

**CAPPELLO  
& NOËL** LLP  
TRIAL LAWYERS

A. BARRY CAPPELLO

March 19, 2008

File No. 06009.001

*Via California Overnight*

Annie Carney  
Office of First Lady Maria Shriver  
State Capitol Building  
Sacramento, CA 95814

RE: *Yoni Gottesman*

Dear Ms. Carney:

Our office represents the parents of a little boy who drowned in a swimming pool at a child care facility here in Santa Barbara in August, 2005. We have enclosed a letter to the First Lady, and we would appreciate it if you could ensure that the letter is given to her. We know of her strong interest in family issues, including child safety, and seek her help.

Thank you very much for your assistance.

Very truly yours,

CAPPELLO & NOËL LLP



A. Barry Cappello



Leila J. Noël

Enclosure  
cc: Client

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A. BARRY CAPPELLO

March 19, 2008

File No. 06009.001

*Via California Overnight*

First Lady Maria Shriver  
c/o Annie Carney  
Office of First Lady Maria Shriver  
State Capital Building  
Sacramento, CA 95814

RE: *The Tragic Death Of A Child*

Dear Mrs. Shriver:

Nothing is more precious than the life of a child, yet safety measures in child care facilities in California too often are substandard or nonexistent. Cost-cutting measures to increase profits frequently become the prime objective, rather than the health and welfare of the children placed in the facility's care. The results can be tragic. We are writing to you because we know of your and the Governor's strong interest in family issues, including child safety. We represent Anat and Oded Gottesman, the parents of Jonathan "Yoni" Gottesman, a four-year-old boy who drowned in a swimming pool at a child care facility here in Santa Barbara in August, 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. The facts of the incident are shocking, all the more so because they were captured on videotape. Because statistics have a very real face behind them, we are enclosing a photo of Yoni that was taken shortly before his death.

The Sheriff's and District Attorney's investigations into the matter were demonstrably lacking. Worse, while the Sheriff's ostensible investigation was proceeding, the owner of COAC made a very substantial donation to the local Sheriff's Council. Despite extensive efforts by the Gottesmans and our office to obtain action by government authorities, none has provided assistance including the District Attorney's office, the Attorney General's office and even the Governor's Legal Affairs office. Instead, the system has turned a blind eye to the situation, and to the dire consequences of the State failing to enforce its own laws. We hope that by bringing

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the problem to your attention, you might be able to assist in implementing improvements in the monitoring of facilities that provide child care.

Just to give you a brief background, COAC operated a child day care program called the "Summer Activity Camp" ("Camp") for children ages four to ten at the Club's facility, from 1999 to the date of Yoni's death on August 15, 2005. Following Yoni's death, the California Department of Social Services (DSS) determined that the Camp was a day care program within the meaning of the Health & Safety Code, and that it should have been licensed. As you know, licensing ensures that day care programs will be inspected periodically by department personnel to insure compliance with, among other things, adequacy of staffing, staffing credential requirements, background checks and safety of facilities. Despite the licensing requirement, however, COAC had no license to conduct the Camp at the time of Yoni's death in August 2005, or at any other time.

When it was cited by the DSS for this violation after Yoni's death, COAC claimed that it was not required to be licensed. And therein lies the problem: When facilities evade the licensing requirements by claiming that they are not subject to regulation, they fall through the cracks. Despite the DSS' after-the-fact citation for violation of the Health and Safety Code, the District Attorney refused to consider COAC's violation of the law in his decision not to pursue criminal charges. In fact, it is highly questionable whether COAC could have met licensing requirements given the hiring of unqualified personnel, the inadequate training of personnel, the lack of required certifications, and poor supervision and unsafe pool conditions. We have detailed analyses of these matters if you would entertain our presentation of them.

The evidence we have, including the videotape of the deplorable incident, demonstrates COAC's callous indifference toward the safety of the children left in its care. This includes past incidents of near drowning; numerous complaints of inattentive lifeguards; non-responsiveness to complaints; young, untrained and unsupervised counselors; and the lack of licensing. The latter deprived the parents of children left in COAC's care of DSS oversight regarding safety, and appropriate credentials and facilities. COAC's indifference rose to the level of criminal negligence when its conduct resulted in the death of a 4-year-old child – a little boy who was aggressively dunked by a large male counselor who then swam away leaving him to drown under the "watchful eyes" of lifeguards and counselors.

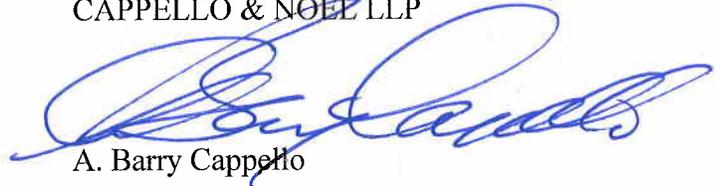
To date, no governmental entity has been willing to step in and get involved. On behalf of the Gottesman family and all the children of California who could be in danger as a result of the existing situation, we ask for your personal assistance in attempting to address this matter. We and the Gottesmans gladly will travel to Sacramento at your convenience to meet with you and answer any questions you have.

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Thank you in advance for your kind attention.

Very truly yours,

CAPPELLO & NOËL LLP



A. Barry Cappello



Leila J. Noël

Enclosure  
cc: Oded and Anat Gottesman

