

1 Exhibit 2, is the declaration of Juror Shelby Stunts. Ms. Stunts states that the jurors viewed
2 hearsay evidence referring to defendant as a “cyberstalker”. Upon viewing this non-trial
3 entered evidence, two jurors changed their votes on the issue of actual malice to cause a 10
4 to 2 vote, giving Plaintiff a favorable verdict. Defendant was precluded from defending
5 against this false hearsay that caused a Plaintiff verdict as the evidence was never presented
6 in the trial.

6 3. Violation of CCP 657 (1) and BPC 6068(d)) irregularity in the proceedings caused by
7 Plaintiff Counsel. On the issue of malice, Plaintiff and Plaintiff Counsel have repeatedly
8 presented false reason to the Courts as to why Defendant would have reason to harbor
9 personal malice for Defendant. This is an irrefutable fact. This false testimony caused the
10 Courts to perceive that this case stemmed from a personal vendetta and had nothing to do
11 with Plaintiff’s now defunct from public policy science, when framing the scope of the trial.
12 The false testimony greatly added to Defendant not being able to provide her defense as the
13 science of mold was excluded by this false concept of reason for personal malice pervaded
14 the Courts rulings. Plaintiff Counsel presented the concept that the science of mold had
15 nothing to do with the case because the case was simply about if the phrase “altered his
16 under oath statements” is synonymous with the term “perjury”. Plaintiff Counsel knew full
17 well that in order for Defendant to explain why Plaintiff was altering his under oath
18 statements when forced to discuss the relationship of two policy papers together in front of a
19 jury, Defendant needed to be able to discuss the genesis, proliferation, usages and
20 ramifications of the science Plaintiff sells (sold) in court. It was misleading the courts to use
21 false evidence of personal malice and false reasoning for excluding evidence in Plaintiff’s
22 Motions in Limine in order to gain unfair advantage by precluding Defendant from putting
23 on a defense. While projected to the courts that it was because we did not want to turn this
24 into a mold case, the reality is Plaintiff Counsel knew that is not why Defendant needed to
25 discuss Plaintiff’s science in order to defend herself. Attached hereto collectively as Exhibit
26 3 are Plaintiff’s Motion in Limine, Declaration of John Richards the attorney who took the
27 deposition of Plaintiff in 2003 that was the false reason provided in this case for malice, and
28 a copy of the Defendant’s Supplemental Objection to Judgment that spells out when and
how many times Plaintiff and Plaintiff Counsel provided this false testimony to the Courts
regarding Plaintiff’s testimony in the Mercury case.

26 Plaintiff Counsel provided false information within his Instructions to the jury as to actual
27 malice. Plaintiff’s Special Jury Instruction Proof of Actual Malice states,
28

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6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF SAN DIEGO**

8 **BRUCE KELMAN, GLOBALTOX, INC.,**)

9 **Plaintiffs,**)

10 **v.**)

11 **SHARON KRAMER, and DOES 1 through**)
12 **20, inclusive,**)

13 **Defendants.**)
14)

Case No.: GIN 044539

DECLARATION OF SHELBY STUNTZ,
JUROR NUMBER 5

[Assigned for All Purposes To Hon.
Lisa C. Schall, Department 31]

Trial Date: August 18, 2008

15
16 1. My name is Shelby Stuntz. I am an attorney licensed to practice law in the State of
17 California.

18 2. In August 2008, I served as a juror in the defamation case brought by Bruce Kelman and
19 Veritox, Inc. against Sharon Kramer (Case No. GIN044539).

20 3. During deliberations Exhibit #53 was included in the evidence. As I recall, Exhibit #53
21 included the invoices submitted by Dr. Kelman for work on a paper titled "*A Scientific View Of*
22 *The Health Effects of Mold*" that his company was paid to do for the US Chamber of Commerce
23 and the Manhattan Institute.
24

1 4. A number of additional pages were attached to the invoices in Exhibit #53 that appeared
2 to be unrelated to the invoices and as I recall were never discussed in the trial proceedings.

3 5. Those additional pages were not introduced as evidence during the trial. They included
4 emails between a physician, Veritox employees, and Dr. Kelman. I recall one of the
5 communications described Ms. Kramer as a "cyberstalker". These emails were read aloud in the
6 jury room on the second day of deliberations.

7 6. It was not until these emails which described Ms. Kramer as a "cyberstalker" were read
8 aloud that the vote of the jurors changed from 8 to 4 (in favor of Dr. Kelman) to 10 to 2 (in favor
9 of Dr. Kelman). Up until that point, the jury spent a number of hours discussing whether Ms.
10 Kramer acted with malice. After the "cyberstalker" email was read, jurors #11 and #1 changed
11 their votes in favor of Dr. Kelman and Veritox. These two jurors both stated these emails
12 illustrated Ms. Kramer acted with malice.

13 I declare under penalty of perjury of the laws of the State of California that the foregoing
14 is true and correct and that this Declaration was executed by me on this 25th day of October,
15 2008 in Long Beach, California

16
17 
18 _____
19 Shelby Stuntz

1 any discussion of Kelman's science during trial or an expert, Dr.
2 Harriet Ammann, Senior Toxicologist for the State of Washington
3 Health Department (retired), to testify that as a toxicologist it
4 is not possible Kelman gave the expert testimony claimed the
5 Mercury case as Kramer's reason for malice, Judge Schall did not
6 grasp the impact that the perjurious testimony falsely promoting
7 personal malice was having on the trial and her framing of the
8 scope of the trial.

9 In fairness to Judge Schall, this case was her first and
10 last defamation case. Kramer realizes that the Judge has had a
11 difficult time of late and a change of employment occurred
12 immediately after her oral argument rulings of the December 12
13 2008. Kramer, having experienced much stress in recent years
14 herself, bears no ill will toward the Judge for errors made
15 before, during and after trial. Nor does she believe the Judge
16 bears ill will for her.

17 However, the Judge's inability to focus on important
18 evidence that was contrary to her preconceived opinion caused by
19 relying too heavily on the anti-SLAPP ruling (that was made while
20 considering Kelman's false testimony); her inexperience as a
21 defamation judge; and her unwillingness in oral argument to
22 address errors of trial that were clearly documented and
23 supported by exhibits in Kramer's motions; are not valid reasons
24 for Kramer to be denied the right to a fair trial, fair judgment
25 or fair consideration of motions after the trial.

26 At 3:55 PM, December 12, 2008, the denial of Kramer's
27 motions were the last rulings made by the Honorable Judge Lisa C.
28 Schall in her capacity of a Superior Court Judge. The transcript
indicates the Judge was already halfway out the door, not wanting
to hear or discuss evidence or motions. The transcript shows the
Judge was not willing to discuss the Motion for New Trial at all.
Period. (Oral argument 28:23-28).

1 THE COURT: No. I'm done. So tentative is final.

2 MS. KRAMER: What about the new trial, all the information on
3 the new trial?

4 THE COURT: I'm not going to grant any of the requests you've
5 made on that.

6 No less than thirty eight times, the Judge interrupted
7 Kramer from presenting her arguments while lecturing Kramer on
8 the law. The facts show that many errors were made in trial and
9 afterwards by permitting "Plaintiffs Special Jury Instructions,
10 Proof of Actual Malice" to induce a verdict favorable to Kelman;
11 the wrongful exclusion of Kramer's evidence and experts that were
12 necessary for her defense; false hearsay evidence considered by
13 the jury that was never discussed in trial; new evidence not
14 available at trial showing what Kelman why trying to silence
15 Kramer through this lawsuit (a Federal Government Accountability
16 Report, issued September 30, 2008); and the erroneously framed
17 scope of the trial based on a two year old anti-SLAPP ruling
18 before discovery. The oral argument transcript clearly shows that
19 motions were obviously never read or evaluated by the Judge, just
20 simply denied. As such, a reconsideration of the motions is now
21 warranted.

22 *Attached hereto as Exhibit 5 is new evidence that the jury*
23 *was instructed they had to find Kramer's writing was incorrect.*
24 *It is the Declaration of Jury Foreman, Roy Litzenberg, December*
25 *20, 2008. Mr. Litzenberg indicates that the jury asked the Judge*
26 *late in the deliberations that if they found for actual malice*
27 *according to **Plaintiff's Special Instructions, Proof of Actual***
28 ***Malice**, did that mean they had to find that Kelman proved by*
clear and convincing evidence that Kramer knew the statement was
false, or had serious doubts about the truth of the statement.
Question 5 on the Special Verdict Form reads

29 "Did Kelman prove by clear and convincing evidence that
30 Kramer knew the statement was false, or had serious doubts
31 about the truth of the statement? __ yes __ no"