

Insurance Insights

Appeal softens the blow for defendant following fall from ‘aerial sling’

Key takeaways

- Important case for personal fitness instructors and other fitness operators.
- Harm reduction measures are important, even where no prior accidents have occurred.
- A Plaintiff must show a reasonably practicable precaution that could have been taken to avoid the risk of injury.
- Fitness instructors need to give clear instructions and insist on the use of protective equipment.

Background

The Plaintiff was injured while participating in an ‘aerial sling’ exercise class conducted by an iSpin instructor, using a fabric sling attached to the ceiling. During an aerial sling manoeuvre, the Plaintiff fell and fractured both wrists.

[*Cornwall v Jenkins as Trustee for the iSpin Family Trust* \[2020\] ACTCA 2.](#)

Had the fitness studio provided adequate fall protections to protect against injury?

In the ensuing negligence action the Plaintiff gave evidence that in the year prior to her fall, she had been provided with a yoga mat for fall protection during sling classes, rather than the thicker ‘crash mats’. The Plaintiff was unable to establish that iSpin had not taken reasonable precautions to avoid the risk of harm, such as using the thick crash mats and a spotter during sling classes.

The primary judge found that while there was a foreseeable risk of harm that was not insignificant, there had been no breach of the Defendant’s duty of care.

Court of Appeal decision

The Court of Appeal of ACT,¹ found that the primary judge erred in determining that the evidence did not establish a breach of iSpin's duty, by failing to insist upon the use of crash mats during the Plaintiff's attempt to perform the aerial sling manoeuvre.

The expert evidence established that the yoga mats were inadequate to protect someone performing the manoeuvre from injury if they fell from the anticipated height, and the Plaintiff's injuries would have been avoided or significantly reduced by a requirement to use a crash mat in the fall zone under the sling.

As a result of the Plaintiff's failure to follow the instructions given to her and failure to use a spotter, which had contributed to her fall, damages were reduced by one third.

Implications

This case is important for personal trainers and fitness studios. It highlights the importance of taking steps to identify injury risk and taking precautions even where no previous accidents have occurred.

Simply having crash mats available is not enough in order to discharge the duty to protect against injury. Fitness studio operators and staff must insist on the use of protective equipment, especially when having customers engage in high risk exercises.

This article was written by Principals David Randazzo and Rob Minc, and Lawyer Rosemary Blanden. If you would like details on the implications of this case on your business, please contact us for further information.



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¹*Cornwall v Jenkins as Trustee for the iSpin Family Trust* [2020] ACTCA 2, Burns J, Loukas-Karlsson J and Crowe AJ, [57]