

presented this false declaration and told again, that no such testimony was ever given.(Vol.2 App.404-517)

Not one piece of evidence was ever submitted in this case that Appellant was even remotely unhappy with Respondent's involvement in *Mercury*.

On December 12, 2008, when in oral argument, Appellant requested Judge Schall ask Scheuer of the matter, to which she replied,

“I'm not going to be drawn into that kind of petty behavior asking Mr. Scheuer to explain himself on things...” (Vol.7 RT.568)

### C. The Trial Was Framed On The Appellate CCP 425.16 Ruling

The scope of the trial was framed on the Appellate Court anti-SLAPP motion of November 19, 2006. The anti-SLAPP motion denial and the MSJ denial were made while not acknowledging Appellant's documentation that Respondent was submitting false declaration statements as to why Appellant would harbor malice for Respondent. (Vol.1 RT.23)

This created a false theme to the case that Appellant wrote because she was a vindictive, unscientific, kook of a litigant. The theme discredited the validity of what she was writing in the public interest. (Vol.4 RT.377-378) (Vol.4 RT.335-336) (Vol.III App.798-801) (Vol.IV. App.951-953)

Just days before the August 2008 trial, Judge Schall assumed the case. As is illustrated by statements made on the first day, August 18, 2008, the testimony that could be given, the evidence and experts allowed and a

preconceived idea of the parties to the case were based on the false theme established from the Appellate Court anti-SLAPP denial:

Judge Schall: That’s why I like reading their ruling because I know what I’d do. I won’t upset them if I follow their guidance to start with. They did a pretty good job on pointing to the kinds of evidence they considered in the anti-SLAPP, which is key because it’s the same thing that was adopted in the motion for summary judgment ruling that was made by Judge Orfield. (Vol.1. RT.4)

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To start with, is Dr. Kelman was an expert in her own lawsuit...the case was settled and quote, a reasonable jury could infer that Kramer harbored some animosity toward Kelman....(Vol.1 RT.5)

.....

And furthermore, finally on page 13, they did reference any – the general tone of Ms. Kramer’s Declarations, Declaration might reflect a person being personally motivated having suffered from mold problems herself, now in a crusade in this matter has taken her to the point of now suggesting in this case an alteration in the under-oath testimony by Dr. Kelman. And that’s referencing the last paragraph Page 13 of the Fourth Districts’s ruling. (Vol.1 RT.6)

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Judge Schall: So that kind of the way I look at this case. I think the Fourth District has done a very clean job of focusing, and **I think they’re right**. So I am concerned about as to what extent you plan to bring in Dr. Amman. (Vol.1 RT.7)

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Judge Schall: And the –that the equally irrelevant is the suggestion of any mental instability on the part of Ms. Kramer.

There was a legal ruling by Judge Orfield disallowing independent medical eval. (Vol.1 RT.7)

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Judge Schall: ...They didn't get to get an independent medical exam, and this how it's going to come down in terms of the way I see it, Counsel, is that she can't testify that she's used by the – that she is an expert for Congress.

Bandlow: [Lincoln Bandlow, Appellant' trial attorney] I'm sorry. I think you're confused about something. They never asked for an independent medical exam of her. We asked for one of him.

Judge Schall: Are you serious? (Vol.1 RT.20)

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Judge Schall: Okay. See, I'm not really sure either side is entitled to attack the legitimacy of those papers or transcripts.

Scheuer: [Keith Scheuer, Respondent's attorney] I agree with you, your Honor.(Vol.1 RT.8)

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Scheuer: Thank you. Rhymes with lawyer, by the way for ease. Your honor, umm, without just being **grossly brown-nosing** here, I've been in this case for three and a half years. You've been in it for about two hours, and I think you have grasped what this case is about. I think this is a really simply, really straightforward case. I think we can do this in about two days of testimony. It needs to be limited, I think, just as you suggested. We don't have any intention of –first, of going into the science that lies behind the ACOEM Statement or any of these other statements. It is unnecessary. (Vol.1 RT 34-35)

As taken from the transcript of oral arguments on December 12, 2008, when Judge Schall denied Appellant's JNOV motion, and refused to even hear oral arguments for a new trial or to strike Respondent's costs: