

# Are Monthly Equipment Inspections Sufficient?

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## **Avoiding Liability Bulletin - March 2018**

### A Case in Point

In a relatively recent case from Wisconsin, a trial court and then an appeals court were faced with determining whether or not a fitness facility could be found liable for injuries a client suffered while using an exercise machine at the club.<sup>[1]</sup> A big issue in this case centered upon how frequent and how detailed equipment inspections have to be to enable an injured party to recover upon his claim of negligence.

### The Testimony

The case was filed by a facility user directly, without counsel. He alleged he was injured while using an exercise machine at the facility which was a lap pull-down kind of machine. The plaintiff described the injury he suffered on the machine as follows:

“It’s like a pulley system bar and I had about two hundred pounds on it. And I was going for the pull-down portion . . . the cable snapped and the bar came down and into my forehead causing my mouth to clamp shut tight, put a gash in my forehead. There was some bleeding. I chipped the front of my tooth off, had some bleeding in my mouth, and was taken by ambulance to the hospital for a CAT scan and they told me that I had suffered a concussion.”

The user also testified that he had been trained to properly use the pull-down machine when he first joined the gym.

Once the plaintiff completed his testimony, defense counsel moved to dismiss the case for a lack of proof due to the lack of medical and causation evidence. The plaintiff countered the motion by specifying that he was only seeking damages for pain rather than medical expenses. The trial court concluded that the plaintiff made out a basic case and that he could be awarded damages for pain and suffering if he could prove negligence.

The defense then offered the following testimony from the owner of the facility:

The owner testified that safety inspections were conducted on the pull down machine “on a monthly basis” and “we do a visual equipment inspection so we go through and we ensure that there’s no fraying or wearing on any of the cable[s].”

The owner also clarified that “we do replace cables pro-actively.” He noted that a “basic equipment inspection” was conducted sometime in July 2014, prior to the injury on August 29, 2014.

The plaintiff was then offered the opportunity to cross examine the owner about the facility’s equipment inspection procedures. The cross examination went as follows:

Q: Could you tell me then: Have you ever had an issue where you have not seen the cables broken or busted; somebody has pointed that out to you? A: You mean as far as a member pointing out something? Q: Right. A: Yes, that’s [what] happened. Q: So maybe you missed something? A: Possibly. We have, you know, I wouldn’t say that we’ve had every single one, you know, caught it but when we’ll usually see signs of wear then we pro-actively replace that cable.

On redirect examination, the owner testified that the machine did not show any observable wear or fraying of the cable.

The defense also presented testimony from the club manager and in this regard, the court noted the following:

She was present at Anytime Fitness on the day of the accident and had reviewed a video of the accident. The manager explained that, in her opinion, Willard had been improperly using the pull-down machine when the cable broke. The manager additionally testified that “[w]e have re-enacted [Willard’s use of the machine] through video using trainers and staff and found it impossible to use that weight properly with proper form at any level.”

In the face of this testimony, the plaintiff contended that he used the machine in the exact way he had been taught to do so by the facility’s staff.

### The Court’s Decision

Once the testimony concluded, the court determined that the plaintiff failed to prove negligence. In this regard the trial court stated:

[T]he burden is on the plaintiff to show by a preponderance of the evidence that the defendant fitness center did not use reasonable inspection and reasonable maintenance of its equipment and facilities. The testimony here from the owner of the facility was that they have a procedure where they do a monthly visual inspection of the cable to try to observe any types of cracking or tearing or fraying or any possible defects that might exist in the cable and if they observe that then they will proceed to fix it or replace the particular cable. There was an inspection of this cable of this machine and it was done in the month preceding and the month of and the month after. And before the incident, it doesn’t appear that the inspections revealed any defects or any areas of concern that the plaintiff had in regards to the cable.

In this regard, the trial court also pointed out that there was no evidence presented to it that the club’s

inspections were not adequate. In this regard, the court noted:

“[t]here hasn’t been any testimony here regarding periodic changing of cables, that a manufacturer says every five years you need to change the cable” and “[t]here hasn’t been any testimony that there needs to be a more rigorous daily inspection here.”

Essentially, the plaintiff failed in his attempt to establish negligence because he presented no evidence as to what kind of maintenance was necessary based upon the manufacturer’s suggested maintenance instructions or industry standards.

### The Appeal’s Court Opinion

While the plaintiff appealed the trial court’s decision, the appeals court noted the following:

It is true that the owner testified that it was possible that the inspections “missed something,” but the owner also testified that the particular cable at issue showed no signs of wear and therefore any defect was undetectable by visual inspection. As the circuit court noted, Anytime Fitness conducted one of its monthly inspections prior to the accident. Aside from his pointed cross-examination of the owner, [the plaintiff] . . . provided no evidence showing that Anytime Fitness’s inspection procedures were lacking. He provided no evidence that Anytime Fitness should have known that the cable was defective or should have been replaced sooner. Nor did he provide any evidence concerning how long the cable was expected to last. Accordingly, the court found that . . . [the plaintiff] had not proved that these procedures were negligent, and that [the trial court’s] finding is a reasonable one sufficiently supported by the evidence.

### What Kind of Equipment Maintenance is Required

#### *Manufacturer’s Recommendations*

Notwithstanding the fact that this case was filed by the injured party without counsel and that the required evidence was not presented, the question arises as to what kind of maintenance is required for exercise machines so that claims like this can be avoided. As a starting point the instructions provided by machine manufacturers should be reviewed and followed as to equipment inspections, maintenance procedures and replacement requirements for worn or broken parts. Recommendations for equipment replacement should also be noted and efforts made to comply with all of these instructions or recommendations.

#### *Industry’s Standards and Guidelines*

Aside from manufacturers’ recommendations, industry standards and guidelines should also be reviewed and implemented when appropriate. Such standards, including the American College of Sports Medicine’s (ACSM’s) Health/Fitness Facility Standards and Guidelines, Fourth Edition, 2012 provides a framework of preventive maintenance practices for exercise equipment. Recommendations

for daily cleanings, weekly inspections and monthly lubrications and as needed, repairs and replacements, are put forth in this statement. The maintenance recommendations include weekly equipment inspections and recommendations for the tightening of any loose items upon an as needed basis. Had the plaintiff in this case put forth these kinds of standards, a different result may have arisen in this case. Fitness professionals should take note and govern their inspection and preventive maintenance practices accordingly!

### The Bottom Line

All fitness professionals should review equipment manufacturers' recommendations as well as industry standards and guidelines to determine what maintenance activities should take place on a daily, weekly, monthly and regular basis. Adherence to such schedules can go a long way to avoid injuries in the first place and resulting claims and suits.

### **Footnotes**

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

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