# Product Liability

**SERVICES**
**Product Liability**

The plaintiff, a former professional football player for the New England Patriots, alleged that he fell from an incline bench while exercising sustaining a serious hip injury. The plaintiff brought suit against the manufacturer of the incline bench and my client, the retailer and installer of the bench. The plaintiff alleged strict liability theories of breach of warranty, violation of the Massachusetts Consumer Protection Statute, negligence and sought punitive damages.

During trial, the last demand was $9,000,000.00. The last offer prior to a jury verdict in favor our my client was $1,100,000.00.

The plaintiff's primary position was that the bench was defective when, during normal use, the bench tipped over allegedly causing the plaintiff to fall onto his hip. The plaintiff alleged that my client installed the bench improperly by failing to bolt it to the floor.

The principal defense theory was that the plaintiff lost his balance and fell from the bench as opposed to the bench tipping over. In addition, the defense focused on the fact that the bench was reasonably safe, well designed, and not prone to tipping.

The plaintiff sustained a hip fracture resulting in multiple surgeries. The initial surgery consisted of an open reduction, internal fixation which was unsuccessful when the screw in the hip slipped. The plaintiff, after a second surgery, developed a MRSA infection which was uncontrolled for approximately nine months. A third surgery was performed to remove entirely the hip joint and place surgical cement and antibiotics into the hip joint. After an unsuccessful fourth surgery, a fifth and final surgery was performed.

The plaintiff was a financial planner and investment counselor. The plaintiff retained an economist who calculated the plaintiff's future economic loss from 1.3 million to 3.2 million. The total special damages ranged from $1,868,000 to $3,768,000.

The jury returned a defense verdict in favor of my client.

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