F A X

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To:	Mr. Stephen Kelly, Clerk of the Appellate Court
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From:	Sharon Kramer
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Date & Time:	10/5/2011 12:19:09 PM
Pages:	15
Re:	McConnell needs to recall and reverse the anti-SLAPP Opinion

October 5, 2011

Mr. Stephen Kelly
Clerk of the Fourth District Division One Appellate Court

Dear Mr. Kelly,

Thank you for your phone call this morning and the polite but direct communication. You are exactly correct that if I file a lawsuit exposing the courts suppression of evidence of criminal perjury by an author of medico-legal policy for ACOEM and the US Chamber, I run the risk of the court deemeing me a vexatious litigant. That's exactly why I did not file an anti-SLAPP suit with this latest go round, even though I can evidence the courts colluding to defraud by being willing participants in a malicious, strategic litigation and trying to use the courts again to silence me of what they have done and continue to do. I am aware of Justice McConnell doing this in the past to a Pro Per litigant who brought her judicial indiscretions to light.

Regarding the Government Code 6200 violations aiding to conceal judicial suppression of evidence of criminal activity in a strategic litigation, and the courts inability to recall the Remittitur for falsifications in the court records, etc; you are incorrect that this cannot be done. According to Witkins,

"A recall may also be ordered on the ground of the court's inadvertence or misapprehension as to the true facts, or if the judgment was 'improvidently rendered without due consideration of the facts" McGee "A stay may be ordered only for 'good cause'. 'Good cause' for this purpose requires a showing of some extraordinary reason for retaining appellate court jurisdiction and further delaying lower court proceedings on the judgment (e.g., likely irreparable damage from immediate enforcement of the judgment) Reynolds v. E. Clemens Horst Co. supra, 36 CA at 530, 172 P at 624] Witkins 14:30

Pacific Legal Foundation v. California Costal Comm'n, *"The court can recall the remittitur if the appellate judgment resulted from a fraud or 'imposition' perpetrated upon the court. "*

To reiterate (some) of what the Justices in the San Diego Appellate Court have done that have been aided to be concealed by Clerk of the Court GC6200 violations:

A. FRAMED A DEFENDANT FOR LIBEL OVER A MATTER OF PUBLIC HEALTH

In their unpublished anti-SLAPP Opinion of November 2006, the Appellate Panel of McConnell, Aaron and McDonald, made it appear that I had accused Kelman of getting caught on the witness stand lying about being paid by by the Manhattan Institute think-tank to author a position statement for a medical trade association, ACOEM: To quote from the anti-SLAPP Appellate Opinion:

> ***"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.*** *He admitted being paid by the Manhattan Institute to write a lay translation. The fact that Kelman did not clarify that he received payment from the Manhattan Institute until after being confronted with the Kilian deposition testimony could be viewed by a reasonable jury as resulting from the poor phrasing of the question rather 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."***

I made no such accusation. My purportedly libelous writing of March 2005 speaks for itself and is a 100% accurate writing. It accurately states the exchange of money from the Manhattan Institute think-tank was for the US Chamber's mold statement, ACOEM's was a version of the "Manhattan Institute commissioned piece". From my purportedly libelous writing stating the think-tank money was for the Chamber paper:

> *"He [Kelman] admitted the Manhattan Institute, a national political think-tank, paid GlobalTox $40,000 to write a position paper regarding the potential health risks of toxic mold exposure.....In 2003, with the involvement of the US Chamber of Commerce and ex-developer, US Congressman Gary Miller (R-CA), the GlobalTox paper was disseminated to the real estate, mortgage and building industries' associations. A* ***version of the Manhattan 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."***

B. VIOLATED THE PURPOSE OF CERTIFICATES OF INTERESTED PARTIES.

The Appellate Court was evidenced in 2006, that there was a sixth owner of GlobalTox and an undisclosed party to the litigation, Bryan Hardin, whose name was missing from the Certificate of Interested Parties –even on the supplemental certificate of July 10, 2006:

Certificate of Interested Parties are to assure that Appellate Justices have no conflicts of interest with the parties on appeal. This is evidence itself of conflicted of interest and self perception of being above the law. As the Appellate Panel of McConnell, Aaron and McDonald were evidenced by a June 2006 request to take judicial notice:

> "Appellate Case No.: D047758 Superior Court Case No.: GIN044539 APPLICATION AND REQUEST FOR AN ORDER THAT THE COURT OF APPEAL TAKE JUDICIAL NOTICE; DECLARATION OF WILLIAM J. BROWN III; MEMORANDUM OF POINTS AND AUTHORITIES; PROPOSED ORDER
>
> **********

Trial transcript of Bryan Hardin (additional Veritox principal, shareholder and party to this litigation undisclosed to this court) dated August 11, 2005 from the Oregon case entitled O'Hara v David Blain Construction, Inc., County of Lane Case number 160417923 at pages 136 and 154.

Trial transcript of Bruce J. Kelman dated April 14, 2006 from the Arizona case entitled ABAD v. Creekside Place Holdings, case number C-2002 4299, P. 31-32, P. 67-68, describing **Kelman and five additional principals of Veritox**. DATED: June 29, 2006 William J. Brown III"

Stating a nonsense reason for refusal to acknowledge Hardin was improperly not disclosed on the Certificate of Interested Parties, in 2006, the Appellate Panel of Justices McConnell, Aaron and McDonald refused to take notice of the evidence because it was not presented in the lower court. Lower courts do not receive Certificates of Interested Parties. Appellate courts do. As stated in the Appellate anti-SLAPP Opinion of November 2006, as a footnote:

"3. Kramer asked us to take judicial notice of additional documents, including the complaint and an excerpt from Kelman's deposition in her lawsuit against her insurance company. ***We decline to do so as it does not appear these items were presented to the trial court."***

C. REWARDED A PLAINTIFF'S PERJURY TO ESTABLISH MALICE WHILE LITIGATING OVER A MATTER OF PUBLIC HEALTH

As the Appellate Court was evidenced in 2006 and again in 2010, undisclosed party, Hardin's business partner, Kelman, committed perjury to establish needed reason for malice while strategically litigating against public participation. Kelman claimed to have given a testimony when retained as an expert in my own mold litigation of long ago, that he never gave. Every single California judiciary to oversee this case along with the Commission on Judicial Performance and the State Bar have been provided the uncontroverted evidence the following is criminal perjury to establish libel law needed reason for malice:

PERJURY BY KELMAN TO ESTABLISH MALICE FALSELY STATING IN DECLARATIONS, TESTIMONY HE NEVER GAVE IN MY MOLD LITIGATION WITH MY HOMEOWNER INSURER IN WHICH I RECEIVED A HALF A MILLION DOLLAR SETTLEMENT:

"I testified the types and amounts of mold in the Kramer house could not have caused the life threatening illnesses she claimed."

SUBORNING OF PERJURY BY SCHEUER TO ESTABLISH FALSE REASON FOR MALICE:

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

A VIDEO OF THE DEPOSITION OF KELMAN's PERJURY, TRYINGTO COERCE ME TO ENDORSE THE FRAUD IN POLICY AND THE DAMAGE TO ME MAY BE VIEWED AT: http://blip.tv/conflictedsciencemold/3-minute-video-of-perjury-attempted-coercion-into-silence-by-bruce-kelman-2073775

Justice McConnell and many others have this video including the California Commission on Judicial Performance and the Chief Trial Intake Division of the California State Bar.. Judge Enright has been made aware of where to view it on the net in 2010. The Appellate Panel of Huffman, Irion and Benke have the transcript of the depositions specifically called out for them in Briefs and Appellate Appendix.

D. 2010 APPELLATE OPINION CONCEALED FRAUD IN 2006 anti-SLAPP OPINION

In September of 2010, the Appellate Panel of Richard Huffman, Patricia Benke and Joan Irion rendered an Appellate Opinion. Fully evidenced that in 2006, their peers framed a defendant for libel over a matter of public health; rewarded a plaintiff's use of perjury to establish needed reason for malice; and ignored the evidenced that a retired Deputy Director from NIOSH & author of "health policy" for the US Chamber/ACOEM was an undisclosed party to the litigation; the trio of justices had the audacity to write the following in their unpublished Appellate Opinion:

"In a prior opinion, a previous panel of this court affirmed an order denying Kramer's motion to strike under the anti-SLAPP statute. In doing so, we largely resolved the issues Kramer now raises on appeal. In our prior opinion, we found sufficient evidence Kramer's Internet post was false and defamatory as well as sufficient evidence the post was published with constitutional malice."

While the threat of being deemed a vexatious litigant is no doubt real, there are other options available to me to stop the fraud in policy from continuing to adversely impact public health. The courts are not immune from Federal laws for suppressing evidence while aiding with criminal activity over a matter of public health. The independent state agency of the Commission on Judicial Performance is not immune from audit by the Bureau of State Auditors, for deliberate indifference of failing to punish judges for suppression of evidence. CCMS is not immune from being audited for misuse to defraud the public. Clerks are not immune for GC 6200 violations, which are criminal in the first place and even more criminal when used to defraud the public.

Attached and according to Dr. David Michaels, Director of Federal OSHA, is evidence of who the courts have been protecting by being willing participants in six years worth of malicious, strategic litigation carried out by criminal means against me. Also attached is a letter from Dr. Michaels to me in February 2011 along with OSHA then citing my writing on a blog for scientific reference, April 2011. I have not yet evidenced for him or OSHA, the courts actions in aiding those who he has deemed to be "product defense" consultants not fit to write public policy.

I have had much time to think about how to untangle this mess. Bottom line, the only way for this to stop is for Justice McConnell to step up to the plate and fulfill her role as a leader in California's judicial system, admit error, and recall and reverse her 2006 anti-SLAPP opinion – as is her option and duty. Otherwise, she is just continuing to drag more people into the web of deceit that appears to be getting more criminal by the day.

Please let me know when the Presiding Justice of the Fourth District Division One Appellate Court, and Chair of the Committee that oversees ethics for all California judiciaries, Justice Judith McConnell, chooses to protect the loyal clerks and deputy clerks of the Appellate court and fellow judiciaries from being involved in criminal activity.

Or if you have a better idea of how to undo this mess, get me my $3M plus back, restore my good name so I may make a living, and stop the fraud on the courts over the mold issue, I am open.

Again, thank you for your direct, but polite, communication today. I look forward to your reply of how you intend to rectify those Clerk of the Court GC 6200 violations that have done tremendous harm to my husband and I, and to US public health policy.

Sharon Kramer

THE GEORGE WASHINGTON UNIVERSITY MEDICAL CENTER
WASHINGTON DC

DEPARTMENT OF ENVIRONMENTAL AND OCCUPATIONAL HEALTH
SCHOOL OF PUBLIC HEALTH AND HEALTH SCIENCES

May 22, 2007

Comments submitted to Ms. Vivian Turner, Designated Federal Officer, via email (turner.vivian@epa.gov), regarding "Invitation for Comments on the "Short List" Candidates for the Asbestos Panel of the EPA Science Advisory Board (SAB)" (http://www.epa.gov/sab/pdf/asbestos_panel_shortlist_biosketches.pdf)

I am writing with an issue of great concern regarding several of the candidates included in the "short list" for the Asbestos Panel of the EPA Science Advisory Board (SAB). This list includes several scientists who either own or work for "product defense" consulting firms – firms that are hired by corporations and trade associations to influence policy, especially around environmental and occupational health issues.[1] As a result, the finances of these scientists are so closely linked to companies affected by federal asbestos policy that they should not be included on a panel whose work will help shape such policy.

The role of product defense scientists in supporting efforts to shape federal asbestos policy was on display earlier this month at a public meeting on an asbestos research road map held by the National Institute for Occupational Safety and Health (NIOSH). Member corporations of the National Stone, Sand & Gravel Association (NSSGA) will be impacted by government policy on asbestos. According to an article about the panel published in *Aggregate Research*,[2] three scientists who appear on the EPA SAB short list appeared at the NIOSH meeting to advocate on behalf of the NSSGA's position: Ernest McConnell, president of ToxPath Inc.; Graham Gibbs, president of Safety Health Environment International Consultants; and Wayne Berman, president of Aeolus, Inc. (It also should be noted that the NSSGA is a client of the RJLee Group, Inc., employer of two of the other nominees.)

One of the factors EPA will consider in selecting Panel members is the "absence of financial conflicts of interest." In my view, it is wrong to appoint to advisory committees scientists who

[1] For a more comprehensive discussion of the work of "product defense" scientists, with examples from some of the firms whose scientists have been nominated to the EPA SAB, see Michaels D. Doubt is Their Product, *Scientific American*, June 2005 (available at http://defendingscience.org/upload/Doubt-is-their-Product.pdf).

[2] ("Proposed NIOSH Asbestos Research Plan Prompts Concerns Over Direction, Misuse," May 11, 2007. available at http://www.aggregateresearch.com/aggregate/article.asp?id=10999

are paid to help a regulated industry (either corporation or trade association) influence regulatory policy, since the scientists' financial success rests on their ability to influence policy in the direction desired by their clients.

According to information gleaned from the nominees biographies provided in EPA's materials, the following scientists appear to own or be employed by firms whose business model involves assisting companies and trade associations in influencing regulatory policy:

John Addison:
John Addison Consultancy (Consulting group associated with the Vermiculite Association; Dr. Addison is a Director of the Vermiculite Association[3]): http://www.vermiculite.org

Elizabeth Anderson
Exponent, Inc.
www.exponent.com

Charles Axten
Health Risk Solutions
See: http://www.sia-online.org/downloads/Axten_Bio.pdf

Wayne Berman:
Aeolus, Inc.:
http://www.aeolusinc.com/

Graham Gibbs
Safety Health Environment International Consultants, Inc. (No website available)

Bryan Hardin
Veritox, Inc.:
http://www.veritox.com/

Richard Lee
RJLee Group, Inc. (RJLG)[4]
http://rjlg.com

[3] One of the objectives of the Vermiculite Association is "To represent the Vermiculite Industry in construction processes with government, statutory organizations, standards bodies and similar organizations worldwide. See: http://www.vermiculite.org/officers.htm

[4] RJLG provides expert services to the National Stone, Sand & Gravel Association. See: http://www.rjlg.com/newsArticle_2005-4-05.html

Roger McLellan[5]
ChemRisk Consulant
http://www.chemrisk.com/consultants.htm

Ernest McConnell
Toxicology/Pathology Services Inc. (ToxPath):
http://www.toxpath.com/

Dennis Paustenbach
ChemRisk, Inc.:
http://www.chemrisk.com

Jay Turim
Exponent, Inc.
http://www.exponent.com

Drew Van Orden
RJLee Group, Inc. (RJLG)
http://rjlg.com

There may be others in this category as well; I identified these on the basis of the material in the biographical paragraphs supplied by EPA, and some simple searching using Google. The biography of Dr. Addison, for example, makes no mention of the Vermiculite Association, but his Directorship in the trade association is easily found on the web.

Several of the nominees provided public comments at a public meeting of a National Toxicology Panel considering the carcinogenic properties of asbestiform and non-asbestiform talc, an issue very much connected to the issues the EPA panel is likely to consider. (See http://ntp.niehs.nih.gov/ntp/htdocs/Liaison/121300.pdf) I believe the EPA should determine whether these individuals appeared as private citizens or as paid advocates at this meeting.

Many of the individuals listed above are scientists who have extensive knowledge and expertise in addressing issues that will no doubt arise in the course of the panel's deliberations. I am not asserting that any of these individuals are not knowledgeable scientists, but rather that the nature of their employment makes them unsuitable for membership on the panel, and that inclusion on the panel would damage the credibility of the panel.

[5] In 2000, Dr. Roger McClellan, of the firm Inhalation Toxicology and Human Health Risk Analysis, represented Mineral Technologies, Inc. at a public meeting of a National Toxicology Panel considering the carcinogenic properties of talc. See http://ntp.niehs.nih.gov/ntp/htdocs/Liaison/121300.pdf

Please note that I am not recommending that scientists with any financial conflict of interest be barred from the panel. Rather, I am asserting that the financial conflicts of interest associated with employment by (or, even more powerfully, ownership of) a product defense firm is potentially so significant that it cannot be "managed" in the way that federal agencies sometimes attempt to address conflicts of interest. As a result, I contend that these scientists should not be named to this important committee.

I understand that EPA needs to seek "balance" in the makeup of this panel. The short list includes several scientists (other than the scientists listed above) who have testified in court on behalf of plaintiffs and/or defendants in asbestos disease suits, and all of them have expertise in the subject matter. In the future, EPA should consider the approach taken by the US Food and Drug Administration and the International Agency for Research on Cancer in limiting membership on panels of scientists with financial conflicts of interest. Under the current circumstances, inclusion of scientists who testify in asbestos cases may be inevitable. However, there is a crucial distinction between such scientists and those nominees whose financial success rests on their ability to influence policy in the direction desired by their clients.

Thank you for your consideration.

David Michaels, PhD, MPH
Director, The Project on Scientific Knowledge and Public Policy
Research Professor and Acting Chairman
Department of Environmental and Occupational Health
The George Washington University School of Public Health and Health Services
2100 M St. NW, Suite 203
Washington DC, 20037
Email: eohdmm@gwumc.edu
Phone: 202-994-2461

Subj: **Want to show you something else bout the journal that published Kelman's science**
Date: 7/3/2008 1:02:30 P.M. Pacific Daylight Time
From: SNK 1955
To: dheimpel@gmail.com

Newsweek just gave a glowing review of the new book, "Doubt is the Product, How industry's assault on science threatens your health".

This is what the author, Dr. Michaels, had to say about ACOEM's journal. JOEM, where Kelman's garbage is published.

Pg: 55 "The three new re-analysis had been put into the fast-track (two weeks) peer review and accepted for publication in the Journal of Occupational and Environmental Medicine (JOEM), whose work appears all too frequently in these pages."

pg 104 "As it happened, a mortality study of the Castle Hayne workers and another group in Corpus Christi, Texas, was accepted for publication by the Journal of Occupational and Environmental Medicine (JOEM) in October of 2004, the same month OSHA proposed its rule and asked for all new information. (I introduced JOEM in an earlier chapter as one of the peer-reviewed journals that has published some shoddy papers by product defense specialists.)"

pg 108 "There's more. In October 2005 ENVIRON's researchers finally submitted the German component of a study to OSHA, accompanied by a letter stating that the paper had been accepted for publication in JOEM. To our amazement (but not surprise; there's a difference), the finally published German study omitted the key analysis that had yielded the damning results in the four-plant study that the authors had dismembered."

pg 134 "The only purpose was to determine whether they could use these various strategies to sow some timely uncertainty and thereby buy some time. In this they succeeded. The industry's big rebuttal to NIOSH was finally published in the Journal of Occupational and Environmental Medicine in March 1997. Now, JOEM is not a prestigious journal, but getting the rebuttal into the peer-reviewed literature was a coup for the industry"

Kelman's JOEM published mold statement attached

U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210

FEB - 8 2011

Sharon Kramer
2031 Arborwood Place
Escondido, CA 92029

Dear Ms. Kramer:

Thank you for copying me on your letter dated January 17, 2011, concerning your request for transparency and oversight of federal funds used to educate pediatricians about children's illnesses caused by water damaged buildings. You and the letter's other signees express concern that government agencies and private sector medical associations may be misleading physicians as to the true illnesses caused by exposures in water damaged buildings.

As I am sure you know, the Occupational Safety and Health Administration (OSHA) ensures the health and safety of the nation's working women and men. OSHA provides guidance to workers on safe work practices in water damaged buildings on OSHA's website. Examples of OSHA guidance on this topic include:

- The monograph entitled "Preventing Mold-Related Problems in the Indoor Workplace" (http://www.osha.gov/Publications/preventing_mold.pdf)

- Our Indoor Air Quality webpage, which covers a multitude of topics, including mold exposure in water damaged buildings (http://www.osha.gov/SLTC/indoorairquality/index.html)

- Guidance for workers during cleanup and recovery operations following hurricanes (http://www.osha.gov/OshDoc/hurricaneRecovery.html)

Although OSHA does not have jurisdiction over childhood environmental illnesses, I appreciate the information you have provided and your obvious concern for the health of children. Thank you for taking the time to share your views on this matter.

Sincerely,

David Michaels, PhD, MPH

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From the new book by Dr.Ritchie Shoemaker "Surviving Mold" discussing how I took out the defense in mold litigation, by shedding light on the true science and the fraud of theirs via a Federal GAO Audit. .

The arguments about health effects caused by exposure to the interior environment of water-damaged buildings were brought to the U.S. Senate Health Education Labor and Pension Committee (HELP) in January 2006, largely through the tireless efforts of Sharon Kramer. She'd provided Senator Ted Kennedy's office with an overwhelming amount of data to show that the current U.S. government approach to mold illness was not only shortsighted and biased, it was plain wrong. Senator Kennedy of HELP and Senator Jeffords of the Senate Public Works Committee called for a legislative staff briefing, with invitations provided to all Senate members. The meeting was held in the Dirksen Building in January 2006. Thank goodness that it wasn't held in the Rayburn Building; (see Chapter 21, Tourists' Guide to Moldy Buildings in DC).

Panelists were Vincent Marinkovich, MD; Chin Yang, PhD; David Sherris, MD; and Ritchie Shoemaker, MD, with Mrs. Kramer organizing and moderating the briefing. The EPA, CDC and HHS were supposed to send speakers as well so that an informed dialog could take place for the benefit of the Senate legislative staffers, and therefore the U.S. citizens. The agencies cancelled their appearance at the last minute. I can only imagine how some of the staffers attending must have felt as they were bombarded with words like Type III hypersensitivity, interleukin 13, eosinophils and innate immune responses. That's why there was a question-and-answer session, but it was getting close to 4:30 and the meeting broke up without much further discussion.

Understanding that (a) most elected officials aren't comfortable with potential threats to vested financial interests (in the case of water-damaged buildings, those interests involve building ownership and the property and liability insurance industries); and (b) discussion of human health effects due to exposure to water-damaged buildings exposes such threats to those interests, it was curious that such a conference could be held at all. No videos or minutes of the meeting were permitted to be taken so the Senate staffers could feel comfortable to ask questions. I expected that there would be some sort of maneuver surrounding this scientific and political event, so it was no surprise that government agencies, including the EPA, pulled their representatives at the last minute, though no explanation was given.

However, I'm told that super-managers were in attendance. A few Senators showed up; one staffer from Senator Jeffords' (an Independent from Vermont) office came in late and asked me for materials about the pathophysiology of mold illness. I gave her a color copy of the Biotoxin Pathway, an effort that distilled into one diagram information derived from thousands of hours of research. She asked if there was anything more. Yes, there is, much more.

The upshot of my talk on the reality of human illness from exposure to the interior environment of water-damaged buildings (available as a free download on www.biotoxin.info) was that several Senate staffers, especially Senator Kennedy's, wanted information about illness that could be identified in areas of New Orleans, which had been hard hit with catastrophic damages after flooding from Hurricanes Rita and Katrina just four months before. Specifically, they wanted to know if human illness caused by exposure to water-damaged buildings actually existed. And if so, was it being covered up?

That area of enquiry subsequently led to a request from Senator Kennedy's office in October 2006 to the General Accountability Office for a review of the Federal effort. Again, Sharon Kramer's incredible effort was instrumental in the GAO request that led in turn to the 2008 US GAO report that completely destroyed the defense or government Nay-sayers' credibility in mold illness issues. Thanks to Sharon and Senator Kennedy's staff, the longstanding idiotic arguments about mycotoxins alone being the problem from WDB have now been put to rest, with the exception of some really primitive defense attorneys who don't know that the old ACOEM-quoting defense and the old AAAAI-quoting defense are a prescription for a loss in court.