

**CAPPELLO  
& NOËL** LLP  
**TRIAL LAWYERS**

A. BARRY CAPPELLO

February 25, 2008

File No. 06009.001

*Via US Mail*

Andrea Hoch  
Office of the Governor  
State Capitol Building  
Sacramento, CA 95814

Re: *Gottesman et al. v. Cathedral Oaks Tennis, Swim and Athletic Club, et al.*  
*Santa Barbara Superior Court Case No.: 01246093*

Dear Ms. Hoch:

This office represents Anat and Oded Gottesman, parents of the deceased minor child Jonathan "Yoni" Gottesman. Yoni was 4 years old when he died on August 15, 2005. He drowned in the Cathedral Oaks Athletic Club ("COAC") swimming pool within a few feet of two lifeguards and three camp counselors while attending an unlicensed day care program at the facility. We first wrote to you regarding the above matter on December 28, 2007. A copy of that letter is enclosed for your reference. We are writing you again because we received a letter from Lawrence B. Bolton, Chief Counsel of the Department of Social Services, after our letter was referred to him for response. A copy of Mr. Bolton's letter also is enclosed.

Mr. Bolton's letter, however, ignored a major issue we raised, which is and should be of paramount importance to the Governor: the welfare and safety of the children of the State of California. We wrote to you because we believe the Governor needs to be aware that the State's licensing requirements for day care facilities are not being enforced. The issue is not whether this particular facility does or does not provide child care any longer (and therefore whether it needs to be licensed at this time). The issue is that child care facilities all over the State are not being regulated appropriately, and the Health & Safety Code is being ignored on a wholesale basis.

Such a situation requires and deserves the attention of your office. We ask that you bring this matter to the attention of the Governor himself, and that we be allowed to meet with you to discuss this matter. As we noted previously, to date law enforcement has not taken any action regarding the tragic death of our clients' son.

06009.001 – 143856

831 STATE STREET, SANTA BARBARA, CALIFORNIA 93101-3227      ABC@CAPPELLONOEL.COM

TEL (805) 564-2444      FAX (805) 965-5950      WWW.CAPPELLONOEL.COM

Andrea Hoch, Esq.  
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As a testament that he did not die in vain, we ask that your office investigate this matter and take steps to ensure that the laws of the State of California are applied and enforced.

Very truly yours,

CAPPELLO & NOËL LLP

A handwritten signature in black ink, appearing to read "A. Barry Cappello", written in a cursive style with large loops and flourishes.

A. Barry Cappello

Enclosures

cc: Oded and Anat Gottesman

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



January 16, 2008

Mr. A. Barry Cappello and Ms. Leila J. Noël  
Cappello & Noël, LLP  
831 State Street  
Santa Barbara, CA 93101-3227

Dear Mr. Cappello and Ms. Noël:

SUBJECT: *Gottesman et al. v. Cathedral Oaks Tennis, Swim and Athletic Club, et al.*  
Santa Barbara Superior Court Case Number: 01246093

Your letter of December 28, 2007, directed to Ms. Andrea Hoch in the Governor's Office of Legal Affairs, has been referred to the California Department of Social Services (CDSS) for a response. The CDSS is the State department responsible for the licensure of numerous types of facilities, including child care facilities.

On September 15, 2005, the CDSS received a complaint of unlicensed operation regarding the Cathedral Oaks Tennis, Swim, and Athletic Club (COAC). The Department visited the facility, conducted an investigation of the allegation, and ultimately substantiated the complaint that the COAC had previously provided child care without a license. Accordingly, the CDSS cited the COAC on October 11, 2005, for operating without a license and issued a Notice of Operation in Violation of Law. The citation was based upon the operation of the activity camp prior to the death of Jonathan Gottesman in August 2005. It is our understanding that the camp ceased operation on August 19, 2005.

As you indicate in your letter, the COAC exercised their right to appeal the citation through the CDSS' administrative chain. This included appeals to the Licensing Program Manager of the Central Coast Child Care Regional Office, the Regional Office Manager, and finally to the Statewide Child Care Program Administrator of the Community Care Licensing Division. Each level of the appeal was separately and thoroughly reviewed by the Department and each appeal was denied.

While our Department cannot speak to any decision made by the Office of the District Attorney regarding the death of Jonathan Gottesman, we note that the COAC stated in their appeal that they ceased operating the camp on August 19, 2005. There was no indication of its continued operation at the time of our investigation.

Mr. A. Barry Cappello and Ms. Leila J. Noël  
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On behalf of the Department, your clients have our sincere condolences for the loss of their son. We will continue to work along with the Governor's office and take all steps necessary to ensure the prompt response to any complaints of unlicensed child care.

Very truly yours,

A handwritten signature in black ink, appearing to read 'L B B', with a stylized flourish extending to the right.

LAWRENCE B. BOLTON,  
Chief Counsel