Appellate Court Disregards Release, Reversing Decision in Spa/Fitness Center Case

By Carla Varriale of Havkins, Rosenfeld, Ritzert & Varriale

New York's Appellate Division, First Department recently reversed an order granting summary judgment in favor of a spa and personal trainer and reinstated the plaintiff's complaint, citing to its prior holding that a release which included a covenant against commencing a suit for personal injuries sustained during a personal training session was void as against public policy.

In Connolly v. Peninsula Group, 2007 N.Y. App. Div. LEXIS 9097 (February 28, 2008), the Appellate Division, First Department held that although the language of the release was clear and unambiguous, it nonetheless violated New York's General Obligations Law § 5-326 ("section 5-326").

Although facilities which are places of instruction and training have previously been found to be outside the scope of section 5-326, the Appellate Division cited its prior decision in Debell v. Wellbridge Club Management, which reversed summary judgment on behalf of a spa because it deemed the "instruction," i.e. the personal training session, to have been ancillary to the recreational activities offered by the spa.

In Debell, the Appellate Division had noted, among other things, the spa's published advertisements wherein it represented itself as a "full service beauty salon" providing "complete body and skin care treatments."

Debell was summarized in Vol. 4, Iss. 22 of Sports Litigation Alert.

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