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Client Advisory

Businesses Beware, Not all Waivers are Created Equal

New Jersey businesses which require waivers from their patrons may need to rethink their practices to ensure that those waivers are always enforceable. Earlier this month, the New Jersey Appellate Division in Gayles by Gayles v. Sky Zone Trampoline Park, held that businesses cannot rely on parents to sign waivers for other people's children.

In Sky Zone, a parent invited several of her minor son's friends to celebrate his birthday at Sky Zone Trampoline Park. The parent drove her son and his friends to the facility and upon arrival signed an agreement on behalf of all the minors in the group, purportedly waiving their right to seek redress for injuries occurring on the premises. While playing on the trampolines, one of the children fractured his leg. The minor friend's parent sued Sky Zone in court. Sky Zone moved for summary judgment, arguing the court should dismiss the claim because the executed waiver required the parent's claim instead to go to arbitration. The trial judge disagreed and allowed the friend's parent to move forward with the claim in court. Sky Zone appealed the trial judge's decision, and the New Jersey Appellate Division affirmed. The Appellate Division found Sky Zone could not enforce the waiver because the parent who executed the agreement did not possess authority under any set of circumstances to act on behalf of someone else's child.

The Sky Zone case will likely have serious implications for businesses who rely on waivers to shield them from liability, particularly when minors are involved. In light of this decision, businesses must take certain steps and establish proper procedures to ensure the protections intended by these waivers are fully enforceable.

If you have any questions about proper requirements for waivers, please contact [Thomas Herten](#) at 201-498-8502 or therten@archerlaw.com, or [Alexander Thompson](#) at 856-354-3042 or athompson@archerlaw.com.

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