not agree as to whether he had realised at this point that a much larger bet had been authorised, Paddy Power insisting he must have misheard, misunderstood or thought the operator had made a slip of the tongue.

'An unfair contract term'

Before the race started, Longley says he checked his account and noted that a stake of £26,000 had indeed been deducted from his available balance. The bookmakers argue that it was only at this point Longley realised he had been allowed a bet much larger than he had asked for, and that therefore there had been no true agreement between the parties as to the bet and it should be void in law.

The claim document written on Longley's behalf states that "no demand for repayment of the sum of £286,000 was made by the defendants", the implication being it was taken back from his account with no prior indication that the bet was in dispute. Paddy Power's defence document admits Longley's assertion but calls it irrelevant because the firm's error clause "permits the defendants to reclaim balance from the account".

That error clause is attacked by Longley's lawyers as "an unfair contract term", causing "a significant imbalance in the parties' rights and obligations". They state that Paddy Power "had the

opportunity, on the one hand, to lay off the full amount of the bet accepted [£13,000 each-way] and thereby reduce its exposure to the bet while the claimant, thinking his bet had been accepted in full, has no similar right".

The lawyers assert that, while Paddy Power claim the right after the race to insist the stake was £2,600 rather than £26,000 and resettle the bet accordingly, Longley would have been unable to make the same unilateral reduction in stake if Redemptive had finished unplaced.

Paddy Power's lawyers deny the clause is unfair and say the Gambling Commission's code of practice specifically envisages there will be situations in which a bookmaker may void a bet. They insist the firm "have corrected and do correct errors which favour them, whenever the same occur, and will adduce evidence to that effect".

The firm views Longley's bet as a winner at £1,300 each-way and credited his account with £28,600 at the same time as clawing back the £286,000. Some of the arguments advanced on its behalf would mean, if correct, that it had no liability to pay anything, as the bet would be void but the defence document says the firm considers itself "bound in honour" to pay.

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LATEST CHRIS COOK

Why jockeys aren't happy with the facilities racecourses provide

THE FRONT RUNNER



WITH CHRIS COOK

1 of 1

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[The Front Runner](#) is Chris Cook's morning email exclusively for [Members' Club Ultimate subscribers](#), available here as a free sample.

In Monday's email Chris talks to the PJA about an issue on which jockeys are demanding action – and subscribers can get more great insight, tips and racing chat from Chris every Monday to Friday.

Members' Club Ultimate subscribers who aren't yet signed up for The Front Runner should head to the [My Account area](#) and under Email Communication opt into 'All members-club only emails' to start receiving The Front Runner and more great exclusive email content!

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range of fantastic website and newspaper content, including tipping from the likes of Pricewise and Paul Kealy, all the big interviews and features, daily comment and news analysis.

Picking a winner at York's Ebor meeting next week would be a tricky business at this stage, unless maybe we're talking about Snowfall in the Yorkshire Oaks, but I can tell you with a degree of confidence what's going to be top of the agenda when jockeys have their annual meeting there with the BHA's top brass.

The size and quality of facilities available to jockeys at British racecourses has been an issue for a very long time and we have reached the point where the collective mood of the riders is to demand action.

"People need a decent working environment and professional athletes should have that," says Dale Gibson, executive director at the Professional Jockeys Association. It's not much to ask, on the face of it, but even now our sport's stars cannot take it for granted.

Gibson tells the Front Runner that 26 tracks, almost half of the total, offer just one shower in the area reserved for female jockeys. Perhaps you're thinking to yourself, 'Oh well, women are still in the minority in this game.' But most tracks have races confined to female jockeys, quite possibly featuring a double-figure field.

Moreover, there are 13 racecourses which provide just two showers for the men, a manifestly inadequate provision which will be easily bested by your local swimming pool. "It doesn't matter if it's raining in October or boiling hot in July, you need a shower after competing," Gibson notes.

Also on his mind is the rest and relaxation area offered to jockeys, away from the space where their colleagues are washing or changing, a place where "both sexes can go and relax with a cup of tea and a chat between races on an eight-race card, where you can get ready for your next ride instead of being sat on your bench for two hours".

That's not asking for the moon, is it? And yet, Gibson reports, there are seven British tracks which don't even offer a separate room for jockeys to eat, away from their changing room.

"Would you participate at a professional level and eat at the

same place where you're changing? No, you wouldn't. And any number of tracks have a current provision which isn't sufficient in the modern sporting world. They're too damn small, to be blunt."

The PJA is especially concerned about the provision for female jockeys, who now make up 17 per cent of its membership but are made to feel like second-class participants at some tracks, 40-odd years after the hasty conversion of broom cupboards when officials realised there was actually going to be a woman coming to ride at their place.

"Our increasing number of female members have been particularly patient in putting up with substandard facilities over many, many years," Gibson says. "There are still a couple of broom cupboards. We need to keep brooms in the broom cupboard and treat all our jockeys as proper athletes."

Gibson wrote to the BHA in January, seeking a full review of racecourse facilities for jockeys, since when the matter has been discussed at monthly meetings involving senior riders and various racecourse executives. The hope is that a minimum standard can be agreed and insisted upon by the sport's regulator.

"Some racecourses, the likes of York and Ascot, already have excellent facilities. But, as ever, it's trying to bring the bottom rung up the ladder. Historically, those 10 or 12 racecourses, I don't want to name them but they know who they are, they do need a gentle kick up the backside. The BHA are being very helpful at the minute but the process will take time.

"If it takes two years to get everybody on board, so be it. We're not expecting new builds and hundreds of thousands of pounds being spent at every venue. At some venues, it will be small tens of thousands to create modern, acceptable, reasonable-quality changing rooms and rest areas and shower facilities for both sexes and under-18s.

"There are a couple of new builds in the offing. Leicester have been slow to upgrade over the years, they're in the process of a new build. Worcester at some stage will be getting a new build. Others are in the process of restructuring but it cannot come soon enough. Some of the venues have just let the bar drop."

Monday's picks

A couple of three-year-olds take the eye on Ayr's afternoon card, starting with [Brazen Prince \(2.25\)](#) in a 1m2f handicap. Richard Fahey's team has been having a slow time of it so far this month,
