

Personal Trainers Beware - A \$14.5 Million Jury Verdict in Connecticut

written by David Herbert | June 15, 2016

In a rather startling and very recent case from Connecticut¹, a jury has returned an extremely large verdict against a personal trainer [Dominguez] as well as the facility and holding company [Equinox] where he provided service to a physician client [Vaid]. The complaint filed in this case by the client and his spouse against the personal trainer, Equinox Greenwich Old Track Road, Inc. and Equinox Holding, Inc. resulted in a \$14.5 million jury award, which was reduced by 25% due to plaintiff's own negligence – to a total of \$10.875 million. The verdict represents the largest award ever returned against a personal trainer, at least known to this author. It may well foretell what kind of verdicts may be coming down the road in similar cases. The verdict should alert all personal trainers to assess their procedures and policies as part of an overall risk management plan to help reduce their own legal risks.

The final amended complaint filed in this case alleged that the personal trainer employee of the defendant facility was employed to provide personal fitness coaching and training services to clients of that facility. The complaint further alleged that the defendant Equinox held the personal trainer out to the public as having “knowledge, education and expertise in the area of personal fitness, personal training and fitness consulting”. It was also alleged however, that the personal trainer did not know how to use equipment in the defendant's facility. Specifically, the complaint further alleged that the personal trainer put the client on a rowing machine, set for too much resistance, too much load and too aggressively pushed the client to exercise despite the client's expression of dizziness, blurry vision and fatigue. The complaint also alleged that the client was instructed to continue exercise after his use of the rowing machine by being instructed to do elevated pushups using TRX suspension straps and then bench presses.

After the training session ended, it was determined that the client went to a local hospital since he did not feel well and was diagnosed with a “carotid artery dissection” which allegedly caused him to suffer a stroke. The client claimed that the negligence of the trainer and the negligence of the facility defendants in allowing the trainer to perform the foregoing activities with the client, were the proximate cause of the plaintiff's injuries and disabilities.

The specific allegations of the complaint included the following:

- As a further result of the foregoing incident, Vaid has sustained, and will in the future experience, a fear of future disability to his brain and his left upper extremity.
- As a further result of the foregoing incident, Vaid has incurred, and will incur, significant expenses for doctors, hospitals, and other health care, plus the medication necessary to his recovery, all to

his financial loss.

- As a further result of the foregoing incident, Vaid has sustained a loss of earnings and earning capacity, all to his severe financial loss.
- As a further result of the foregoing incident, Vaid has, and will be forced to continue to, suffer a loss of enjoyment of life's leisure activities.
- The negligence and carelessness of Dominguez was the direct and proximate cause of Vaid's injuries in one or more of the following respects:

- a. He used too much load and resistance in his training of Vaid.
- b. He used training methods which were too aggressive for Vaid.
- c. He used training methods which produced too much muscular overload in Vaid.
- d. He used training methods which were not appropriate for Vaid.
- e. He failed to adequately instruct Vaid on the proper and safe technique for rowing;
- f. He instructed Vaid to use the rowing equipment at a resistance level that caused Vaid to strain his upper body including his arms, shoulders, neck and related skeletal and supportive structures;
- g. He failed to adequately monitor Vaid during Vaid's use of the rowing equipment;
- h. He instructed Vaid to continue exercising even though Vaid reported he was not feeling well;
- i. He instructed Vaid to perform push-ups after Vaid reported he was not feeling well;
- j. He instructed Vaid to perform bench presses after Vaid reported he was not feeling well;
- k. He failed to provide a reasonably safe environment for Vaid's personal training sessions;
- l. He failed to check Vaid's vital signs following his complaints of dizziness and blurred vision;
- m. He failed to properly warn Vaid of the potential dangers of using the rowing equipment, especially after Vaid reported that he was not feeling well;
- n. He failed to warn Vaid of the potential dangers of doing push-ups after Vaid reported he was not feeling well;
- o. He failed to warn Vaid of the potential dangers of doing bench presses after Vaid reported he was not feeling well;

p. He failed to follow-up with Vaid to verify that the medical condition that had become symptomatic while under his supervision had improved;

q. He failed to insist that Vaid undergo a medical evaluation after Vaid became dizzy and felt unwell; and

r. He failed to call 911 for emergency medical assistance when Vaid reported dizziness and blurred vision.

As to the other defendants, the claims were stated as follows:

- At all times relevant herein, Dominguez was the agent, servant or employee of either Equinox Greenwich or Equinox Holdings and was acting within the scope of his employment and/or agency by his employer.

The specific injuries alleged to have been caused by the personal trainer's negligence included the following:

- c. Large right middle cerebral artery embolic stroke;
- d. Left sided weakness with left hand hemiparesis;
- e. Dysphagia including both speech and swallowing disturbance;
- f. Left neglect/visual spatial disturbance;
- g. Grand mal seizures;
- h. Intractable epilepsy with multiple focal seizures;
- i. Cognitive deficits;
- j. Cognitive fatigue;
- k. Depression; and
- l. Emotional distress.

In essence, this was a case where the complaint was that the personal trainer pushed too much activity on the client, too soon and under circumstances where it was too hard. This verdict joins two other recent verdicts or settlements, one from New York² which resulted in a \$1.4 million verdict and another from Connecticut³ which resulted in a mediation award of \$750,000.

All of these cases focused on the experience, training and conduct of personal trainers and their prescription/instruction/supervision of client activity. In light of these three case verdicts, personal trainers need to focus on the following:

- Trainers need to complete and maintain an accredited personal training certification program which preferably includes practical training and testing followed by an internship under an experienced and competent personal trainer.
- Personal trainers need to secure and properly evaluate client screening information and assess

client exercise capabilities and capacities.

- Clients need to be properly instructed in the use of exercise equipment with which the trainer is familiar and which is reasonably safe.
- Clients need to be supervised in their exercise activity as least until they are familiar with the recommended activity and equipment.
- Trainers need to implement progressive activity for clients – don't push clients too hard with too much activity too soon.
- Trainers should listen to clients and observe their physical and verbal responses to activity – if they want to stop exercise or ease off or if the fitness professional observes a problem, the pace of activity should be slowed down or stopped.
- Professionals must adjust prescribed activity as necessary.
- Personal trainers need to create and maintain contemporaneously prepared written notes on exercise recommendations and document client responses to activity in digital or hard copy files.
- All fitness professionals need to respond to emergency needs of clients pursuant to a preestablished written and rehearsed Emergency Action Plan (EAP).

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

¹ Vaid v Equinox Greenwich Old Track Road, Inc., et al., Superior Court, J.D. of Stamford/Norwalk, D.N. FST CV 13 6019426 S (February 16, 2016).

² Baldi-Perry v Kiafas and 360 Fitness Center, Inc., Index No. 2010-1927, Supreme Court, Erie County, New York, 2010.

³ Butler v Saville, et al., NNH-CV11-6023310-S, New Haven, Connecticut.