

A Climbing Gym, If You Can Keep It

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When the Constitutional Convention completed its work on September 17, 1787, Elizabeth Willing Powel asked Benjamin Franklin: "Well, Doctor, what have we got, a republic or a monarchy?" Franklin replied: "A republic, if you can keep it."

Franklin recognized the internal and external pressures that would be brought to bear on the new government charter; some wanted the government to look more like the British monarchy, while others thought the country was doing fine under the Articles of Confederation.

Article At A Glance

- **Writer:** Robert Angell, the CWA's General Counsel. In addition, Robert also writes freelance articles for the CWA on risk management and best practices.
- **Who Should Read:** Decision makers in the indoor climbing industry.
- **What Will You Learn:** Introductory (and non-legal) advice on managing risk

associated with lawsuits.

- **Tie-Ins, Resources, or Further Reading:** This ties in well with our contracted research paper from Prof. Jon Heshka [on indoor climbing gym user behavior](#).

Indoor climbing gym operators also face internal and external pressures today. The internal issues include everything from finances to human resources to daily operations. The external pressures arise from government regulation and, increasingly, the threat of litigation.

The CWA Government Affairs Committee was formed to advocate for appropriate and reasonable regulation on behalf of members. Lately, we have begun to focus on litigation matters as well. Recent large judgments and/or settlements in fall cases have forced operators, insurers, and attorneys to consider ways to protect themselves.

Are financial consequences for climbing gym accidents getting out of hand?

I can't comment on specific cases, because settlement agreements routinely include confidentiality clauses. But I can offer a comparison from an Ohio case (the settlement involved the government and is public record).

In 2017, the "Fireball" ride at the Ohio State Fair failed catastrophically. Tyler Jarrell, 18, was "thrown high into the air and landed on the ground about 50 feet from the ride before he died at the scene," according to the *Columbus Dispatch*. The State of Ohio settled with Jarrell's family for \$1.27 million.

We are aware of climbing gym fall cases in which the financial liability was on the order of **five or six times larger than the Jarrell wrongful death settlement**.

Apples and oranges, some will say, and personal injury damages and settlements indeed represent different things in different cases: loss of future earnings, future medical expenses, loss of consortium and services, and so forth. Judgments may be much larger than settlements. (Jarrell's girlfriend, who suffered permanent injuries in the Fireball accident, went to court in New Jersey, where a jury awarded her \$20 million, of which \$10 million was designated as punitive damages.)

What is clear is that climbing gym operators and manufacturers, their insurers and their legal counsel need to be aware of the litigation climate and take steps to protect themselves.

What can we do?

Speaking at the Association for Challenge Course Technology International Conference and Expo recently, I borrowed a term from football: Lockdown Defense. The term stands for a *continuum*

of risk management, public relations, legal strategies, and processes to protect your operations when adverse incidents happen. These strategies and processes must begin at the moment an injury or other adverse incident happens.

What you do or don't do at that point may have a profound impact on the outcome of the matter.

The components of Lockdown Defense are operations and procedures, documentation, insurance coverage, crisis response, and legal counsel. It begins with crisis response.

Winging this is the worst mistake you can make. You should have a written plan, including:

- Who are your spokespersons?
- Who summons help?
- Who renders first aid? Will they be trained in CPR? Use of an AED? Will you have AEDs on site?
- Who communicates with first responders? Insurers? Legal counsel? The media? ("If it bleeds, it leads.")
- Where do those communications take place? What do you say? How much do you say?

You can develop your own plan, but fortunately, you can find them online. Visit the [Ready.gov business emergency planning site](#) to find various plan templates for emergency response, crisis communications, disaster recovery, and business continuity.

Keep in mind that crises come in all shapes and sizes and from a variety of causes. When you have a written plan in place, consider war-gaming it. Some staff time spent now may save you greatly down the road.

Finally, if you are interested in a deeper dive into this subject, [register for the 2025 CWA Summit](#) (if you haven't done so already) and check out the session "Business Partner Check: Proactive Risk Management To Avoid Litigation Freefalls" presented by Petzl and the Ballard Spahr law firm.

About The Author



Robert Angell is an Ohio- and Colorado-licensed attorney concentrating in the areas of administrative law, recreation, amusement, and entertainment law, and business formation. He served on the CWA Board of Directors from 2006 to 2013 and was reappointed to the Board in 2019. Bob has been instrumental in regulatory initiatives on behalf of CWA members across the U.S. since 2005. His clients include many gyms in Ohio and other states.

CRAFTING COMPS: STEP BY STEP GUIDE FOR CLIMBING GYMS

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CHOOSING VENDORS THAT FIT YOUR BRAND: PART 1

February 14, 2025