

Exercise Equipment Injuries and Claims and Suits – Defending against Litigation

Avoiding Liability Bulletin - July 2018

As we have pointed out in various articles in this column, exercise equipment use by fitness facility clients can lead to injury and then claim and suit. While treadmills may account for a significant segment of these kinds of incidents, any exercise device can lead to injury and then claim and suit. Oftentimes, frequent pre-use inspections can help avoid some such injuries and sometimes then prevent claims and suits from ever arising or at least provide an effective defense to such litigation. To be sure, inspections are useful in defending litigation.

Readers should remember that regular inspections of equipment can go a long way to assist in the defense of exercise equipment litigation.^[1] While daily inspections may not be required by most industry standards, inspections on a regular basis will certainly assist to document adherence to those standards and thus help in establishing a lack of negligence.^[2] For example, in a 2015 case from California^[3] a facility's usual pattern of daily exercise equipment inspections greatly assisted it in the defense of an exercise equipment injury litigation. In another case,^[4] which we previously reviewed in this column,^[5] monthly equipment inspections were deemed to be adequate to defend against a personal injury case where the plaintiff failed to present more stringent inspection requirements via expert opinion and/or industry standards.

Evidence of regularly conducted inspections of exercise equipment can be supported by industry standards and thus meet legal requirements. As pointed out in the relatively recent California litigation on this issue,^[6] the court ruled that the defendant club "took several measures to ensure that its exercise equipment and facility were well-maintained. For example, [the evidence showed] it hired a facility technician whose job was to conduct a daily inspection of the facility and perform preventative maintenance. If the facility's technician was unavailable . . . [the club] had a practice of requiring other staff members to conduct the inspection and perform any required maintenance. In view of these measures [the club] . . . cannot reasonably be regarded as demonstrating a want of scant care or a departure from the ordinary standard of conduct."

The point is that evidence of regularly conducted inspections can go a long way to defend against exercise equipment injury cases. In order to properly do so, equipment records must be developed, then properly and regularly completed and preserved for later use as defensive measures when needed. A lack of regularly conducted inspections, as well as a lack of subsequent maintenance as required and equipment repair/replacement can result in successful litigation against facilities. Once record keeping is established for exercise equipment, regular notes of inspections, maintenance and repair must be maintained and preserved for potential later use. No facility or fitness professional risk management plan should exclude such measures.

[1] See, Herbert, Daily Inspection of Exercise Bank Helps Win Defendant's Verdict – Upheld on Appeal, <https://www.cphins.com/daily-inspection-of-exercise-band-helps-win-defendants-verdict-upheld-on-appeal/>

[2] See, Herbert, Are Monthly Fitness Equipment Inspections Sufficient to Avoid Negligence Claims? <https://www.cphins.com/are-monthly-equipment-inspections-sufficient/>

[3] Grebing v. 24 Hour Fitness USA, Inc., 012915CAAPP2, B28866A, California Court of Appeals, Second District, Third Division, January 29, 2015.

[4] Willard v K Smith Holdings, 111517 WICA, 2016AP2431, Court of Appeals of Wisconsin, District II, November 15, 2017.

[5] See, footnote 2 supra.

[6] See, footnote 3 supra.

This publication is written and published to provide accurate and authoritative information relevant to the subject matter presented. It is published with the understanding that the author and publisher are not engaged in rendering legal, medical or other professional services by reason of the authorship or publication of this work. If legal, medical or other expert assistance is required, the services of such competent professional persons should be sought. Moreover, in the field of personal fitness training, the services of such competent professionals must be obtained.

Adapted from a Declaration of Principles of the American Bar Association and Committee of Publishers and Associations

Author:

David Herbert