

July 2009

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELELATE DISTRICT – DIVISION ONE

SHARON KRAMER, )  
 )  
 Defendant and Appellant )  
 )  
 v. )  
 )  
 BRUCE KELMAN )  
 )  
 Plaintiff and Respondent )  
 )  
 )  
 )

Court of Appeal No.: D054496  
Superior Court No.: GIN044539

APPEAL FROM THE SUPERIOR COURT OF SAN DIEGO COUNTY  
HONORABLE JUDGE LISA C. SCHALL

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APPELLANT'S OPENING BRIEF

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Properia Persona Appellant:

Sharon Kramer  
2031 Arborwood Place  
Escondido, California 92029  
(760) 746-8026

Attorney for Respondent:

Keith Scheuer, Esq. SB#82797  
Scheuer & Gillett  
4640 Admiralty Way # 402  
Marina Del Rey, CA 90292  
(302) 577-1170

Appellant is not recognized as a prevailing party in the judgment. Nor is there a judgment that reflects she was awarded costs in a post trial ruling. (Vol.V App.1234-1238)

Within the judgment that is entered, Respondent was awarded costs for both himself and the nonprevailing party GlobalTox (Vol.9 RT.600-601) Appellant had to first motion to be recognized *as* a prevailing party and motion again to receive her costs, with the courts refunding Appellant \$120 for the additional motions required. (Vol.9 RT.605-606)

Although rulings reflect Appellant prevailed over Globaltox and was awarded costs, the judgment still does not reflect this. (Vol.V App.1234-1238)

On December 12, 2008, Judge Schall's last day to preside over Department 31, she made a ruling recognizing Appellant as prevailing party over GlobalTox, but denied Appellant's motion for judgment notwithstanding the verdict. Judge Schall refused to even hear oral arguments on Appellant's motion for new trial and to strike costs of Respondent. The ruling was not mailed as final until December 16, 2008. (Vol.V App.1075-1077) (Vol.9 RT 575)

Appellant filed a motion for reconsideration of the rulings with Judge Pressman on December 22, 2008.(Vol.V App.1102-1120) On January 7, 2009, Judge Pressman declined to review, stating he had lost jurisdiction as a judgment had been entered on 12/18/08. (Vol.V App.1222-1223)

Appellant can find no record of a judgment entered on that date in the North County records files, nor was she ever noticed of this occurring.