

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
SHARON INGRAM,

Plaintiff(s),

-against-

LIFE FITNESS, A DIVISION OF BRUNSWICK  
CORPORATION and TOWN SPORTS INTERNATIONAL  
HOLDINGS, INC., d/b/a NEW YORK SPORTS CLUB,

Defendant(s).  
-----X

Index No.

Date Purchased: 16107442

Plaintiffs designates  
NEW YORK County  
as the place of trial  
The basis of the venue  
is Defendant TOWN  
SPORTS  
INTERNATIONAL  
HOLDINGS, INC.'S  
residence address

**SUMMONS**

Plaintiffs' reside at  
64 Ridgeview Terrace

Elmsford, NY 10523

To the above named Defendants

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the state of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
Thursday, May 20, 2010

Yours, etc.

JEFFREY A. MANHEIMER  
NEW YORK

**FILED**  
JUN 07 2010  
COUNTY CLERK'S OFFICE  
NEW YORK

Jeffrey A. Manheimer  
Attorney for Plaintiff(s)  
377 Oak Street-Suite 210  
Garden City, New York 11530

Tel. No.: (516) -280-3065  
Fax No.: (516) – 280-3067

**Defendant(s) address(es):**

**LIFE FITNESS, A DIVISION OF BRUNSWICK CORPORATION:  
5100 River Road, Schiller Park, IL 60176**

**TOWN SPORTS INTERNATIONAL HOLDINGS, INC., d/b/a  
NEW YORK SPORTS CLUB  
30 Wall Street, New York, NY 10005**

SUPREME COURT OF THE STATE OF NEW YORK  
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Defendant(s).

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Index #:

**VERIFIED  
COMPLAINT**

**16107442**

Plaintiffs, by her attorney, JEFFREY A. MANHEIMER ESQ., complaining of the  
defendants, respectfully allege, upon information and belief, as follows:

**AS AND FOR THE FIRST CAUSE OF ACTION ON BEHALF OF  
PLAINTIFF SHARON INGRAM:**

1. On March 4 2008, and at all times hereinafter mentioned and prior thereto,  
Plaintiff was a resident of the County of Westchester, State of New York  
residing at 64 Ridgeview Terrace, Elmsford, New York 10523.
2. That, on March 4 2008 and at all times hereinafter mentioned and prior  
thereto, the defendant, LIFE FITNESS, A DIVISION OF BRUNSWICK  
CORPORATION (hereinafter referred to as "FITNESS"), was and still is a  
foreign corporation, duly organized and existing under and by virtue of the  
laws of the State of Illinois with an office for the transaction of business  
located at 5100 River Road, Schiller Park, IL 60176.

**FILED**  
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NEW YORK

3. That at all times hereinafter mentioned and prior thereto, and on and prior to the 4<sup>th</sup> day of March 2008, the defendant FITNESS was and still is transacting business within the State of New York.
4. That, on and prior to the 4<sup>th</sup> day of March 2008, and at all times hereinafter mentioned and prior thereto, the defendant, TOWN SPORTS INTERNATIONAL HOLDINGS, INC., d/b/a NEW YORK SPORTS CLUB, (hereinafter referred to as "SPORTS"), was and still is a domestic corporation, duly organized and existing under and by virtue of the laws of the State of New York with an office for the transaction of business located at 30 Wall Street, New York, New York.
5. That upon information and belief, and at all times hereinafter mentioned and prior thereto, and on or prior to the 4<sup>th</sup> day of March 2008, the Defendant, FITNESS, manufactured, constructed, assembled, built, designed, fabricated, and produced a LIFEFITNESS treadmill (hereinafter referred to as "Treadmill") bearing model number 95Ti and serial number TTJ 1011097, its component parts and mechanisms.
6. That upon information and belief, and at all times hereinafter mentioned and prior thereto and on or prior to the 4<sup>th</sup> day of March 2008, the said Treadmill bearing the above serial number was placed in interstate commerce for sale by the Defendant, FITNESS.
7. That upon information and belief, and at all times hereinafter mentioned and prior thereto, and on and prior to the 4<sup>th</sup> day of March 2008, the said Treadmill

was sold, transferred, transported and/or delivered by the Defendant FITNESS to the Defendant, SPORTS within the State of New York.

8. Upon information and belief, and at all times hereinafter mentioned and prior thereto, and on and prior to March 4 2008, defendant SPORTS was in the business of operating health and fitness clubs within the State of New York.
9. That the said defendant operated a said health and fitness club on and prior to the 4<sup>th</sup> day of March 2008 at 30 Wall street, New York, NY.
10. That on and prior to the 4<sup>th</sup> day of March 2008, the defendant SPORTS operated the said club and invited members of the public to purchase memberships in the said club.
11. Upon information and belief, and at all times hereinafter mentioned and prior thereto, and on or prior to the 4<sup>th</sup> day of March 2008, the defendant FITNESS sold, distributed and/or otherwise placed into the chain of commerce, a LIFEFITNESS Treadmill model number 95Ti bearing serial number TTJ 1011097 ("Treadmill").
12. That on or prior to the 4<sup>th</sup> day of March 2008, the Defendant FITNESS sold the aforesaid TREADMILL to the defendant SPORTS for use in its health and fitness club located at 30 Wall Street, New York, NY.
13. Upon information and belief and at all times hereinafter mentioned and prior thereto, and on or prior to the 4<sup>th</sup> day of March 2008, and at the time of defendant FITNESS's design, fabrication, assembly, welding, manufacture and/or sale of the TREADMILL as aforesaid, said defendant impliedly

warranted that the TREADMILL was of merchantable quality and fit for the purposes for which it was intended.

14. Upon information and belief and at all times hereinafter mentioned and prior thereto, and on or prior to the 4<sup>th</sup> day of March 2008, and at the time Defendant FITNESS manufactured and sold the TREADMILL as aforesaid, the TREADMILL was defective, unsafe, not of merchantable quality, was otherwise unfit for its intended and ordinary purposes, and was therefore in breach of the above-referenced implied warranties.
15. That on the 4<sup>th</sup> of March 2008, and at all times hereinafter mentioned, plaintiff SHARON INGRAM was a member of the New York Sports Club located at 30 Wall Street, New York, NY.
16. That on the 4<sup>th</sup> day of March 2008 the plaintiff SHARON INGRAM was unaware that the said TREADMILL was defective, unsafe, not of merchantable quality, or that it was unfit for its intended purposes and dangerous to use in the setting of a noisy and crowded health and fitness club.
17. That on March 4<sup>th</sup> 2008, at or about 5:30pm the plaintiff SHARON INGRAM was attempting to use the said TREADMILL upon the premises of SPORTS, when attempting to step upon the said TREADMILL same was running at a high speed causing her to be thrown off to the floor behind same striking her head causing her to sustain serious and permanent injuries herein.
18. In the course of using the TREADMILL as aforesaid, the said TREADMILL was caused to be running at a high rate of speed without shutting off and

without any warnings to the plaintiff causing her to be thrown from same when she attempted to step upon same to perform her workout.

19. That the aforementioned malfunction of the TREADMILL and the fall of the plaintiff was a direct and proximate result of the aforementioned breaches of warranty as stated herein.
20. That the accident and the injuries resulting therefrom were caused solely and wholly by reason of the breaches of warranties as aforesaid without any fault, want of care or culpable conduct on the part of plaintiff contributing thereto.
21. That this action falls within the exclusions to the abolition of joint and several liability as contained within Article 16 of the CPLR.
22. As a result of the foregoing, Plaintiff has been damaged in an amount that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction herein.

**AS AND FOR THE SECOND CAUSE OF ACTION ON BEHALF OF  
PLAINTIFF SHARON INGRAM:**

23. Plaintiff repeats, reiterates and realleges each and every allegation contained in the First Cause of Action and designated therein as paragraphs "1" through "22" inclusive, with the same force and effect as though more fully set forth herein.
24. Upon information and belief and at all times hereinafter mentioned and prior thereto, and on or prior to March 4<sup>th</sup> 2008, defendant FITNESS and SPORTS expressly warranted that the TREADMILL was of first quality.

25. That on the 4<sup>th</sup> day of March 2008 and prior thereto, the TREADMILL was not of first quality, but instead was defective, unsafe, not of merchantable quality, was otherwise unfit for its intended and ordinary purposes, and was in breach of the above-mentioned express warranty.
26. That the aforementioned electronic speed controls and shut-off systems of the TREADMILL were the direct and proximate result of the aforementioned breach of express warranty.
27. That as a result of the foregoing, Plaintiff SHARON INGRAM has been damaged in an amount that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction herein.

**AS AND FOR THE THIRD CAUSE OF ACTION ON BEHALF OF  
PLAINTIFF SHARON INGRAM:**

28. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint numbered "1" through "27" inclusive, with the same force and effect as though more fully set forth at length herein.
29. Upon information and belief and at all times hereinafter mentioned and prior thereto, and on or prior to March 4<sup>th</sup> 2008, Defendant FITNESS caused the TREADMILL to be sold and shipped to a place within the State of New York, specifically to Defendant, SPORTS, at 30 Wall Street, New York, NY.
30. Upon information and belief and at all times hereinafter mentioned and prior thereto, and or prior to the 4<sup>th</sup> day of March 2008, defendant, FITNESS, in selling the TREADMILL and causing it to be shipped and delivered to the



aforesaid place within the State of New York, should have anticipated and/or contemplated its eventual use such by a member of the public and /or the plaintiff such at the said health and/or fitness club.

31. That the said TREADMILL was by its design and/or construction and/or manufacture and/or assembly inherently defective in that it lacked appropriate warnings of it's continued running and or proper shut off mechanisms and other devices to warn the plaintiff and or end-users of it's defects.
32. That the TREADMILL was thus defective at the time that it was in the possession, custody or control of defendant FITNESS and/or SPORTS.
33. That defendant FITNESS and/or SPORTS, as manufacturer and merchant of goods including TREADMILLS, in the manufacture, distribution and selling of the TREADMILL was bound to anticipate and was charged with the knowledge that it would be presented to the general public for its use; and that the TRTEADMILL was by its nature a device inherently dangerous to its user.
34. That on the 4<sup>th</sup> day of March 2008, at the time and place set forth above, the Plaintiff used the TRTEADMILL for the purpose and in the manner for which it was intended, to wit, exercise, fitness and health.
35. That on the 4<sup>th</sup> day of March 2008, at the time and place of its use by the plaintiff as aforesaid, the TRTEADMILL did not perform in the manner as it was intended to by reason of and in consequence of the existence and/or coming into play of the design and manufacturing defects, but on the contrary, in a manner so as to cause injury and damage to said Plaintiff.

36. That Plaintiff would not by the exercise of ordinary and reasonable care have discovered the defects or perceived the dangers existing at the time she attempted to step upon the machine.
37. By reason of the occurrence to Plaintiff as set forth above, defendants FITNESS and SPORTS are liable to said Plaintiff who was caused to sustain severe injuries and damages by reason of the defective conditions of the TREADMILL; and, that said defects were the sole and/or substantial causes and/or factors in bringing about the injuries and damages.
38. Such liability exists by reason of the doctrine of strict liability in tort, and is binding upon the defendants, FITNESS and/or SPORTS.
39. That by reason of the foregoing the Plaintiff has been damaged in an amount that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction herein.

**AS AND FOR THE FOURTH CAUSE OF ACTION ON BEHALF OF  
PLAINTIFF SHARON INGRAM:**

40. Plaintiff repeats, reiterates and realleges each and every allegation contained in the paragraphs of this Complaint numbered "1" through "39" inclusive, with the same force and effect as though more fully set forth at length herein.
41. That the aforementioned occurrence of March 4<sup>th</sup> 2008 that is the subject of the Verified Complaint herein was caused by the negligence and carelessness of defendants FITNESS and/or SPORTS in that they knew or should have known that the said TRTREADMILL was defective, unsafe, not of merchantable quality, and not fit for the purposes for which it was intended to

be used; that they negligently designed, manufactured and offered for sale a TREADMILL that was unsafe, dangerous and subject to running without shutting off at a high rate of speed therefore posing a danger and hazard to persons attempting to use same; that the said TREADMILL lacked adequate and properly functioning shut-off devices, sensors, markings and or other parts that would have warned the plaintiff of it's operating defects; that it negligently offered for sale to the defendant SPORTS the TREADMILL that contained unsafe assemblies, electronic speed controls, automatic shut-off devices, markings, voice warnings of high speed runs, sensors and other component parts that would have warned the plaintiff of it's high speed operation prior to her attempting to use same; that they failed to provide proper and routine inspections prior to the sale of same; that they negligently offered for sale the said TREADMILL with inadequate safety warnings and markings and that same lacked instructions in it's use; that they negligently failed to inspect or test the said TREADMILL for defective conditions; that they had actual and/or constructive notice of the dangers inherent in the use of the said TTREADMILL and its defects; and, that they failed to reasonably foresee that their negligence would cause injury to the Plaintiff.

42. That the Defendant SPORTS negligently failed to hire and/or retain competent personnel to perform maintenance, inspection, repairs and/or testing of the said TREADMILL; allowed unsafe TREADMILLS to be used upon their premises; placed the said TREADMILL and adjoining ones too close together to allow patrons to step upon same from the side or to notice that said machine

was running at a high rate of speed at the time the plaintiff attempted to step upon same; failed to allow for recovery space between and around the said treadmills located upon their premises due to the high density spacing of the said machines; negligently placed too many treadmills adjacent to each other so as to muffle the sounds of running machines; played music at such a high level of sound so as to muffle the sound of running machines; failed to devise any type of warning mechanisms to warn users of the running of the said machines; failed to perform proper and routine maintenance and testing of the machines and their shut-off mechanisms and/or electronic controls; failed to have and place flooring material of a sufficient type to provide for effective shock absorption or injury mitigation should a fall of the type and manner herein occur in the vicinity of the said machines; failed to reasonably foresee that a user of the said treadmills could inadvertently come into contact with the floors adjacent and behind the said treadmills; failed to shut down machines that had been malfunctioning prior to the date of the plaintiff's accident; negligently utilized the space for the treadmills to place as many machines thereat as they could fit without allowing proper space between said machines for a user of same to recover safely from a mis-step; used improper masonry-type floors with only a ½" thick rubber overlay that is insufficient for effective shock absorption; and, negligently failed to have sufficient and proper supervision and personnel available to observe and/or supervise the use of the machines; plaintiff pleads the doctrine of RES IPSA LOQUITUR herein.

43. That by reason of the negligence of Defendants as aforesaid, Plaintiff was caused to be seriously injured including the loss of vision in her left eye rendering her legally blind.

44. That by reason of the foregoing Plaintiff has been damaged in an amount that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction herein.

**WHEREFORE**, Plaintiff claims damages on the First through Fourth Causes of Action in an amount that exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction herein together with the costs and disbursements of this action.

Dated: Garden City, New York  
Monday, May 24, 2010

Yours, etc.

JEFFREY A. MANHEIMER, ESQ.

By: 

Jeffrey A. Manheimer  
Attorneys for Plaintiff(s)  
377 Oak Street-Suite 210  
Garden City, New York 11530  
Tel. No.: (516) 280-3065  
Fax No.: (516) 280-3067

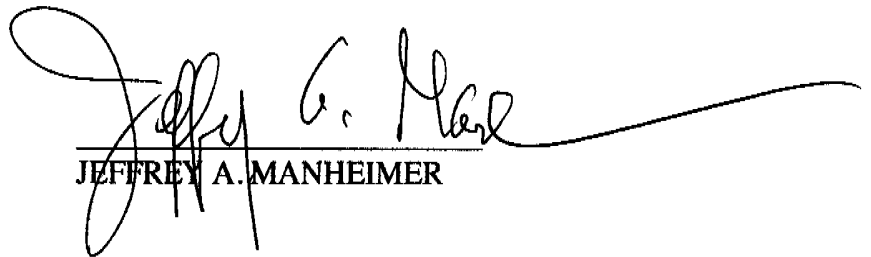
## VERIFICATION

I, JEFFREY A. MANHEIMER, an attorney admitted to practice in the Courts of the State of New York, state under penalty of perjury that I am member of the firm of JEFFREY A. MANHEIMER, ESQ., attorney for the plaintiff in the within action; I have read the foregoing

## COMPLAINT

and know the contents thereof; the same is true to my own knowledge, except as to the matters I believe to be true. The reason this verification is made by me and not my clients, is that my clients are not presently in the County where I maintain my offices. The grounds to my belief as to all matters not stated upon my own knowledge are the materials in my file and the investigation conducted by my office.

Dated: Garden City, New York  
Monday, May 24, 2010



JEFFREY A. MANHEIMER

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

Index No.

SHARON INGRAM,

Plaintiffs,

-against-

LIFE FITNESS, A DIVISION OF BRUNSWICK CORPORATION and TOWN SPORTS  
INTERNATIONAL HOLDINGS, INC., d/b/a NEW YORK SPORTS CLUB,

Defendants.

**SUMMONS AND VERIFIED COMPLAINT**

JEFFREY A. MANHEIMER, ESQ.  
Attorneys for Plaintiff  
Office and Post Office Address, Telephone  
747 Third Avenue - 37<sup>th</sup> Floor  
New York, NY 10017  
(212) 752-4500

To

Service of a copy of the  
within is hereby admitted.

Dated: \_\_\_\_\_ 19\_\_

Attorneys for

PLEASE TAKE NOTICE:

\_\_\_ NOTICE OF ENTRY that the within is a (certified) true copy of a duly entered in the  
office of the clerk of the within named  
court on 19

\_\_\_ NOTICE OF SETTLEMENT that an order of which the within is a true copy will be  
presented for settlement to the HON.  
one of the judges of the within named Court,  
at  
on 19 at M

Dated:

Yours, etc.

JEFFREY A. MANHEIMER, ESQ.