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Case Law Update: Club Liability Release

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Clubs regularly require new members to sign liability releases, some of which are drafted quite broadly. A recent decision from the New Jersey Appellate Division considered the enforceability of such a provision. Crossing-Lyons vs. Towns Sports International, N.J. Sup. Ct, App. Division (July 11, 2017).

In *Crossing-Lyons*, a fitness club member sued the club after sustaining a substantial hip injury as a result of tripping over a weight belt that a club trainer was alleged to have failed to remove. The trial court dismissed the lawsuit pursuant to a summary judgment order based on the member having signed a liability release which included the following language:

> [y]ou . . . agree that if you engage in any physical exercise or activity, or use any club amenity on the premises or off premises, including any sponsored club event, you do so entirely at your own risk[.] You agree that you are voluntarily participating in these activities and use of these facilities and premises and assume all risks of injury, illness or death[.]

The appellate court reversed the trial court.

The court held that the liability release was unenforceable because it was adverse to the public interest and unconscionable. The court noted that the club member was hurt tripping over a weight belt, not using the fitness equipment. The court believed that the case was more like Walters vs. YMCA, a slip and fall case in which the court also reversed the trial court's dismissal of the case, than Stelluti v. Casapenn Enterprises, a case where the club member was injured while participating in a spinning class at a private fitness center, which the court felt involved an inherent risk of injury. This distinction suggests that the court might have found the liability release to be enforceable had the club member been injured while engaged in an inherently dangerous activity directly related to membership in the club.

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