



Fall from Treadmill Results in Injury and Litigation

By David L. Herbert
March 2000

A case in New York may increase liability for the most basic exercise equipment.

In a case in New York (*Corrigan v. Musclemakers Inc.*, 686 N.Y.S.2d 143, 1999), the plaintiff was injured while using a treadmill after joining the defendant's health and fitness facility in Gunderland, N.Y. Her annual membership fee included three one-hour sessions with a personal trainer. On her first visit to the facility, she met with a personal trainer, as provided in her contract. Toward the end of the one-hour session, the trainer put the plaintiff on a treadmill, set the machine at 3.5 miles per hour for 20 minutes and left the plaintiff unattended. According to the plaintiff, the trainer did not instruct her on how to adjust the treadmill speed, stop the belt or operate the control panel. The operator's manual for the treadmill indicated that as a guideline for safe operation, users must understand its operation before using the machine.

Once the plaintiff began using the treadmill, she drifted back on the treadmill belt. Although she unsuccessfully attempted to walk faster, she was quickly thrown from the machine and suffered a broken ankle. At the time of the incident, the plaintiff was 49 years old, had never been on a treadmill, and had never patronized a health and fitness facility. She told the trainer during her visit that she was "very sedentary" and a newcomer to a gym. It was undisputed that the personal trainer failed to ensure that she "understood the treadmill's operation before using it."

After her injury, the plaintiff sued, contending that the defendant was negligent through its employee. In response to these allegations, the defendant moved for summary judgment, which the court denied. The defendant then appealed, contending that the plaintiff voluntarily participated in an athletic activity and thereby assumed the risks associated with that activity. The appeals court, however, determined that the activity undertaken by the plaintiff was not a "sporting event," for which the owner or operator of the facility would owe a lesser duty, due to a participant's assumption of the known risk associated with participation in a sport. Moreover, the court determined that the defendant "did not establish as a matter of law that the risks associated with the use of the treadmill to plaintiff, a novice, were fully appreciated or perfectly obvious."

The court found that the plaintiff did not assume the risks inherent in using this piece of equipment, and that the risk of being ejected from a treadmill was not readily apparent. The court, therefore, determined that a jury should assess the plaintiff's injuries and complaint, and determine whether any breach of duty occurred by the defendant. As a consequence, the court of appeals affirmed the trial court's decision, denying the defendant's motion for summary judgment.

In light of this decision, health and fitness facility owners and operators should notice several issues made apparent by this case. First, the court noted that the operation manual for the machine stated that a user should understand the machine's operation before use as a prerequisite for safe operation. Most exercise devices are accompanied by similar written notices or provisions. Professionals in similar circumstances, particularly those designated as "personal trainers," should ensure that clients receive instructions as to the safe operation of exercise machines or devices. Second, health and fitness professionals should be aware that there is a necessary "break-in period" for most people, during which they need to be supervised in their use of machinery and other items, such as free weights. In this case, the member should not have been left unattended and should have been followed until the trainer was satisfied that she could safely use the machine. In addition, it may be that a personal trainer owes a higher degree of care to clients and should stay with them during their entire workout. Last, facilities should be aware that a defense based upon an assumption of risk by a member may be difficult to establish, especially when "novices," beginners and others who are not familiar with devices begin using them and are later injured. FM

© 2007 Fitness Manangement | FitnessManagement.com
[Articles](#) | [Buyers Guide](#) | [Nova7](#) | [e-Letter](#) | [Forums](#) | [Industry Info](#) | [Bookstore](#) | [About FM](#)