

Consumer Law:  
Product Liability

Case 16:  
What Goes  
Up, Must  
Come Down!

# Sollami v. Eaton

## Manufacturer's Duty to Warn in Product Liability Action

### OBJECTIVE

To understand the standards of a manufacturer's liability when it produces a product that injures a consumer using the product.

### TOPICS COVERED

- Product Liability
- Unreasonably Dangerous Product
- Duty to Warn
- Defense to Product Liability, the "Open and Obvious" Doctrine

# Sollami v. Eaton

## Manufacturer's Duty to Warn in Product Liability Action

### BACKGROUND

- The Plaintiff, Kathleen M. Sollami, a 15-year-old girl, went to her friend's house to play on the friend's trampoline while the friend's parents were not home.
- Sollami suffered a bad knee injury while playing a game called "rocket jumps" in which one jumper is propelled higher than the other jumpers.
- Among the claims in their lawsuit, Sollami's parents brought a product liability claim against the manufacturer arguing that the manufacturer failed to warn the consumers of the danger in using the trampoline and that the trampoline was an unreasonably dangerous product to the average consumer.
- The manufacturer defended that any danger posed by the product to the teenagers was open and obvious and, as such, there was no duty to warn of the product's danger.

### BEFORE YOU BEGIN

#### What is Product Liability?

A product liability lawsuit is a type of civil action brought by a Plaintiff against manufacturers, distributors, suppliers, retailers, (and/or others who make products available to the public) in an effort to hold them responsible for injuries caused by such products.

#### What is an unreasonably dangerous product?

A product may be found "unreasonably dangerous" due to a physical flaw, a design defect, or where a manufacturer either fails to adequately warn of the product's dangerousness or fails to instruct on the proper use of the product. If the product is an unreasonably dangerous one, and the condition existed at the time the product left the manufacturer's control, then the manufacturer may be liable for personal injuries to the users.

#### What is the duty to warn?

A manufacturer has a duty to warn the average consumer of any dangers associated with the use of the product.

#### What is the "Open and Obvious" Defense?

A manufacturer may defend a case by using the "open and obvious" defense, arguing that there is no duty to warn consumers of dangers associated with the product which are apparent or in other words, "open and obvious."

## ISSUE BEFORE THE COURT

Whether the trampoline was unreasonably dangerous at the time that it left the manufacturing plant, and whether the Defendant manufacturer had a duty to warn the Plaintiff of the risks involved in using the trampoline.

## THE FACTS

In May 1997, the Plaintiff, Kathleen Sollami, then 15 years old, injured herself while jumping on a large, recreational trampoline located in her neighbor, Lawrence Eaton's yard. Defendant, Icon Health and Fitness, Inc., doing business as Jumpking, manufactured the trampoline. Because Kathleen Sollami was a minor, her father, Philip Sollami, sued Jumpking, among others, on Kathleen's behalf for money damages resulting from her injuries.

Kathleen, a friend of Lawrence Eaton's daughter, went to the Eatons' house on the day in question to see her friend. The girls called two boys and another girl to come over and jump on the trampoline.

After a while, all five teenagers were jumping at the same time on the Eatons' trampoline, which was located in the side yard. The trampoline was described as a "Backyard Round 14' Diameter Trampoline." Neither Lawrence Eaton nor his wife was home at the time.

The group decided to do "rocket jumps," a game where one jumper is propelled higher than the other jumpers. Completing a rocket jump requires three or four persons to jump simultaneously on the perimeter of the trampoline mat while one person jumps to the center and is thereby propelled higher than the other jumpers.

After watching one of her friends successfully complete a "rocket jump," Kathleen took a turn at being the "rocket." As Kathleen landed on the trampoline mat, she felt her knee pop.

Lawrence Eaton purchased the trampoline in 1992 and assembled it according to written instructions provided by Jumpking. Pursuant to those instructions, Eaton affixed decals to the trampoline mat and frame warning that the trampoline should be used only by properly trained participants with direct supervision of a qualified gymnastics instructor. The decal warnings did not include any limit as to the

Over 90,000 children are taken to the hospital every year for trampoline injuries.

number of persons allowed to jump at the same time.

Eaton also attached an instruction placard to the frame with a wire tie. During the spring prior to Kathleen's injury, Eaton found the placard on the ground and did not reattach it.

The Plaintiff alleged that the trampoline contained one or more defects which made it not reasonably safe for its intended use. Further, the Plaintiff claimed that Jumpking was negligent because the manufacturer:

- 1) Permitted the trampoline, which was a training device, to be used as a backyard toy.
- 2) Failed to warn persons, including Kathleen, that only one person was permitted on the trampoline at a time.
- 3) Failed to verify that when the trampoline was sold, its instructions as to its use were attached to the trampoline and could not be removed.
- 4) Failed to adequately warn persons, including Kathleen, that the trampoline could be used only with the direct supervision of a qualified gymnastics instructor.

Jumpking argued that the danger of jumping on a trampoline was "open and obvious" to a 15-year-old girl, and she should have appreciated the danger of rocket jumping on a recreational trampoline. Thus, Jumpking had no duty to warn her regardless of any additional knowledge on the part of Jumpking.

The most common trampoline injuries are caused by colliding with another person, doing stunts, falling off of the trampoline, and falling on the trampoline springs or frame.

Many homeowners insurance policies contain what is called a "Trampoline Exclusion" clause. Pursuant to this clause, the insurance company will cover liability for injuries that occurred to others while on your property, but they will not cover trampoline related injuries.

#### Sources

The case briefing above contains excerpts and direct extractions from the sources noted below that have been combined with the author's own expert legal input. The case has been condensed and formatted from its original content for purposes of this workbook.

Sollami v. Eaton, 201 Ill.2d 1, 772 N.E.2d 215 (Ill 2002).

Supreme Court of Illinois

June 6, 2002. Opinion written by the Honorable Justice Rita B. Garman.

NAME

DATE

## Review the Case

After reading Sollami v. Eaton, answer the following:

1. Identify the Plaintiff(s) in the case.

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2. Identify the Defendant(s) in the case.

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3. Is the Plaintiff seeking money for her injuries?

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4. What is the name of the manufacturing company that produced the trampoline?

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5. What was the model of trampoline?

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6. When was the trampoline purchased by the homeowner?

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7. Who assembled the trampoline?

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8. What year did the injury occur?

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9. How old was Sollami when she was injured?

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NAME \_\_\_\_\_

DATE \_\_\_\_\_

**Review the Case (continued)**

10. What was the injury that Sollami suffered?

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11. What is a "rocket jump," and how is the game played?

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\_\_\_\_\_

12. Did Jumpking provide any warnings on the trampoline regarding the use of the product? If so, explain the warnings and their location.

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\_\_\_\_\_

13. Were instructions available to Eaton on the use of the trampoline? Were the instructions available to Kathleen on the date of the incident?

\_\_\_\_\_  
\_\_\_\_\_

14. Were Eaton's parents home when the accident occurred?

\_\_\_\_\_

15. BONUS: In your opinion, what could Jumpking have done to avoid the accident?

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\_\_\_\_\_  
\_\_\_\_\_

NAME \_\_\_\_\_

DATE \_\_\_\_\_

## Make the Argument

In order for the judge or jury to render a decision, the following are some of the questions that must be considered:

1. Did Jumpking produce the product that the Plaintiff was injured on?

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2. Did Kathleen's injury occur as a result of using the trampoline? Explain.

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3. Did the Defendant, Jumpking, warn the Plaintiff of the dangerousness of using the product?

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4. Was the danger of using the trampoline to perform "rocket jumps" open and obvious to the average consumer so that Sollami, a 15-year-old girl, should have foreseen that she could get hurt? Explain.

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