
Institute commissioned piece may also be found as a position statement on the website of a United States medical policy-writing body, the American College of Occupational and Environmental Medicine." [ACOEM] (See Doc 10, Pg 214 that on 2010 Review they knew this)

3. McConnell's 2006 anti-SLAPP Opinion concealed that Petitioner's March 2005 Writing exposed how the US Chamber, US Congressman Gary ("Miller") (R-CA), the Manhattan Institutes think-tank, and the real estate, mortgage and building industries were closely connected to the "US medical policy writing body", ACOEM, via expert defense witnesses, Plaintiffs, when selling pseudoscience over the Mold Issue. (See Doc 7 in its entirety. There is no mention that Petitioner was writing of the US Chamber Mold Position Statement)

4. McConnell took Petitioner's writing of the truth of the mass marketing of scientific fraud harming thousands of people and as explained in Petitioner's declarations and said it was evidence of personal malice for Plaintiff Kelman because the tone was bad. (See Doc 7 Pgs167)

5. Petitioner was framed for libel with actual malice by McConnell for the sentence, "Upon viewing documents presented by the Hayne's attorney of Kelman's prior testimony from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand."

8. First, McConnell acknowledged that Petitioner's allegedly maliciously libelous sentence is absolutely correct. Confirmed by McConnell, Kelman did alter his under oath statements when confronted with a prior testimony of his from Arizona, *Kilian*. From McConnell's 2006 anti-SLAPP Opinion:

"The fact that Kelman did not clarify that he received payment from the Manhattan Institute until after being confronted with the Kilian deposition testimony [sic, bench trial in Arizona] could be viewed by a reasonable jury as resulting from the poor phrasing of the question rather from an attempt to deny payment." (See Doc 7 Pg. 10)

9. McConnell maliciously changed the color of Plaintiff Kelman's testimony in question to make it appear to be benignly clarifying, rather than obfuscating and forced. In the 2006 anti-SLAPP Opinion, she omitted 14 key lines from the middle of the transcript that showed Plaintiff Kelman and the defense attorney, Mr. Keckle, were trying to stop the line of questioning. Plaintiff Kelman shouted "ridiculous" when first asked of the think-tank involvement and Mr. Keckle invoked the rule of completeness. Benke concealed the key omission and the relevance of it, in 2010. (See Doc 7, Pg. 4)(See Doc 10, Pg 192 that on 2010 Review, they knew the significance

of this) (See Doc 8, Pg 4, they did it again to change the color of the testimony to make it appear to be clarifying)

10 From the 2006 anti-SLAPP and 2010 Review Opinions with the 14 key lines noted as missing and added back in:

MR. VANCE: Okay. Now, this revision of the [ACOEM paper] state --

BRUCE J. KELMAN: What revision?

MR. VANCE: The revision -- you said that you were instrumental in writing the statement, and then later on you said you and a couple other colleagues wrote a revision of that statement, isn't that true?

BRUCE J. KELMAN: No, I didn't say that.

MR. VANCE: Well --

BRUCE J. KELMAN: To help you out I said there were revisions of the position statement that went on after we had turned in the first draft.

MR. VANCE: And, you participated in those revisions?

BRUCE J. KELMAN: Well, of course, as one of the authors.

MR. VANCE: All right. And, isn't it true that the Manhattan Institute paid GlobalTox \$40,000 to make revisions in that statement?

BRUCE J. KELMAN: That is one of the most ridiculous statements I have ever heard.

MR. VANCE: Well, you admitted it in the Killian [sic] deposition, sir.

BRUCE J. KELMAN: No. I did not.

(Omitted from both the 2006 anti-SLAPP and 2010 Review Opinions):

MR. VANCE: Your honor may I approach. Would you read into the record please the highlighted parts of pages 905 and 906 of the trial transcript in the case.

MR. KECKLE: Your Honor I would ask that Dr. Kelman be provided the rest of the transcript under the rules of completeness. He's only been give two pages.

JUDGE VANDYKE. Do you have a copy of the transcript?

MR. KECKLE: I do not.

MR. VANCE: Your Honor I learned about Dr. Kelman just a

JUDGE VANDYKE: How many pages do you have?

MR. VANCE: I have the entire transcript from pages..

JUDGE VANDYKE: Alright hand him the transcript.

MR. VANCE: I'd be happy to, your Honor.

(Back in both the 2006 anti-SLAPP and 2010 Review Opinions):

MR. VANCE: Would you read into the record the highlighted portions of that transcript, sir?

BRUCE J. KELMAN: "And, that new version that you did for the Manhattan Institute, your company, GlobalTox got paid \$40,000. Correct. Yes, the company was paid \$40,000 for it.

MR. VANCE: Thank you. So, you participated in writing the study, your company was paid very handsomely for it, and then you go out and you testify around a country legitimizing the study that you wrote. Isn't that a conflict of interest, sir?

BRUCE J. KELMAN: Sir, that is a complete lie.

MR. VANCE: Well, you[re] vouching for your own self [inaudible]. You write a study and you say, 'And, it's an accurate study.'

BRUCE J. KELMAN: We were not paid for that. In fact, the sequence was in February of 2002, Dr. Brian Harden, and [inaudible] surgeon general that works with me, was asked by American College of Occupational and Environmental Medicine to draft a position statement for consideration by the college. He contacted Dr. Andrew Saxton, who is the head of immunology at UC -- clinical immunology at UCLA and myself, because he felt he couldn't do that by himself. The position statement was published on the web in October of 2002. In April of 2003 I was contacted by the Manhattan Institute and asked to write a lay version of what we had said in the ACOEM paper -- I'm sorry, the American College of Occupational and Environmental Medicine position statement. When I was initially contacted I said, 'No.' For the amount of effort it takes to write a paper I can do another scientific publication. They then came back a few weeks later and said, "If we compensate you for your time, will you write the paper?" And, at that point I said, 'Yes, as a group.' The published version, not the web version, but the published version of the ACOEM paper came out in the Journal of Environmental and Occupational Medicine in May. And, then sometime after that, I think it was in July, this lay translation came out. They're two different papers, two different activities. The -- we would have never been contacted to do a translation of a document that had already been prepared, if it hadn't already been prepared.

MR. VANCE: Well, your testimony just a second ago that you read into the records, you stated in that other case, you said, "Yes. GlobalTox was paid \$40,000 by the Manhattan Institute to write a new version of the ACOEM paper." Isn't that true, sir?

BRUCE J. KELMAN: I just said, we were asked to do a lay translation, cuz the ACOEM paper is meant for physicians, and it was not accessible to the general public.

MR. VANCE: I have no further questions." (See Doc 9, Pg 190 of the *Haynes* Transcript)

11. After omitting the key portion of the transcript to falsely make it appear that Plaintiff Kelman willfully clarified rather than obfuscated, McConnell wrote:

"A short while later, Kelman explained how the Manhattan Institute paper was an entirely separate project -- a writing of a lay translation of the ACOEM paper -- and he readily admitted he was paid by the Manhattan Institute to write the lay translation." (See Doc 7 Pg 6 -7) They stated there was evidence he was clarifying not altering.

12. Plaintiff Kelman obviously would have know that when Vance mentioned the Manhattan Institute money, Vance knew of Plaintiff Kelman's paid for hire edited second paper for commerce

– which discredits his ACOEM Mold Statement as being unbiased. He would have reason to want to stop the line of questioning which exposed conflicts of interest in the promotion of Plaintiff Kelman’s pseudoscience.

13. In addition to omitting those 14 key lines, McConnell also suppressed the evidence that supported Petitioner’s logically stated good cause for considering Plaintiff Kelman’s testimony to be obfuscating and “altered his under oath statements” after the forced addressing of statements he made in *Kilian*, came into the *Haynes* trial.

14. From Petitioner’s July 2005 Declaration and suppressed as unimpeached explanation for use of the phrase, “altered his under oath statements” for now eight years:

In the above referenced exchange, the direct question was asked of Kelman if the Manhattan Institute had paid GlobalTox for revisions to the ACOEM Statement. Kelman replied with an indignant and false denial. If Kelman was confused as to whether Vance was asking about the ACOEM Statement or the Manhattan Institute Version, yet was intending to be forthright in his testimony, a more appropriate answer may have been “Yes, GlobalTox was paid \$40,000 for a revision of the ACOEM Statement, but that was much later. Kelman chose not to clarify the payment from the Manhattan Institute at that time in his testimony. Only after the Kilian transcript was permitted into the court record, which allowed the line of questioning to continue, did he attempt to explain the relationship between the ACOEM Statement and the Manhattan Institute Version.

Within the prior sentences, Kelman testified “We were not paid for that...”, not clarifying which version he was discussing. There was no question asked of him at that time. He went on to say GlobalTox was paid for the “lay translation” of the ACOEM Statement. He then altered to say “They’re two different papers, two different activities.” He then flipped back again by saying, “We would have never been contacted to do a translation of a document that had already been prepared, if it hadn’t already been prepared.” By this statement he verified they were not two different papers, merely two versions of the same paper. And that is what this lawsuit is really all about. The rambling attempted explanation of the two papers’ relationship coupled with the filing of this lawsuit intended to silence me, have merely spotlighted Kelman’s strong desire to have the ACOEM Statement and the Manhattan Institute Version portrayed as two separate works by esteemed scientists. In reality, they are authored by Kelman and Hardin, the principals of a corporation called GlobalTox, Inc. – a corporation that generates much income denouncing the illnesses of families, office workers, teachers and children with the purpose of limiting the financial liability of others. One paper is an edit of the other and both are used together to propagate

biased thought based on a scant scientific foundation. Together, these papers are the core of an elaborate sham that has been perpetrated on our courts, our medical community and the American public. Together, they are the vehicle used to give financial interests of some indecent precedence over the lives of others.

15. McConnell then proceeded to make Petitioner's March 2005 Writing appear to have made a false allegation that the writing did not make.

By portraying Vance's questions to be Petitioner's writing and by portraying that Petitioner was writing of the ACOEM Mold Statement; McConnell falsely made it appear that Petitioner libelously accused Plaintiff Kelman of getting caught lying about being paid to make revisions in the ACOEM Mold Statement. McConnell wrote:

"This testimony supports a conclusion Kelman did not deny he had been paid by the Manhattan Institute to write a paper, but only denied being paid by the Manhattan Institute to make revisions in the paper issued by ACOEM. The fact that Kelman did not clarify that he received payment from the Manhattan Institute until after being confronted with the *Kilian* deposition testimony [sic, bench trial in Arizona] could be viewed by a reasonable jury as resulting from the poor phrasing of the question rather than from an attempt to deny payment. In sum, Kelman and GlobalTox presented sufficient evidence to satisfy a prima facie showing that the statement in the press release was false."

16. Petitioner's writing is 100% accurate of what occurred. Glaringly missing, to make Petitioner's March 2005 Writing appear maliciously false and to cover up what was in it that they did not want known; the 2006 anti-SLAPP Opinion concealed that the paper Petitioner was writing of was the US Chamber Mold Statement. Upon alleged review in 2010, three justices concealed that this is what their peers had done in 2006 to frame a US citizen for defamation.

B. The McConnell Concealment of Plaintiff Kelman's Perjury & Scheuer Subornation Of It To Establish False Light Reason For Petitioner's Alleged Malice.

1. McConnell was provided the direct evidence that Plaintiff Kelman submitted false and inflammatory statements made under penalty of perjury in his declarations with regard to his role in Petitioner's litigation with her home owners' insurer. It was the **sole alleged reason** that Petitioner would have malice – to deflect from the fact that she was writing of a fraud in policy. (See Doc 2, Pgs 115:20-25; 117:6-12 for the evidence of Plaintiff Kelman's perjury to establish false light reason for malice in the Predicate Case that McConnell refused to take notice of.)

Specifically Plaintiff Kelman falsely wrote in his declarations,

"I first learned of Defendant Sharon Kramer in mid-2003, when I was retained as an expert in a lawsuit between her, her homeowner's insurer [Mercury Casualty] and other parties regarding alleged mold contamination in her house. She apparently felt that the remediation work had been inadequately done, and that she and her daughter had suffered life-threatening diseases as a result. I testified that the type and amount of mold in the Kramer house could not have caused the life-threatening illnesses that she claimed. I never met Ms. Kramer."

Specifically Scheuer falsely wrote,

"Dr. Kelman testified in a deposition that the type and amount of mold in the Kramer house could not have caused the life threatening illnesses that Kramer claimed. Apparently furious that the science conflicted with her dreams of a remodeled house, Kramer launched an obsessive campaign to destroy the reputation of Dr. Kelman and GlobalTox."

2. See Document 10 pages 196 to 208 for just a minute sampling of the suppression of evidence in the 2010 Review Opinion that Plaintiff Kelman committed perjury to establish malice, Scheuer suborned it, and the impact it had on the Predicate Case, including the trial. Again, they stated in the 2010 Review Opinion,

We recognize that with respect to malice "courts are required to independently examine the record to determine whether it provides clear and convincing proof thereof." (McCoy v. Hearst Corp. (1991) 227 Cal.App.3d 1657, 1664.) However, in Kelman v. Kramer I [anti-SLAPP Opinion] we expressly rejected Kramer's argument that such independent review entitled her to judgment. (See Doc 8 Pgs 174, 186)

C. McConnell and Five Judicial Officers of Respondent Know She Concealed Plaintiffs' Scientific Fraud upon US Courts in the 2006 anti-SLAPP Opinion

1. When McConnell wrote the 2006 anti-SLAPP Opinion while framing Petitioner for defamation over a writing impacting public health and mold litigation nationwide; while concealing Plaintiff Kelman's perjury; while concealing Scheuer's suborning of perjury; and while concealing ex-federal employee, Hardin, was an undisclosed party; while concealing Petitioner was writing of the US Chamber's, a think-tank's and a US Congressman's involvement she wrote,

Initially, we note this lawsuit is not about conspiracy. This lawsuit was filed by Kelman and GlobalTox alleging one statement in a press release was libelous. Thus, conspiracy issues are not relevant.