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## Judge rules in favor of family in boy's death

By Vivian Ho

A federal judge has ruled in favor of a Red Bluff (Tehama County) family that sued the federal government for the death of a 9-year-old boy who was crushed by a trailside wall in Lassen Volcanic National Park in 2009.

U.S. District Judge Troy Nunley in Sacramento struck down the government's defense Tuesday that it was within the National Park Service's discretion whether to repair or maintain the stone retaining wall that toppled 30 feet down a slope, killing Tommy Botell and seriously injuring his sister Katrina, who was then 13.

The ruling came four years and one day after Tommy Botell's death.

The family was at the park to celebrate the birthday of Thomas Botell, Tommy's father, when the boy and his sister sat on the retaining wall to pose for a picture.

The weakened wall cracked under their weight, its rocky pieces crashing into the two young siblings as they tumbled down the slope. The boy's brain stem was crushed, giving him only a few minutes to tell his mother that he was hurting before he died in her arms.

Steve Campora, an attorney for the Botells, said the family will return to court Sept. 16 when it is

determined what damages the federal government should pay. The family sought \$9 million when it filed the lawsuit last year.

Documents obtained during the course of the lawsuit revealed that park officials knew the wall on Lassen Peak Trail had sustained enough damage from water runoff and heavy use since 1994 to make it a safety hazard.

Nunley found that the park had a mandatory safety program that its rangers had not followed when it came to the wall. That negated the government's argument that it could not be penalized for not maintaining the wall or closing the trail because the rangers were

allowed to do what they thought best, the judge said.

"The park's safety program mandated the closure of known dangers such as the retaining wall," Nunley wrote. "The safety program constituted a policy directing mandatory and specific actions that were admittedly not followed."

After the accident, a U.S. magistrate found that numerous e-mails, files of the park's chief of maintenance and evidence about the deteriorating condition of the wall had been destroyed on the orders of the park's superintendent, Darlene Koontz.

U.S. Justice Department attorneys said that



Botell family lawyers

**Tommy Botell died at Lassen Volcanic National Park.**

this was done to protect the public, but Nunley ruled that by committing these acts, the government had forfeited its right to deny negligence.

The Justice Department did not return calls for comment, nor did

Koontz, who is still the park's superintendent.

Campora said the family saw the ruling as one in a "series of victories along the way."

"Early on, the park service just refused to acknowledge they did anything wrong," Campora said. "There's a certain vindication for the family that somebody now has to be responsible for what they did — that somebody is saying to the United States government, 'You have to be responsible for what you did.'"

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