

To the California Commission On Judicial Performance

Investigate Judicial Misconduct Aiding To Defraud of US Public

We, the undersigned are urging the Commission to investigate the judicial conduct in two related cases. If found guilty of conspiring to defraud the public by aiding with malicious Strategic Litigation Against Public Participation by unlawful means; please discipline your Chairwoman Justice Judith McConnell, along with five additional Fourth District Division One Appellate Court Justices and several Superior Court judges. They have been involved in the cases of Kelman & Globaltox v. Kramer Case No. GIN044539 and Kelman v. Kramer Case No. 37-2010-00061530 in the San Diego County Courts for now seven years.

For the past eight years, Mrs. Sharon Noonan Kramer has been a leading voice that has helped to reshape US public health policy with regard to illnesses caused by water damaged buildings. Her efforts have helped hundreds if not thousands of US citizens to be able to receive medical treatment and restitution for injuries caused by the buildings, by raising awareness of the potential for serious illness..

Her primary contribution to the issue has been to cause a Federal Government Accountability Office Report in 2008. This report dispelled the scientific myth mass marketed to the courts and to physicians by the US Chamber of Commerce and affiliates, that it had been scientifically proven all claims of illness and death from “Toxic Mold” were only being made because of “Trial Lawyers, Media and Junk Science”.

Mrs. Kramer contends that the Fourth District Division One Appellate Court justices along with several lower court judges framed her for libel with actual malice in a litigation brought against her in 2005, by the authors of the US Chamber of Commerce’s mold position statement, Bruce J. Kelman and the corporation of which he is President, Veritox, Inc. (formerly known as GlobalTox, Inc.)

She contends that in a second litigation brought against her by Mr. Kelman, the court precluded her from writing of what the prior courts did to frame a whistle blower for libel as they suppressed the evidence the plaintiff committed perjury to establish a false theme for malice. They did this by enjoining her in the second case, from writing the exact words for which she contends she was framed by the courts in the first case, “altered his under oath statements”.

Mrs. Kramer contends this is for the purpose of the judiciary involved to try to stop their collective and unlawful misdeeds from coming to public light. Misdeeds that permitted false science to remain in US policy and US courts far longer than it should have, with it still able to be used to sell doubt of causation in the courts and many US physicians still misinformed.

According to Mrs. Kramer, the judiciary involved tried to shoot the messenger and are now trying to bury the bullets – costing Mrs. Kramer all she owns to defend the truth of her words for the public good with lives are still being devastated because of their unethical conduct.

Mrs. Kramer sent a letter to the Chief Justice of the California Supreme Court in September of 2011 seeking help to stop the six years worth of harassment by the courts. She had to use the words that were the sole cause of action and for which she was framed in the first case and gagged by court order in the second, “altered his under oath statements”, to explain what occurred and the continued adverse impact from the judicial unethical and unlawful behavior.

Instead of help from the Chief Justice, Mrs. Kramer contends she received a Contempt of Court judgment, over \$19,000 in sanctions & attorney fees and a sentence of five days in jail to commence on March 2, 2012.

The March 2005 writing of Mrs. Kramer's for which she contends the courts framed her for libel and then gagged her from writing of what they had done, was the catalyst for change over the mold issue. It was the first public writing to expose who was involved in mass marketing misinformation into policy and to the courts over the mold issue and how they were connected in the marketing.

There would appear to be validity in Mrs. Kramer's claims of judicial misconduct. It is a matter of public record that in 2006 and again in 2010, the Appellate justices' unpublished opinions made Mrs. Kramer's writing of 2005 falsely look like she had accused Mr. Kelman of lying on the witness stand about being paid to make revisions to a medical association mold position statement, the American College of Occupational and Environmental Medicine (ACOEM). In their unpublished anti-SLAPP Opinion of November 2006, the Appellate Panel of Justices McConnell, Aaron and McDonald 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. 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 than 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."

Mrs. Kramer's writing made no such accusation. Her writing of March 2005 speaks for itself. 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 Mrs. Kramer's writing:

"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."

In September of 2010, the Appellate Panel of Justices Richard Huffman, Patricia Benke and Joan Irion rendered an Appellate Opinion. Fully evidenced that in 2006, their peers crafted an Opinion to make the false finding of libel over a writing impacting public health and the extreme damage to Mrs. Kramer and the public because of it, they wrote:

"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."

Mrs. Kramer contends that besides willfully making her writing appear to be a false accusation of Mr. Kelman lying about paid edits in a medical association paper; all courts suppressed the evidence she even gave a never impeached reason why she chose the phrase "altered his under

oath statements” to describe Mr. Kelman’s testimony. Beginning as far back as July of 2005, Mrs. Kramer provided evidence for her logic and reasoned belief in her words. Specifically her declaration of July 2005 states,

"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.

In his attempted explanation, Kelman altered back and forth in describing the relationship of the two papers. Vance made the statement, “Well, your vouching for your own self (inaudible). You write a study and you say, ‘And, it’s an accurate study’.” Kelman responded, “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 group.’ The published version, not the web 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”. 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?” 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.'

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."

In a second lawsuit filed against Mrs. Kramer by Mr. Kelman in November of 2010, Superior Court Judge Thomas Nugent issued a court order in May of 2011 that Mrs. Kramer be enjoined from writing the exact words for which the judiciary framed her for libel with actual malice in the first case, "*altered his under oath statements*". The judge had been provided the direct evidence of the Appellate Court crafting their 2006 and 2010 Appellate Opinions to make the false finding of libel with actual malice.

Mrs. Kramer also contends that all courts to oversee both cases have suppressed the uncontroverted evidence that Mr. Kelman committed perjury to establish a false theme for personal malice. He claimed to have given an expert opinion in her litigation with her homeowner insurer in 2003 that caused her to be "apparently furious that the science conflicted with her dreams of a remodeled home, Kramer launched into an obsessive campaign to destroy the reputation of Dr. Kelman and GlobalTox". She states that she provided evidence Mr. Kelman never gave any such malice causing testimony and that all courts suppressed the evidence that a plaintiff in a libel litigation committed perjury to establish false them for malice.

There is good reason for the Commission on Judicial Performance to investigate the judiciary involved in these two cases against Mrs. Kramer. It would appear the courts framed a whistleblower of fraud in public health policy for libel with actual malice in one case and have attempted to gag her ability to write of the judicial misconduct and the defrauding of the public, in a second case. It would appear that the courts are intending to incarcerate a never impeached US citizen who helped to reshape US health policy to conceal their unethical and unlawful misdeeds; and to punish her for refusing to be silenced.

The matter should be easy for the Commission to investigate. Any of judiciary involved need only provide two pieces of evidence to prove Mrs. Kramer is incorrect about her allegations of their unethical and unlawful conduct aiding to defraud the public and to punish & incarcerate a never impeached US citizen to conceal their collective misdeeds. **The two pieces of evidence they need to provide to show they did not unlawfully frame a whistleblower for libel with actual malice are:**

- 1. the direct evidence that Mrs. Kramer was ever impeached as to the subjective belief in her words "altered his under oath statements" were referring to Mr. Kelman attempting to say that the US Chamber mold statement was not connected to ACOEM mold statement, while also having to admit they were closely connected.**
- 2. the direct evidence corroborating Mr. Kelman's and his attorney Mr. Scheuer's stated reason why Mrs. Kramer harbored personal malice for Mr. Kelman, was not perjury to establish a false theme for malice.**

We would hate to see an honest US citizen be incarcerated because she exposed a fraud in public health policy against tall odds and exposed unethical judicial conduct is being concealed by fellow judiciary. It is the courts' duty to defend the Constitution and the right to speak the truth in California. When unlawful and unethical conducts stops them from protecting the rights of US citizens to speak the truth for the public good over a matter of this magnitude, discipline of those involved by the Commission is mandatory.

The Commission on Judicial Performance is the independent state agency responsible for investigating complaints of judicial misconduct and for disciplining judges, pursuant to article VI, section 18 of the California Constitution. The Commission's mandate is to protect the public, enforce rigorous standards of judicial conduct and maintain public confidence in the integrity and independence of the judicial system.

We thank you in advance for protecting public health and the Constitutions of California and United States. This request for investigation of judicial misconduct may be read online at ContemptOfCourtFor.ME