SJC Holds Children's Gymnastics Studio is a "Health Club" – Liability Waiver Void

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Most businesses that provide instruction or facilities for physical activities have liability waivers, but are these waivers enforceable? A recent decision by the Supreme Judicial Court (Cross v. BeFree Enterprises, LLC, SJC-13933 Mass. Nov. 10, 2026) serves as a reminder that the answer is not always 'yes.'

In Cross v. BeFree Enterprises, LLC, the SJC held that a liability waiver signed by a parent when enrolling a five-year-old in classes at The Little Gym of West Boylston (the "Gym") was void and unenforceable. The child broke her arm after falling from equipment during a class, and a negligent supervision claim was brought on her behalf.

The statute. G.L. c. 93, § 80 provides that no "contract for health club services" may contain a provision by which the buyer agrees not to assert any claim arising out of the contract *or the buyer's activities at the health club*, and § 85 renders noncompliant contracts "void and unenforceable as contrary to public policy." Section 78 defines a "health club" as any facility offering "facilities for or instruction, training or assistance in the preservation, maintenance, encouragement or development of physical fitness, conditioning or well being…" The statute provides that health clubs "shall include, but not be limited to" health spas, tennis and racquetball clubs, gymnasiums, weight control centers, and martial arts schools.

A broad, nonexclusive definition. The Gym argued it was an "early education enrichment program" as opposed to a traditional gym, pointing to its scheduled classes, extensive supervision, and child-focused programming. The Court was unpersuaded, holding that the question is not whether a business resembles a traditional gym but whether it falls within the Legislature's broad general definition. Because one of the



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Gym's three program "dimensions" was developing motor and gymnastic skills, it qualified as a "health club" under the statute. The Court stressed that the statutory examples are illustrative, not limiting, and that consumer protection statutes are to be construed broadly. The Court also rejected arguments that § 80 reaches only contract claims (reasoning that the "activities at the health club" language covers tort claims) and that Massachusetts' general policy favoring releases should control.

Separate documents, one contract. The Gym also argued that the waiver – a standalone online document that did not describe the services that the Gym provided – was not itself a "contract for health club services." The Court recognized that while the waiver alone lacked the essential terms to be such a contract, it was "part and parcel of a single transaction" with the other enrollment paperwork and the later credit card payment. Applying long-standing Massachusetts law that several writings evidencing a single contract should be read together – even when signed at different times or by different people – the Court treated the documents as one integrated contract subject to §80. Businesses therefore cannot avoid the statute simply by placing a waiver in a separate form or click-through.

Practical takeaways. The decision has implications well beyond traditional gyms. Businesses offering instruction or facilities touching on physical fitness, conditioning, or "well being" – e.g., youth sports programs, dance and gymnastics studios, climbing gyms, yoga and Pilates studios, martial arts schools, swim schools, trampoline parks, camps, and even enrichment programs with a physical component – may well be "health clubs," even if they view themselves otherwise. For those businesses, a release of negligence claims may be unenforceable, and other provisions of the statute (bonding, contract term limits, payment-frequency limits, and conspicuous cancellation notices) may also apply, with exposure for the business to Attorney General enforcement and private actions by attendees or their parents or guardians.

The Cross decision serves as a cautionary reminder that businesses providing similar services to consumers are well advised to have their liability waivers, enrollment forms, membership agreements, and online terms and conditions reviewed to assess their compliance with G.L. c. 93, §§78–88 and to evaluate alternative risk-management tools such as insurance, safety protocols, and supervision policies and procedures. A useful starting point is a simple question: if a customer was hurt at your

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business tomorrow, would your paperwork help to protect you from liability? The answer may depend less on the waiver itself and more on how

the whole package fits together, given that the SJC treated the waiver, enrollment forms, and payment terms as a single contract. Particular attention may be warranted for releases signed by parents or guardians on behalf of children and for guest, drop-in, and trial-class forms, which often sit apart from the main membership paperwork.

Additional note. Businesses that qualify as health clubs should also confirm compliance with G.L. c. 93, §78A, which requires health clubs to have an automated external defibrillator (AED) on the premises, and an employee or volunteer trained in its use present during staffed business hours.

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