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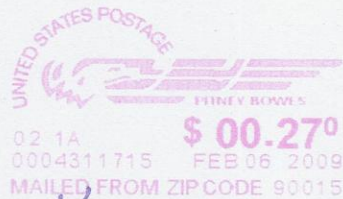
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OFFICE OF CHIEF TRIAL COUNSEL/INTAKE

Inquiry # 09-2006

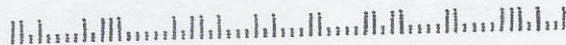
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OFFICE OF CHIEF TRIAL COUNSEL/INTAKE
The State Bar of California
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6 **OFFICE OF THE CHIEF TRIAL COUNSEL INTAKE**
7 **THE STATE BAR OF CALIFORNIA**

8 In the matter of:

9 **BRUCE J. KELMAN & GLOBALTOX,**
10 **INC., Plaintiffs, (Keith Scheuer, Plaintiff**
11 **Counsel) v. SHARON KRAMER, and**
12 **DOES 1 through 20, inclusive, Defendant.**

13 **CASE NO. GIN044539**

14 **FILED, MAY 6, 2005**

15 **NORTH SAN DIEGO COUNTY**
16 **SUPERIOR COURT,**

17 **CIVIL CASE, LIBEL ACTION**

COMPLAINT FILED AGAINST
KEITH SCHEUER, ESQ,
CALIFORNIA BAR NO. 82797

VIOLATIONS OF BUSINESS AND
PROFESSIONS CODES
6068(c)(d)(f)(g)

18 **I.**

19 **Background**

20 This complaint against Keith Scheuer, Esq, (“Scheuer”) California Bar No. 82797 stems from a
21 libel action in which there are two plaintiffs, Bruce J. Kelman (“Kelman”) and Global Tox, Inc.,
22 (“GlobalTox”); and one defendant, Sharon Kramer (“Kramer”). Scheuer is the legal counsel for
23 Kelman and GlobalTox. The sole cause of action in this case is that Kramer’s use of the phrase
24 “altered his under oath statements” in an internet press release she authored in March of 2005 was a
25 purported defaming accusation of perjury. Kelman is the President of the corporation, GlobalTox.
26 GlobalTox generates a large portion of their income by serving as expert defense witnesses in toxic
27 tort litigations. One of these litigation testimonies in the state of Oregon was the subject of
28 Kramer’s public participation press release.

In a jury trial of August 2008, the jury found that Kelman prevailed against Kramer and Kramer
prevailed against GlobalTox. Because of many irregularities in the case, trial proceedings, jury
instructions and violations of duties to the court on the part of Scheuer, Kramer is appealing the

1 verdict of \$1. (This case is now on its fourth superior court judge in a matter of months with the
2 trial judge reassigned to family court after a publicized admonishment for drunk driving – her third
3 offense of abuse of judicial discretion).

4 GlobalTox is a litigation defense support corporation heavily involved in toxic torts throughout
5 the United States. The small company generates annual income in the multi-millions by providing
6 expert defense witnessing services and litigation risk management for insurers, builders, school
7 districts and even the U.S. Department of Justice under the prior Attorney General, Alberto
8 Gonzalas, when defeating liability for illnesses caused by environmental exposures. Their
9 president, Bruce Kelman PhD, began his expert defense witnessing career by witnessing for Big
10 Tobacco approximately 20 years ago. Kelman and other principals of GlobalTox (there are six) are
11 widely known for selling doubt of causation of a variety of environmental illness before the courts.

12 The corporation, the questionable science they rely on to deny causation of illness from the
13 toxins of mold, and the method by which this questionable science was legitimized have been
14 written about by many, in numerous publications. They were even the subject of a January 2007
15 front page Wall Street Journal (WSJ) article. It was titled, “*Court of Opinion, Amid Suits Over
16 Mold, Experts Wear Two Hats, Authors of Science Paper Often Cited by Defense Also Help In
17 Litigation*”. As such, the notorious reputation of Scheuer’s clients, GlobalTox (changed to VeriTox
18 shortly after filing this widely written about lawsuit) is nationally recognized.

19 Kramer, who has an education in marketing, is an effective whistleblower regarding the mass
20 marketing of GlobalTox’s pseudoscience they rely on for their expert witnessing enterprise. (In
21 published writings, GlobalTox claims that they have been able to scientifically determine illnesses
22 from indoor mold toxins are “highly unlikely at best”. When before the courts they go farther to
23 claim the illnesses “could not be”. No one has ever duplicated the calculation they use to form these
24 conclusions. The “science” of GlobalTox belongs in the Journal of Irreproducible Results.)

25 Because of Kramer’s understanding in how information flows through the use of marketing, she
26 grasped the deceit of the mass promotion of the pseudoscience and its impact on public health
27 policy. She played a large part in the WSJ writing of the subject. (The WSJ article was based on a
28 2006 paper Kramer wrote titled “*American College of Occupational and Environmental Medicine,
ACOEM, Exposed, A Case Study In Sham Peer Review And Conflicts of Interest.*” Her paper, that
gained the WSJ’s interest of the mold issue, was an edit from her declarations in this case.) She was
also instrumental in causing a Federal Government Accountability Office (“GAO”) to audit the

1 current state of the health science of the mold issue. Senator Edward Kennedy's Health, Education,
2 Labor and Pension Committee ordered the audit at Kramer's request. (Kramer has spent much time
3 in Washington DC in the past few years, even moderating a Senate Staff Briefings over the mold
4 issue at the request of the Senate HELP Committee.) The resulting GAO report has changed public
5 policy to the detriment of GlobalTox's expert witnessing enterprise. As such, no longer can
6 GlobalTox principals stand before the courts while claiming it is current accepted science that
7 serious mold illnesses "could not be".

8 The first time that Kramer wrote of the marketing of GlobalTox's pseudoscience and conflicts of
9 interest driving erroneous public policy over the mold issue was her internet press release in
10 question in this case, March of 2005. This was the first time anyone had publicly written of the
11 questionable legitimizing and marketing of GlobalTox's pseudoscience.

12 The gist of her press release was of how an expert defense witness, Kelman, got caught on the
13 witness stand having to discuss the true relationship of a purported unbiased medical association,
14 ACOEM) policy paper and one promoted by the industry friendly US Chamber of Commerce
15 Center for Legal Policy and a think-tank. This forced discussion of the two papers' true relationship
16 was caused by a prior Kelman testimony from another case being allowed into the court
17 proceedings. (Kramer was responsible for the plaintiff attorney in the case having the prior
18 testimony.) Like Kramer, the jury grasped the conflicts of interest surrounding Kelman's testimony
19 in conjunction with the science papers he relies on as a legitimizing factor. They grasped this by
20 Kelman attempting to simultaneously describe the two policy papers as separate works; but being
21 forced to acknowledge they were connected, with one even being paid for by a think-tank. Thus,
22 altering statements. The jury was able to see through Kelman's obfuscating testimony. They
23 awarded the mold injured family a half of a million dollars.

24 In an effort to silence Kramer from speaking out further about the mass marketing of a deceit in
25 public policy science, GlobalTox and Kelman hired Scheuer to sue Kramer for libel claiming the
26 term "altered his under oath statements" was a false accusation of perjury. Then, in an effective but
27 deceptive maneuver to distract the San Diego courts' attention from the fact that Kramer was
28 writing about a significant deceit in public policy science; they repeatedly presented false
29 declarations under penalty of perjury to the San Diego courts as to why Kramer would have reason
30 to harbor personal malice for Plaintiff GlobalTox and its President. This successful maneuver made

1 the courts, who are not savvy to the politics of the mold issue, perceive that Kramer’s writing was a
2 personal vendetta – not an outing of a serious deceit in public policy science.

3 Specifically, GlobalTox’s President presented the following false declaration statements before
4 the San Diego courts no less than three times while under penalty of perjury:

5 “She [Kramer] apparently felt that the remediation work had been inadequately done,
6 and that she and her daughter had suffered life-threatening diseases as a result. I
7 testified that the type and amount of mold in the Kramer house could not have caused
8 the life-threatening illnesses that she claimed.”

9 Scheuer then used the purported testimony to mislead the courts that Kramer would have
10 persoanl reason to harbor malice for Plaintiff GlobalTox and its President. Specifically within his
11 briefs, Scheuer wrote:

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

17 However, no such testimony was ever given by GlobalTox’s President in the Kramer family’s
18 mold litigation with their insurer, Mercury. No legitimate evidence was ever presented to any San
19 Diego court that Kramer would have personal reason to harbor malice for GlobalTox and its
20 President. Only the manufactured reason for malice in declarations made under penalty of perjury
21 and attached to Scheuer’s briefs supported the personal vendetta theme that impacted all rulings, the
22 framing of the scope of the trial and thus the outcome of the trial itself. The anti-SLAPP motion was
23 defeated by Plaintiffs through the use of perjury, allowing the case to continue without the legitimate
24 establishment of probable cause. The trial judge, presiding over her first libel action, relied on the
25 appellate ruling when framing the scope of the trial and in violation of Code of Civil Procedures
26 425.16(3) which states, “*..no burden of proof or degree of proof otherwise applicable shall be*
27 *affected by that determination [sic anti-SLAPP] in any later stage of the case or in any subsequent*
28 *proceeding*”.

29 Below are excerpts of the transcript of the trial, August 18, 2008, 4:16-28, 5:8-24, 6:13-18, 7:18-
30 20, 8:15-18, in which the scope of the trial was being determined by the Court and Scheuer
31 knowinging encouraged the misdirection of the trial. The Court stated,

32 “So although I think there is, realistically, the need to play for the benefit of the jury
33 how it is, and I think the Fourth did a great job. That’s why I like reading their rulings

1 because I know what I'd do. I won't upset them if I follow their guidance to start
2 with they did a pretty good job on pointing to the kind of evidence they considered in
3 the anti-SLAPP, which is key because it's the same thing that was adopted in the
4 motion for summary judgment ruling that was made by Judge Orfield considering in
5 denying the anti-SLAPP.

6
7 Okay. They spoke to the kinds of things that could give rise to a finding of actual
8 animosity,so I can only reference it by noting it's the second full paragraph, and it
9 references that one, to start with, is Dr. Kelman was an expert in her own lawsuit.
10 They reference that she was seeking damages for the presence of mold in the home.
11 Dr. Kelman gave an opinion of a – speaking to- to the effect that did not appear to
12 have greatly increased level of risk of mold inside the home. Case was settled and,
13 quote A reasonable jury could infer that Kramer harbored some animosity toward
14 Kelman. Seemed to me the facts surrounding that lawsuit that would support or
15 contract a claim of any reasonable animosity would be something relevant for this
16 jury.

17
18 So that's kind of the way I look at this case. I think the fourth district has done a very
19 clean job of focusing, and I think they're right. So I am concerned about as to what
20 extent you plan to bring in Dr. Amman.

21
22 **Scheuer:** "...without just being grossly brown-nosing here, I've been in this case for
23 three and a half years. You've been in it for about two hours, and I think you have
24 grasped what this case is about. I think this is really a simple, really straightforward
25 case. I think we can do this case in two days of testimony. It needs to be limited. I
26 think, just as you suggested. We don't have any intention of –First, of going into the
27 science that lies behind the A.C.O.E.M.Statement"

28 The scope of the trial was framed on the anti-SLAPP ruling. The anti-SLAPP ruling was made
as a result of perjury on the issue of malice. The resultant expenses to Kramer have been well over
one half of a million dollars in litigation expenditures alone. Yet, Kramer has refused to be silenced
on a matter adversely impacting the health a safety of US citizens.

Clearly, for GlobalTox's President to repeatedly present false declarations under penalty of
perjury on a matter central to the case ie, malice, qualifies as bad faith actions completely without
merit and for the sole purpose of harassing the opposing party through strategic litigation against
public participation in furtherance of an enterprise with national significance affecting public health
policy. Clearly for Scheuer to continue to *knowingly* present his clients' false declarations long after

1 knowing they were false are bad faith actions completely without merit for the sole purpose of
2 harassment through strategic litigation against public participation in furtherance of an enterprise.

3 Plaintiffs and Scheuer defeated Kramer’s anti-SLAPP motion through bad faith actions of false
4 declarations on the issue of malice. Code of Civil Procedures 425.16 states “(a) *The Legislature*
5 *finds and declares that there has been a disturbing increase in lawsuits brought primarily to chill*
6 *the valid exercise of the constitutional rights of freedom of speech and petition for the redress of*
7 *grievances. The Legislature finds and declares that it is in the public interest to encourage*
8 *continued participation in matters of public significance, and that this participation should not be*
9 *chilled through abuse of the judicial process. To this end, this section shall be construed broadly...*
10 *(e) As used in this section, "act in furtherance of a person's right of petition or free speech under*
11 *the United States or California Constitution in connection with a public issue" includes: (1) any*
12 *written or oral statement or writing made before a legislative, executive, or judicial proceeding, or*
13 *any other official proceeding authorized by law; (2) any written or oral statement or writing made*
14 *in connection with an issue under consideration or review by a legislative, executive, or judicial*
15 *body, or any other official proceeding authorized by law; (3) any written or oral statement or*
16 *writing made in a place open to the public or a public forum in connection with an issue of public*
17 *interest; (4) or any other conduct in furtherance of the exercise of the constitutional right of*
18 *petition or the constitutional right of free speech in connection with a public issue or an issue of*
19 *public interest.*”

20 Clearly Scheuer used bad faith tactics meant to harass and silence Kramer’s constitutional rights
21 to free speech on an issue of public interest as stipulated under CCP 425.16 (e)(1)(2)(3) and (4). To
22 allow Scheuer to benefit, not only from filing a lawsuit meant to chill first amendment speech of
23 national significance, but to suborn perjury while chilling the speech are not actions the California
24 State Bar should tolerate or encourage.

25 Business and Professions Code 6068 (c)(d)(f)(g) states “*It is the duty of an attorney to do all of*
26 *the following:...(c) To counsel or maintain those actions, proceedings, or defenses only as appear to*
27 *him or her legal or just, except the defense of a person charged with a public offense.(d) To employ,*
28 *for the purpose of maintaining the causes confided to him or her those means only as are consistent*
with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false
statement of fact or law.(f) To advance no fact prejudicial to the honor or reputation of a party or

1 witness, unless required by the justice of the cause with which he or she is charged. (g) Not to
2 encourage either the commencement or the continuance of an action or proceeding from any
3 corrupt motive of passion or interest.

4 Clearly for a attorney, licensed by the State of California, to knowingly present the courts with a
5 client's repeated false declarations under penalty of perjury on an issue central to the case could not
6 appear to the attorney to be "legal or just"; "consistent with the truth"; non "misleading [to the]
7 the judge or judicial officer by an artifice or false statement of fact or law"; non "prejudicial to the
8 honor or reputation of a party"; or non "encourage[ing] the commencement or the continuance of
9 an action or proceeding from any corrupt motive or passion of interest." In addition, it has long
10 been established by case law that "Counsel should not forget that they are officers of the court, and
11 while it is their duty to protect and defend the interests of their clients, the obligation is equally
12 imperative to aid the court in avoiding error and in determining the cause in accordance with
13 justice and the established rules of practice." Furlong v. White, 51 Cal.App. 265, 271 [196 P. 903].
(1921)

14 As such, Scheuer should not be permitted to generate income at the expense of the victim of
15 violations of Business and Professions Codes 6068 (c)(d)(f)(g). Datig v. Dove Books, 73 Cal.App
16 4th, 964, 980, 981 (1999) states "We therefore find it is necessary to state, explicitly, that although a
17 misrepresentation to the court may have been made negligently, not intentionally, it is still a
18 misrepresentation, and once the attorney realizes that he or she has misled the court, even
19 innocently, he or she has an affirmative duty to immediately inform the court and to request that it
20 set aside any orders based upon such misrepresentation; also, counsel should not attempt to benefit
21 from such improvidently entered orders." [Emphasis added]

22 To date, Schueuer has made no effort to correct the known misrepresentations or request the
23 court set aside any orders based on the well documented misrepresentations before the courts. He has
24 benefited repeatedly from improvidently entered orders. "Honesty in dealing with the courts is of
25 paramount importance, and misleading a judge is, regardless of motives, a serious offense." Paine v.
26 State Bar 14 Cal.2d 150, 154 (1939).

27 Tellingly, Scheuer has remained mum on the subject in his responses to post trial motions in
28 which Kramer has documented the perjury numerous times complete with undisputable evidence.
Scheuer's silence should confirm for the California State Bar that Scheuer knows he has been

1 suborning of perjury throughout this case and has no intention of correcting serious errors in rulings
2 and judgment borne from deceiving the courts. Even with these bad faith tactics, Kramer prevailed
3 against his client, GlobalTox. As such and by law, Kramer is requesting that the California State Bar
4 investigate the violations of Business and Professions Codes 6068(c)(d)(f)(g).

5 II.

6 **Documentation Of Such A Nature That It Cannot Be Disbelieved Proving Suborning Of 7 Perjury And Attempted Coercion By Keith Scheuer, Esq.**

8 While misleading the courts through the use of perjury and suborning of perjury to believe that
9 this case had nothing to do with the science that GlobalTox relies on for their expert witnessing
10 enterprise, they and Scheuer were simultaneously attempting to use this case to coerce Kramer to
11 endorse their science before they would cease with the litigation. They were using this lawsuit to
12 attempt to force Kramer into silence over an issue with broad significance in public health policy.
(One cannot sign an endorsement of a science under penalty of perjury and then continue to tell the
Federal government the exact opposite about the science.)

13 **A. On The Matter Of Perjury Regarding False Reason Given For Kramer To Harbor Malice 14 For GlobalTox:**

15 *Attached hereto as Exhibit 1* is the September 13, 2005 false declaration, made under penalty of
16 perjury, of GlobalTox's President, 1,5:3-14,7, stating that in deposition in the case of Mercury vs.
17 Kramer, he testified "that the type and amount of mold in the Kramer house could not have caused
18 the life-threatening illnesses that she claimed." This was the manufactured reason given to all
19 courts why Kramer would harbor malice for GlobalTox.

20 *Attached hereto as Exhibit 2* is the entire October 2003 deposition testimony of Scheuer's
21 client, Kelman, in the Mercury case. It is undisputable proof that no such testimony as claimed
22 above was ever given by Kelman. (Kramer cannot cite for the court to a specific line and page as
one cannot cite to something that does not exist.)

23 *Attached hereto as Exhibit 3* is the October 28, 2008 Declaration of Attorney John Richards who
24 took the deposition of Kelman in the Mercury case as legal counsel for Kramer. Mr. Richards states
25 this was the only deposition of Kelman in the case. He is not aware that Kramer has ever "launched
26 into an obsessive campaign" to destroy the reputation of any of the other seven expert defense
27 witnesses involved in the Mercury case. Kramer never claimed to have acquired a life threatening
28

1 illness. (The case settled at nearly a half a millions for Kramer and her family. Thus, she had no
2 reason to be a sour grapes litigate who was then out to “destroy the reputations of Kelman and
3 GlobalTox.”)

4 *Attached hereto as Exhibit 4* is the September 9, 2008 Declaration of William J. Brown, III,
5 Kramer’s co-counsel in the Mercury case and original attorney in this case, stating that the
6 Appellate Court refused to take judicial notice of documentation proving Kelman’s perjurious
7 declarations before them and while ruling GlobalTox had met a prima facie burden of proof that
8 Kramer had reason to harbor malice stemming from the Mercury case. This anti-SLAPP ruling was
9 based on no evidence besides Kelman’s perjurious declaration before them. Exhibit 4 serves as
10 proof that no later than June 29, 2006, Scheuer was made aware no such testimony was ever given
11 by GlobalTox’s President.

12 *Attached hereto as Exhibit 5* is the Declaration of Dr. Harriet Ammann dated October 21, 2008.
13 Dr. Ammann was going to testify in trial that as a PhD toxicologist, Kelman would not have been
14 qualified to testify about the Kramer families immunological illnesses in the Mercury case as he
15 claimed. Dr. Ammann was excluded from testifying at trial. Anything having to do with the science
16 of Plaintiffs was excluded based on the anti-SLAPP ruling in violation of CCP 425.16(3).

17 **B. On The Matter Of Scheuer’s Attempted Coercion Of Kramer Into Silence While**
18 **Misleading The Court That GlobalTox’s Science Was Not Relevant To Kramer’s Defense:**

19 *Attached hereto as Exhibit 6* is Plaintiff’s motions filed by Scheuer to exclude the science and
20 thereby the testimony of Dr. Ammann from the trial, dated August 7, 2008.

21 *Attached hereto as Exhibit 7* is Scheuer misleading the trial judge (who was new to the lawsuit
22 approximately one week before trial and a bit distracted with an impending change of employment
23 and public admonishment forthcoming) that the science was not relevant to the case. August 18,
24 2008 Trial Transcript 34:20-28.

25 *Attached hereto as Exhibit 8* is what Plaintiffs and Scheuer were requiring Kramer sign
26 commencing on June 21, 2007, before they would cease with the litigation. This while as noted
27 above, they were misleading the courts that the science of GlobalTox was not relevant to the case.
28 This tactic began after they defeated the anti-SLAPP motion by ill gotten means. It was an attempt
to force an endorsement of the validity of GlobalTox’s testimony as expert defense witnesses

1 directly contradictory to what Kramer was telling the Senate Health, Education, Labor and Pension
2 Committee (“HELP Committee”).

3 *Attached hereto as Exhibit 9* is the July 22, 2008, deposition testimony of Kelman, 211:18-
4 25,212,213,214, with Scheuer present discussing the attempted forcing of Kramer to endorse
5 GlobalTox’s science.

6 **C. On The Matter Of Known Suborning Of Perjury By Scheuer And Benefiting From
7 Resultant Improvidently Entered Orders.**

8 As noted in Exhibit 4, no later than June 29, 2006, Scheuer knew he and his clients were
9 presented false declarations before the courts on the issue of malice. With the anti-SLAPP ruling in
10 November of 2006, he also knew he had benefited from an improvidently entered ruling.

11 *Attached hereto as Exhibit 10* is the January 3, 2008 deposition testimony of Kramer 91:18-
12 25,92,93,94:1-9, taken by Scheuer. It is a discussion of how GlobalTox’ president and Scheuer’s
13 lies on the issue of malice were impacting the case. Again, proof that Scheuer was made aware of
14 the perjury and suborning of perjury and knew he and his clients were benefiting from it.

15 *Less than three months later and attached hereto collectively as Exhibit 11* is the March 24, 2008
16 6:3-12 Declaration of Kelman again making the false claim as reason for malice and the MSJ brief
17 filed by Schueuer on March 26, 2008,6:12-20,22 referencing the known false declaration as a
18 reason for malice.

19 *Attached hereto as Exhibit 12* is the deposition testimony of Kelman, July 22, 2008 321:18-
20 25,322,323,324,330:11-25 (three weeks before trial), discussing he does not remember what
21 testimony he gave in the Mercury case. As noted above, this was just 4 months after a March 2008
22 declaration filed under penalty of perjury and attached to Scheuer’s brief in which Kelman claimed
23 he specifically remembered and it was a reason for Kramer to harbor malice for GlobalTox. Also
24 discussed is the fact that his deposition testimonies do not match his declaration testimonies.
25 Scheuer was present and also involved in this line of questioning

26 **D. On The Matter Of Why GlobalTox and Scheuer Were Seeking To Chill Kramer’s Speech:**

27 *Attached as Exhibit 13* are two principals of GlobalTox serving as paid expert witnesses on
28 behalf of the Department of Justice under former Attorney General Alberto Gonzales. They are
Coreen Robbins, February 15, 2006, pg 7 and Kelman, February 15, 2006 pg.8-14. They relied on
the ACOEM Mold Statement they authored as scientific reference to defeat claims of illness in a

1 mold injured military family while claiming mold toxins could not reach a level to cause the
2 symptoms claimed...according to ACOEM.

3 *Attached hereto as Exhibit 14*, is the testimony of GlobalTox’s President in the case of which
4 Kramer wrote about, the Haynes case. Kelman stated under oath that it is his expert opinion that,
5 according to accepted science, the families illnesses “could not be” caused by the mycotoxins in
6 their home. Again he relied on his own calculations and theory legitimized by ACOEM. This
7 conclusion formed from these calculations has never been duplicated by anyone in any peer
8 reviewed published writing. The error of this “science” has been written about in peer reviewed
9 published medical journals numerous times since Kramer first brought it to greater light.

10 *Attached hereto as Exhibit 15* is an October 2008, peer reviewed, medical journal publishing
11 detailing how Plaintiff’s deceptive science became public policy in the first place with the
12 endorsement of ACOEM. Two of Kramer’s journal publishings are cited as reference for this paper,
13 References 111 and 120. “*Nondisclosure of Conflicts of Interest Is Perilous To The Advancement of
14 Science*” J.Allergy Clin Immunolo. 2006;118;766-767 and “*American College of Occupational and
15 Environmental Medicine (ACOEM): A Professional Association in Service to Industry*”. Int J
16 Occup Environ Health 2007;13:404-426.

17 *Attached hereto as Exhibit 16*, is the summary of the Federal Government Accountability Office
18 Report issued on September 30, 2008. Contrary to Plaintiffs’ prior expert witnessing for the
19 Department of Justice, the Federal government has now determined serious mold toxin illnesses are
20 indeed plausible to occur from exposure within an indoor setting. This audit was ordered by
21 Senator Kennedy’s HELP Committee, October 2006, at the request of Kramer. This is what
22 GlobalTox and Scheuer were trying to stop from happening with the filing and malicious pursuance
23 of this litigation. Kramer has effectively shut GlobalTox’s pseudoscience out of public policy
24 thereby curtailing the furtherance of an enterprise.

25 **E. Why It Is Important In Protection Of Freedom Of Speech Under The First Amendment Of
26 the Constitution Of The United States For The California State Bar To Investigate Keith
27 Scheuer’s Bad Faith Tactics**

28 This lawsuit has been written about in many different venues and in many different forms, with
most favorable to Kramer’s outing of the deceit in public policy science. But because this case has
been allowed to continue and taken the path it has, many fear retribution from GlobalTox for
speaking out about the deceit. GlobalTox is well connected with one of its principals being a retired
Deputy Director of the CDC, National Institute of Occupational Safety and Health, assistant
Surgeon General. From witnessing the hardship this case has caused for Kramer and her family,

1 this case has chilled many from speaking out of the impact the deceit has had on mold litigation for
2 fear of GlobalTox and their influential associates.

3 *Attached hereto collectively as Exhibit 17* is an LA Weekly article, published three weeks before
4 trial and titled “*The Toxic Mold Rush: California Mom Fuels An Obsession*” along with its follow
5 ups published after trial. It is a horrid false light writing of Kramer, her family, and those that have
6 been made ill from mold but have been unable to obtain viable medical treatment because of the
7 deceit in public policy science. The LA Weekly article is full of false statements, false light
8 statements and misquoted interviewees. It has caused Kramer to be fearful for the safety of her
9 daughter who lives in LA and was held out, complete with picture, as the “starring victim” of a
10 multi-billion dollar issue where emotions and anger run high on many levels. It has sent chills down
11 the spine of physicians, researchers and advocates who dare to speak out of the deceit of
12 GlobalTox, ACOEM and the US Chamber of Commerce and the U.S. Department of Justice. As
13 noted in the follow up, they are using the verdict in favor of GlobalTox’s President in this case to
14 continue to market that it is scientifically proven mold toxins do no cause illness. This, while the
15 science was not even permitted to be discussed in trial because of bad faith tactics used by Scheuer.
16 In the court halls after the trial, Scheuer suggested to approximately 10 of the jurors present that
17 they all read the horrid false light article.

18 *Attached hereto as Exhibit 18*, is a publishing in the Indoor Environment Connections, a trade
19 newspaper for the Indoor Air Quality industry. It writes of no one but Kramer being willing to
20 speak out about Scheuer’s clients’ deceptive science in furtherance of an enterprise, because of the
21 “fear of retribution”.

22 *Attached hereto as Exhibit 19*, is a letter in which GlobalTox is threatening to sue an attorney for
23 libel for speaking out about their deceit in public policy science that is necessary for them to
24 continue their enterprise.

25 *Attached hereto as Exhibit 20*, is an email from an author of a journal published writing that
26 details the deceit of GlobalTox and ACOEM. He is discussing that he cannot credit Kramer for her
27 research that was used extensively for the paper. The reason he gives is politics over the issue. The
28 politics would be this case where Scheuer’s bad faith tactics of suborning of perjury and misleading
the courts have allowed Kramer to be falsely labeled a malicious liar for the truthful use of the
phrase “altered his under oath statements”. This case is having an effective impact on discrediting
Kramer’s ability to effectively speak out of the deceit of GlobalTox’s science. Even though the
courts were misled to believe this lawsuit had nothing to do with a deceit in public health policy
over the mold issue, the rulings and judgments – that were obtained by ill gotten means – are
working to chill Kramer’s speech and thus others, as others fear denigration of their reputations by

1 being associated with one labeled a “malicious liar”. They fear the financial hardship they have
2 witnessed Kramer experience.

3 *Attached hereto as Exhibit 21 is the January 2007, front page Wall Street Journal article, “Count*
4 *of Opinion, Amid Suits Over Mold Experts Wear Two Hats, Science Papers Often Help Defense In*
5 *Litigation”.* This will give the State Bar a good overview of what Scheuer and his clients were
6 trying to keep from coming to greater public light with the malicious filing and pursuing of this
litigation.

7 *Attached hereto as Exhibit 22 is a North County Times writing of what the trial judge, the*
8 *Honorable Lisa C. Schall, was experiencing at the time of trial. She had already been informed of*
9 *the reassignment to Family Court at the time of trial. This case was her last trial as a Superior Court*
Judge.

10 For the foregoing reasons supported by the **undisputable and vast evidence of suborning of**
11 **perjury by Keith Scheuer, Esq., in a case of national significance impacting public health policy**
12 **and first amendment freedom of speech,** it is of the utmost importance that the State Bar of
13 California take action.

14 Dated February 2, 2009

Respectfully submitted

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16 Sharon Noonan Kramer
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TIMELINE OF PERJURY AND SUBORNING OF PERJURY

May 2005 Scheuer files a complaint for defamation of character on behalf of his clients, Kelman and GlobalTox. The sole cause of action in the case was that the phrase "altered his under oath statements" was a maliciously false accusation of perjury.

July 2005 Brown files an anti-SLAPP motion on behalf of Kramer. Kramer's declaration goes into great detail of the deceit in public health policy.

September 2005 Scheuer files a response in which he includes Kelman's false declaration stating,

"She [Kramer] 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."
(See Exhibit 1 of original complaint)

Scheuer states within his brief:

"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."

September 2005, Brown does not submit a reply brief but does submit another declaration by Kramer in which she wrote,

21. Mr Shurer has attempted to paint me as a vengeful woman who has an obsession to get back at Kelman for testimony he gave in our case in December, 2003. Shurer states that my daughter and I claimed we acquired life threatening illnesses as a result of mold when what I really wanted was for my insurance company to pay for my house to be remodeled. He also states I was furious when Kelman testified that the science did not support what I wanted.

22. I am surprised at Mr Shurer's lack of verification of facts before making these false and malicious statements, which are oddly not backed up with any support documentation attached. We were not

even in litigation in December of 2003. But given the obvious lack of fact checking, I am not surprised at this answer. This would be a boilerplate scenario for Kelman to step into. Many people have life threatening illnesses after excessive exposure to mold and mycotoxins. It is a complaint that is quite common. In regard to these illnesses, it would be also be a boilerplate response for Kelman to say the science does not support this, based on the ACOEM Statement. 23. However, the boilerplate family Shurer and Kelman describe is not our family. I do not know how Kelman could have testified in our case in December of 2003. We settled in October of 2003. Although very sick, I never claimed I had a life threatening illness. My daughter has always had the life threatening illness of CF. We ultimately received a fairly sizable settlement from all three defendants in the case. If we had chosen to correct the cross contamination that occurred during the remediation process, we received enough money to do so. Attached hereto collectively as Exhibit 5 are true and correct copies of the mutual release of Case #GIN024147; documentation of Erin Kramer's condition of Cystic Fibrosis.

October 2005, the court rules that the case can go forward. The above portions of my declaration are stricken from the record by motion of Scheuer.

NOTE: By September of 2005, Scheuer was made aware that his client had provided false reason given for malice and actively motioned to have that portion of my declaration stating so, stricken from the record.

April 2006, Brown files a brief to the Appellate Court 425.16 anti-SLAPP, forgets to mention the perjury, attempts to argue first amendment freedom speech.

May 2006, Scheuer files a reply again stating, "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."

June 2006, Brown files a request for judicial notice complete with documentation of Kelman's testimony from the Mercury case proving that no such testimony as

stated above was ever given by Kelman. The courts were being provided false reasoning for malice. He also provides documents from a court case in Sacramento where Kelman and GlobalTox's theory for determining illness is not plausible to occur from mold toxins was thrown out as unscientific. (See Exhibit 4 of Original Complaint)

NOTE: This was the second time that Scheuer was made aware that his client was presenting false declaration statements on the issue of malice.

November 2006, The Appellate court makes the ruling that this is not Strategic Litigation Against Public Participation. They refuse to take judicial notice of the documents proving that Scheuer was providing them false declarations as to the reason for malice, stating because it was not presented in the lower court. (As noted above, it was presented to the lower court. Scheuer just got it thrown out.) They also claim they fail to see what the science has to do with the phrase "altered his under oath statements". They hated Brown's brief and refused to sift through the exhibits...in other words, I had no defense in the Appellate Court. Brown misses the deadline to request reconsideration. Files one late. The Appellate Court denies to hear a reconsideration. The Appellate Court found that a reasonable jury could conclude I had malice for Kelman stemming from the Mercury case, even though not one shred of evidence was ever presented to support this. Only the false declarations of Kelman, submitted by Scheuer supported this concept. Scheuer remained mum of the Court's error caused by his suborned perjury. (See Exhibit 4 of Original Complaint)

December 2006, Brown files a brief to the California Supreme Court. Several non-profits sent Amicus Letters on my behalf. (by this time, many people understood what Kelman was trying to hide by altering his under oath statements.) The Supreme Court declines to hear it. (This was expected. The odds of having this when the Appellate Court was not properly requested to reconsider are slim.) Brown does not mention the perjury or suborning of perjury in his brief.

January 2007, the Wall Street Journal expose' is published.

Kelman and GlobalTox's expert witnessing enterprise takes a major hit in credibility. But it is too late for me to show the courts with regard to this being a SLAPP suit. The rulings on the matter were already made. On my advocacy front, Kennedy knew the WSJ article was coming out. In October of 2006, the GAO audit was ordered. (See Exhibits 16 & 21 of Original Complaint)

Spring 2007, the remittitur is issued by the Appellate Court and the case goes back to Judge Orfield in the North County.

June 2007, Brown sends a letter to Scheuer asking what is it going to take to end this litigation. Scheuer sends back a response with the following required statements of apology:

"...I was wrong and my accusations were unfounded. Dr. Kelman and other personnel from Veritox provide testimony and scientific advice in a variety of contexts. To my knowledge, their testimony and advice are based on their expertise and objective understanding of the underlying scientific data. I sincerely regret any harm or damage that my statements may have caused."

(See Exhibits 8 & 9 of Original Complaint)

I couldn't sign such a statement even if I wanted to. It is a lie. To my extensive knowledge over the matter, the object of their expertise is based on lying unscientific data. And the damage my many statements, published in medical journals and other places, have done to their business is because I have effectively outed the deceit in public policy science they rely on for their expert witnessing enterprise. Had I signed the above, I would have been effectively silenced. One cannot sign a statement in a court proceeding and then tell the Federal government the exact opposite. At great personal expense to my family caused by this litigation, I refused to endorse Kelman and GlobalTox's pseudo-science.

July 2007 Brown steps aside, Lincoln Bandlow steps in. Lots of motions and battles over documents. Kelman is claiming emotional distress from the word "altered" in a press release of two years earlier. (never mind the distress of the WSJ article, I guess), etc.

December 2007 Kelman is deposed with Scheuer present. Kelman can't remember what testimony he gave in the Mercury case.

NOTE: This is now the third time Scheuer was made aware his client had provided false declaration statements on the issue of malice.

January 2008 I am deposed. Scheuer and I discuss in detail the impact the lies on the issue of malice had on the anti-SLAPP ruling and would most likely have on Orfield. (See Exhibit 10 of Original Complaint)

NOTE: This is now the fourth time Scheuer was made aware his client was providing false declaration statements on the issue of malice.

January 2008 Bandlow files a motion for summary judgment. I attach a declaration that, this time, in greater detail explains that Kelman was providing false declarations on the issue of malice.

NOTE: This is now the fifth time Scheuer was made aware of his client's false declarations of reason for malice.

March 2008 Scheuer files an opposition to the MSJ. He attaches a new declaration of Kelman that again makes the false statements of,

"She [Kramer] 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." (See Exhibit 11 of Original Complaint)

June 2008, Orfield denies the MSJ. The tentative ruling came out the morning of oral arguments. Bandlow was already driving from LA. He did a beautiful job of getting rid of the emotional distress and punitive damages claims, holding the potential award to \$1. But he forgot to mention the perjury and suborning of perjury. Again the judge found *I could have had malice*

stemming from the Mercury case based on no evidence besides the false declarations. Scheuer remains mum while the proposition of malice stemming from the Mercury case is being discussed.

July 2008, Kelman is disposed again. Once again, he cannot remember what testimony he gave in the Mercury case. Bandlow even asks the reason of the discrepancies between his depositions and depositions. He gives no clear explanation. Scheuer is present for the deposition. (See Exhibits 11 & 12 of Original Complaint)

NOTE: This is now the sixth time Scheuer was made aware his client was presenting false reason for malice in his declarations, and thus now the sixth time Scheuer was made aware he had suborned perjury when defeating all motions.

August 2008, Orfield, who had presided over the case for three years determines that the case must go to trial but that he will not be available to preside over the trial. Judge Lisa Schall steps in about one week before trial. Unbeknownst to us at the time, she is moving to Family Court and has a highly publicized admonishment looming in her future for her third abuse of judicial discretion. It is her first and last libel trial. She makes statements to the effect of, "I always like it when the Appellate Court gives me direction". In violation of 425.16(3) the trial is framed on the concept that I had reason for malice stemming from the Mercury case and that the science of Kelman and GlobalTox was not relevant to the phrase "altered his under oath statements." Scheuer encourages this through his pretrial motions. He remains mum of the matter of his client's false declarations presented as the reason for malice. Bandlow did the best he could in trial considering he was basically arguing with one hand tied behind his back and a gag in his mouth.

Lots of judicial errors in the trial proceedings. One Example regarding Kelman's perjury and noted in Exhibit 5 of my original complaint: My expert, who would have testified to Kelman's inability as a PhD toxicologist to give the expert testimony he

claimed he did in the Mercury case. My attempted discussing of it was stopped because the science of Kelman's expert witness enterprise was excluded from the trial. As a result, the jury never got to hear about the perjury on the issue of malice. (See Exhibits 3 & 6 of Original Complaint)

August 2008 Kelman prevailed against me. I prevailed against GlobalTox. I am appealing. GlobalTox is not.

September 2008 Schall's public admonishment hits all the local papers and statewide judicial papers. One week later Schall issues the judgment. She awards cost to Kelman as the prevailing party but not me as the prevailing party. Scheuer wrote the judgment she used. It does not even acknowledge that I am a prevailing party. Reads like Kelman won and GlobalTox did not lose. (See Exhibit 22 of Original Complaint)

September 2008 I substitute in as my own attorney. Out of money from the approximate \$500,000 this has now cost me to defend myself in this malicious litigation meant to chill speech regarding a deception in national public health policy. (See Exhibits 16, 17, 18, 19, 20, 21 of Original Complaint; Exhibit 3 of Supplemental Complaint)

September 2008 I send a registered letter to Scheuer regarding his clients perjury and his suborning of perjury, reminding him that he has a duty as a licensed officer of the court to inform the courts of the perjury. No reply. MUM. (See Exhibit 2 of Supplemental Complaint)

NOTE: This is now the seventh time Scheuer has been made aware of the perjury and suborning of perjury.

October 2008 to January 2009, no less than 6 times I have documented the perjury and suborning of perjury to the courts with Scheuer being noticed on the motions. The courts do nothing and Scheuer just remains mum. I am still fighting for my costs as a prevailing party. An amended ruling was made that reflects I am a prevailing party. However, the court reentered the original judgment on December 18, 2008, not an amended one reflective of the amended ruling, made of December 12, 2008.

NOTE: This is no less than 12 times, Scheuer has been made aware of his client's perjury.

December 12, 2008 Prior to entering Dept 31 for oral arguments of JNOV, New Trial, etc, I personally handed Scheuer a copy of the complete transcript of the deposition of Bruce J. Kelman taken in October of 2003 in the Mercury case. He accepted it, smirked and said nothing. (See Exhibit 2 of Original Complaint)

NOTE: This means that no less than 13 times, not even including my complaint to the State Bar, Scheuer has now been made aware of his client's perjury, his suborning of perjury and the impact all rulings, the framing of the scope of the trial the outcome of the case.

SILENCE IS NOT A DEFENSE, NOR DOES IT RECTIFY A WRONG.

February 2009, I filed a complaint with the State Bar. If Scheuer is not willing to inform all courts *himself* of the perjury and his suborning of perjury on the issue of malice and request that the courts set aside any improvidently entered orders based on false reasoning given for malice;

then it is the California State Bar's responsibility to assist one of their licensees, Keith Scheuer Esq, State Bar No. 82797, in fulfilling his affirmative duty as a licenced officer of the Court in the State of California. It is the California State Bar's responsibility to assure all courts be informed of Scheuer' client's perjury and Schueuer's own suborning of the perjury.