

PARTNER JEFF COLLINS OBTAINS DEFENSE VERDICT IN PREMISES LIABILITY CASE

April 4, 2024 | Case Summaries, News



Jeff Collins tried a premises liability case to a jury in Pima County from 3/19/24 to 3/22/24. Plaintiff claimed injury while exercising at defendant's private fitness club. Plaintiff was stretching next to a Cybex leg curl exercise machine when he lost his balance. He attempted to brace himself by grabbing onto the nearby machine and, while doing so, pulled the 500-pound machine over onto himself causing him to fall to the ground. As a result, he alleged meniscus tears in both knees.

Plaintiff alleged that the exercise machine was not anchored to the floor at the time of installation as required by the manufacturer's "recommendation" in the owner's manual. Plaintiff alleged that, had the machine been anchored, it would not have fallen and caused his injuries. Plaintiff claimed that the machine was an "unreasonably dangerous condition" of which the defendant had notice and failed to remedy. Plaintiff supported his liability argument with expert testimony from a fitness industry expert.

Defendant contended that the piece of equipment was installed approximately 22 years before the incident and the owner's manual did not mandate anchoring the machine but recommended it for safety reasons. Defendant's fitness industry expert testified that the industry custom and practice at the time of installation was not to necessarily anchor the equipment and, in fact, many fitness clubs in the industry did not do so. Further, there were no applicable standards requiring that the machine be anchored. Finally, the machine's purpose on the floor of the fitness club was for exercise and not to withstand any force that may be applied to it due to unexpected use or misuse. Defendant argued that the unanchored machine was not "unreasonably dangerous" and, if it was, defendant did not have notice and did not breach the applicable standard of care.

Plaintiff was an avid runner and exerciser and claimed that he could no longer run as a result of the accident and his other activities such as caddying for his wife, a professional golfer, were negatively impacted and made more painful. Plaintiff and his injury expert testified about his orthopedic treatment and associated physical therapy. Plaintiff did not admit evidence of his medical bills and requested an award consisting of \$10 per waking hour in past (5 years before trial) and future (19-year life expectancy) pain and suffering for a total of approximately \$1.3M. After the eight-person jury deliberated for 75 minutes it returned a defense verdict for the defendant.

Jeff Collins dedicates his practice to representing insurance carriers in coverage-related issues, and to representing retailers and premises owners in premises liability matters. Jeff has extensive experience representing insurance carriers in litigation involving all types of insurance-related disputes, such as actions of declaratory judgement, breach of contract and insurance bad faith. Additionally, he represents national retailers in most liability matters including premises liability, security and product liability.

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