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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO, NORTH DISTRICT

BRUCE J. KELMAN,
GLOBALTOX, INC.,

Plaintiffs,

v.

SHARON KRAMER, and DOES 1
through 20, inclusive,

Defendants.

) CASE NO. GIN044539
) Assigned for All Purposes to:
) HON. EARL H. MAAS III
) DEPARTMENT 28
) UNLIMITED CIVIL CASE
) Case filed: May 16, 2005
)
)
) PLAINTIFFS' OPPOSITION TO
) DEFENDANT'S MOTIONS
) "TO VACATE VOID JUDGMENT AND TO
) AWARD COSTS"

Hearing Date: October 28, 2011
Time: 1:30 p.m.
Dept.: 28

Trial Date: August 18, 2008

This case went to trial three years ago, and the jury's
verdict has been affirmed by the Court of Appeal.
Accordingly, this Court has no jurisdiction to hear
Defendant Sharon Kramer's motions, and they must be denied.

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I. BACKGROUND

Plaintiff Dr. Bruce Kelman is an expert in toxicology and related fields, and enjoys an international reputation as a highly regarded authority in that subject matter. He is the president of Veritox, Inc. (formerly known as GlobalTox, Inc.), a business that provides research, consulting and scientific services and expertise in toxicology, industrial hygiene, medical toxicology, occupational medicine, chemistry and risk assessment.

Kramer is an unemployed real estate agent. Commencing in March, 2005, Kramer maliciously published a false and defamatory press release that implied that Kelman gave perjurious testimony while testifying as an expert witness in a lawsuit in Oregon. In May, 2005, Kelman and GlobalTox commenced this action against Kramer for libel, arising out of the publication of her press release.

This lawsuit was tried before a jury in Vista commencing on August 18, 2008, Judge Lisa C. Schall presiding. The jury found that the press release, as it regarded Kelman, was false and defamatory and that Kramer had published it with malice. Judgment was entered in favor of Kelman and against Kramer. (Plaintiff requests that the

1 Court take judicial notice of its files and those of the
2 Court of Appeal in this action. A copy of the Judgment is
3 attached to the accompanying Scheuer declaration as Exhibit
4 1. The Fourth District Court of Appeal, docket no. D054496,
5 affirmed the Judgment in an unpublished opinion filed on
6 September 14, 2010, which was modified on October 14, 2010.
7 Exhibit 2 to the Scheuer declaration is a copy of the
8 appellate opinion and modification.)
9

10 In willful disregard of the Judgment and appellate
11 decision against her, Kramer persisted in republishing the
12 libel. Consequently, Kelman filed a lawsuit against her in
13 November, 2010, to enjoin her from republishing the libelous
14 statement. (San Diego Superior Court case no. 37-2010-
15 00061530-CU-DF-NC.) Judge Thomas P. Nugent entered a
16 preliminary injunction against her in that action on May 2,
17 2011, which she has violated. Kelman has requested that
18 Judge Nugent schedule an Order to Show Cause re Contempt. As
19 of October 17, 2011, no hearing date has been set.
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22 II. ARGUMENT

23 Because this case has been heard and decided by the
24 Court of Appeal, this court lacks jurisdiction to grant the
25 relief Kramer seeks.
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"A reviewing court has authority to 'affirm, reverse, or modify any judgment or order appealed from, and may direct the proper judgment or order to be entered, or direct a new trial or further proceedings to be had.' (Code Civ. Proc., § 43.) The order of the reviewing court is contained in its remittitur, which defines the scope of the jurisdiction of the court to which the matter is returned. 'The order of the appellate court as stated in the remittitur, "is decisive of the character of the judgment to which the appellant is entitled. **The lower court cannot reopen the case on the facts, allow the filing of amended or supplemental pleadings, nor retry the case, and if it should do so, the judgment rendered thereon would be void.**"' (Hampton v. Superior Court (1952) 38 Cal.2d 652, 656..." (Emphasis added.) Griset v. Fair Political Practices Commission (2001) 25 Cal.4th 688, 701; In re Francisco W. (2006) 139 Cal.App.4th 695, 705.

The Court of Appeal rejected Kramer's claims, and this Court cannot second guess that result. Her motions must be denied.

III. CONCLUSION

The court files in this action and the action before Judge Nugent demonstrate that Kramer is a vexatious litigant who repeatedly files frivolous motions, including the instant motions before this Court. They must be denied, and Kramer should be constrained from filing any more frivolous

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DECLARATION OF KEITH SCHEUER

I, Keith Scheuer, declare that if called as a witness in this action, I could and would testify competently to the following facts, which are within my own personal knowledge.

1. I am an attorney licensed to practice in the State of California, and at all relevant times have been counsel for Plaintiffs in this action. I make this declaration in support of Plaintiffs' opposition to Kramer's motions "to vacate void judgment" and "to award costs to trial prevailing party."

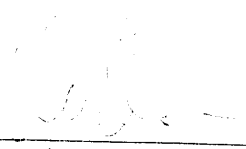
2. This libel lawsuit was tried before a jury commencing on or about August 18, 2008. The jury found that Defendant Sharon Kramer had libeled Plaintiff Dr. Bruce Kelman. A copy of the Judgment is attached hereto as Exhibit 1. Kramer appealed (docket no. D054496), and in 2010 the Court of Appeal affirmed the Judgment. A copy of the appellate court's unpublished opinion, including the modification to its opinion, is attached hereto as Exhibit 2.

3. Because Kramer has persisted in republishing the libel, Plaintiff Bruce Kelman filed a lawsuit in November, 2010, seeking to enjoin her from continuing to do so. (San

1 Diego Superior Court case no. 37-2010-0C061530-CU-DF-NC.) On
2 May 2, 2011, Judge Thomas P. Nugent issued a preliminary
3 injunction against her. Nevertheless, she has continued to
4 republish the defamation, and Plaintiff's request for an
5 Order to Show Cause re contempt is pending.
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7 I declare under penalty of perjury under the laws of
8 the State of California that the foregoing is true and
9 correct.

10 Executed on October 17, 2011 at Marina Del Rey,
11 California.



Keith Scheuer

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