

SANTA BARBARA NEWS-PRESS

Parents file wrongful death suit - DA had declined to file charges after 4-year-old's drowning

NEWS-PRESS STAFF REPORT

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The parents of a 4-year-old boy who drowned in a Goleta athletic club pool have filed a wrongful death lawsuit against the club and its owners.

In documents filed last week in Santa Barbara County Superior Court, Oded and Anat Gottesman claim that despite public representations that Cathedral Oaks Athletic Club's activities were safe "and the implication that the camp was a properly licensed program" meeting all state requirements, the camp was an unsafe, illegal and unlicensed child-care program.

Their son Yoni died on the first day of camp in August 2005.

The alleged deficiencies of the club cited in their lawsuit include:

- Improper hiring and training of lifeguards, resulting in incompetent lifeguard personnel being "on duty" when young children were in the pool;
- Failure to establish a procedure during the camp's "recreational swim time" under which specific lifeguards and counselors were assigned to observe, monitor and protect specific children in the pool;
- Improper and inadequate CPR and resuscitation training, procedures and equipment.

Representing the Gottesmans is A. Barry Cappello, who is also representing the News-Press in matters before the National Labor Relations Board.

The suit on Yoni's behalf names West Coast Athletic Clubs, which owns Cathedral Oaks Athletic Club, Santa Barbara Athletic Club and Club West, club owners Richard Berti, Richard Ortale, Julie Main and Jim Knell, and camp personnel who were on duty at the time of the boy's death.

In a statement announcing the lawsuit, Mr. Cappello said the Gottesmans relied on the club's "misleading assurances, and now, their young boy is dead."

"Losing a child in the manner in which Yoni died is horrific. His parents are distraught. The club and its owners and staff need to be held accountable."

Mr. Berti has called the death "a horrible accident."

The Santa Barbara County Sheriff's Department looked into the matter and found no crime had taken place, and in July 2006, the district attorney's office -- at the time headed by Tom Sneddon -- decided

not to file criminal charges in the case.

According to court documents, Yoni's mother dropped him off for the Summer Activity Camp -- and within 40 minutes he was dead.

"His drowning was captured by a surveillance camera focused on the club pool," according to Mr. Cappello's statement. "The camera shows Yoni being aggressively dunked by a camp counselor, struggling to stay afloat and then floating facedown in the water. A lifeguard, no further than six feet from the pool, ignores the little boy while he floats motionless for eight minutes."

"It was a camper who finally noticed Yoni floating face down in the pool and called it to the attention of a camp counselor," the statement continues.

"It was only then that any action was taken to rescue Yoni." The statement goes on to say that "improper resuscitation and CPR techniques and equipment were used after Yoni was pulled from the water and there was a lengthy delay in calling 911."

Following the boy's death, according to documents, the state Department of Social Services "investigated the camp and determined that it did not have a license to provide childcare."

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