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Steve Lash // **Daily Record Legal Affairs Writer** // September 10, 2013 // **4Minute**
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ANNAPOLIS — Attorneys for an injured boy's parents and a national chain battled Tuesday at Maryland's highest court over whether parents can sign away their children's right to recover for injuries they might sustain in a store's play area.

Upholding a waiver the boy's father signed would offend public policy by permitting BJ's Wholesale Club Inc. to escape accountability for its alleged negligence in placing climbing equipment over a concrete floor, attorney Ari S. Casper told the Court of Appeals.

"We're talking about the safety of our children," said Casper, of Stein, Mitchell, Muse & Cipollone LLP in Washington, D.C.

But BJ's attorney, Christopher R. Dunn, said public policy decisions should be made by the legislature, not the courts. The boy's father, Russell Rosen, had freely signed the waiver required to access the play area of the store in Owings Mills, Dunn added.

"This is a contractual issue," said Dunn, of DeCaro, Doran, Siciliano, Gallagher & Deblasis LLP in Bowie.



Russell and Beily Rosen are seeking \$5 million in their lawsuit against BJ's on behalf of their son, Ephraim, who fell at least three feet from a plastic hippopotamus and struck his head on the concrete floor.