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February 22, 2011
This letter may be read online at:

US Attorney General Eric Holder
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

US Attorney Laura Duffy
Federal Office Building
880 Front Street, Room 6293
San Diego, California 92101-8893

RE: Corruption in the California Legal System Aiding An Interstate Insurer Fraud Scheme Of Epic Proportion On Behalf Of The Affiliates Of The US Chamber Of Commerce; Eggregious Civil and First Amendment Rights Violations To Silence A Whistleblower Of The Fraud And Of The Courts' Aiding And Abetting.

Attorney General Holder and Ms. Duffy,

In the late 70's we changed construction standards in the US to promote energy efficiency. At the same time, we began using manmade materials such as particle board and dry wall that easily wick when water is added. This caused our homes, schools and offices to act as gigantic petri dishes making a perfect environment for microbial contaminants to grow when water is added by leaks or floods. Over the years as water damage occurred in the buildings, citizens and workers began to become ill and even die from the exposures to microbes at a rate never seen before in the history of man.

Instead of doing the right thing and warning the public; in the early 2000's United States decision makers took deceptive measures to limit the financial liability for the causation of illnesses and death. They mass marketed a fraud into health policy that was meant to miseducate physicians and the courts by selling doubt of causation based on phony science being given an air of legitimizing authority.

My name is Sharon Kramer. I am a 34 year resident of San Diego county, wife of 30 years and mother of two grown, college educated daughters. I also hold a degree in marketing and I am a whistle blower of how it became a fraud in US and California health policy that moldy buildings pose no harm to human health. This occurred under the Bush Administration in 2002/2003 and Governor Schwarzenegger in 2005.

Although the phony science has been discredited by a Federal GAO Report in 2008; its impact on policy and private sector medical practices is still maiming and killing people today, six years after I first blew the whistle.

In 2002, the American College of Occupational and Environmental Medicine (“ACOEM”) brought in a tobacco scientist, Bruce (“Kelman”); a newly retired high level NIOSH employee, Bryan (“Hardin”); and a physician from UCLA, Andrew (“Saxon”); to author a policy paper on illness caused by mold. Kelman and Hardin are two of the six owners of the corporation, VeriTox, Inc, formerly known as (“GlobalTox”). ACOEM writes the “Workers Comp Reform” guidelines California occupational physicians must follow under Senate Bill 899. Saxon is now retired from UCLA, but still uses its letterhead when testifying as a defense witness, interstate, in mold litigation. The legal counsel of the Regents of the UC have been made aware of this interstate insurer fraud violation that is against the policies for the university and its employees. They do nothing.

None of the three men had any research backgrounds into the health effects of mold. All three of the men have served extensively as expert witnesses for the defense in mold litigation. ACOEM is not a college. It is a trade association made up of occupational physicians who evaluate injured workers on behalf of insurers and employers.

The fraudulent concepts that were established in policy by ACOEM are that i.) it was scientifically proven the toxic components of contaminants found in water damaged buildings (“WDB”) could never reach a level to harm humans; and ii.) mold is not a source of fungal infections except for severely immunocompromised people.

There is zero scientific foundation to support these false concepts. It has aided many an insurer to shift their financial responsibility off of themselves and onto the taxpayers via state and federal social disability funds and social service programs.

This has left the sick nowhere to turn for medical help, which has caused illness to become more severe; adding further to the fraud causing exorbitant costs for taxpayers. Lives of US citizens, workers and children have been unnecessarily ruined. Shamefully, the courts and medical communities have treated the sick and injured as suspect criminals for stating the buildings are harming workers and families.

What has been allowed to happen to people made ill from the buildings is a national disgrace and a blight on the recent history of the moral character of our country. The adverse implications of this issue for democracy as a whole are colossal.

In 2003, the US Chamber of Commerce and the Manhattan Institute think-tank, paid Kelman and Hardin to author their policy paper on mold induced illnesses. They were given specific direction that something should be written that judges could understand.

On behalf of the affiliates of the US Chamber to mislead and instill hatred against the sick in the courts, the two men wrote: *“Thus the notion that toxic mold is an insidious secret killer as so many media and trial lawyers would claim, is Junk Science unsupported by actual scientific study”*

The US Chamber paper cites false authorship of also being written by Saxon, the only physician among the three. Saxon has stated under oath that he did not author the US Chamber’s mold policy and had not even read it three years after publication. So not only is it a fraud in science and policy adverse to public interest; it is a fraud of authorship by the world’s most powerful lobbying organization, the US Chamber of Commerce, for the purpose of misleading the courts. Their paper was only authored by two PhD’s who are prolific expert witnesses for the insurance industry in mold litigation and are co-owners of the corporation, VeriTox, Inc..

Between 2004 and 2008, the US DOJ paid GlobalTox (VeriTox) approximately \$800,000 in expert defense witness fees. Some of these monies were to defeat federal liability for claims of illness in sick military families living in moldy military housing. The ACOEM Mold Statement was held out as the authoritative source of science and primary reason to deny liability for these claims, while many mold injured military families lives were ruined.

A video of Kelman discussing his work for the US DOJ in deposition, July 2008, may be viewed at. http://www.blip.tv/file/1179698?utm_source=player_embedded

A video of Kelman discussing the false authorship of the US Chamber paper under oath, may be viewed at: <http://www.blip.tv/file/2877610/>

A video of Kelman literally laughing at the thought that the US Congress would investigate this, even when asked by thousands to do so may be viewed at: <http://www.blip.tv/file/1179464/>

In March of 2005, I was the first to publicly write of how the US Chamber was able to get their unclean hands into this issue with the assistance of the Manhattan Institute, GlobalTox and a US congressman from California. I was the first to write of how the fraud was closely connected to that of the policy established by ACOEM.

From my March 2005 writing as posted on PRWeb:

Upon viewing documents presented by the Hayne's attorney of Kelman's prior testimony from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand. He 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. Although much medical research finds otherwise, the controversial piece claims that it is not plausible the types of illnesses experienced by the Haynes family and reported by thousands from across the US, could be caused by "toxic mold" exposure in homes, schools or office buildings. 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 May of 2005, Kelman and GlobalTox sued me, claiming my phrase "*altered his under oath statements*" was a maliciously false accusation of perjury. No other words were challenged as being incorrect.

THIS IS WHERE THE TALE TURNS EVEN MORE INSIDIOUS

For six years, I have been evidencing for all courts to oversee this litigation that Kelman committed perjury to establish needed reason for my malice, claiming he gave a testimony in my own mold litigation of long ago that caused me to "launch into an obsessive campaign" to destroy his reputation. Never made to corroborate this claim by any court, he never even gave the purportedly malice causing testimony and the courts have been evidenced of this at nausium.

The undisputed evidence may be found extensively in the court record file proving Kelman never even gave the purported malice causing testimony, but this is never mentioned in any opinion or ruling of this case. The perjury used to establish malice in a libel litigation over public health, was suborned by his legal counsel, Keith ("Scheuer") even as late as September 2009 in his reply brief to the Fourth District Division One

Appellate Court.. The court was again for the upteenth time irrefutably evidenced of the criminal perjury by author of policy for the US Chamber of Commerce.. No mention of the undisputed evidence is found in the Opinion. If fact, it was rewarded.

A video of Kelman and myself in depositions discussing the perjury, the damage to me caused by the perjury and how they attempted to use this case to force me to endorse the US Chamber's fraudulent science may be viewed at: <http://www.blip.tv/file/2063366/>

For six years, I have been evidencing that Hardin (sixth owner of GlobalTox, retired high level NIOSH employee, and author of policy for the US Chamber and ACOEM) is an improperly undisclosed party to this litigation. No mention of this irrefutable evidence is found in the Opinions.

In six years time, the courts cannot even state what is incorrect of my writing. It is irrefutably evidenced that Kelman "*altered his under oath statements*" and trying to say the Chamber paper was not connected to ACOEM's, but had to admit they were when a prior testimony of his from another case was permitted into the Oregon trial, the subject litigation of my writing. No mention of this undisputed truth being extensively in the court records is found in the Opinions.

The CA legal system has been playing politics. With opinions that could only be described as wickedly deceptive, the San Diego courts have done everything they can to try to discredit and silence me. It has cost my family everything we own for me not to be silenced of this fraud in health policy that has harmed and continues to harm so many Americans; with the Chair of the California Commission on Judicial Performance being the primary judiciary best evidenced to be driving the train.

I REFUSE TO BE SILENCED WHEN PEOPLE ARE DYING FROM THIS FRAUD..

Now, Kelman is seeking an injunctive relief that I be gagged from ever writing of this shameful period in US and California health policy and the California legal system, ever again.

Although I was only sued for the words "*altered his under oath statements*"; Kelman is now seeking an injunctive relief that I be gagged from "*stating, repeating, publishing or paraphrasing, by any means whatsoever, any statement that was determined to be libelous in the action titled Kelman v Kramer, San Diego Superior Court Case No. Gin 044539*" from ever writing again:

“The libelous passage of the press release states: ‘Dr. Bruce Kelman of GlobTox, Inc, a Washington based environmental risk management company, testified as an expert witness for the defense, as he does in mold cases through the country. Upon viewing documents presented by the Hayne’s [sic} attorney of Kelman’s prior testimony from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand. He 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.”

The California courts and the state of California itself are now the stealth beneficiaries of seeing me illegally gagged; as are the California legal system policing agencies that have turned a blind eye in incestuous Deliberate Indifference while US and CA citizens and workers are dying.

If even ONE person in a decision making capacity in the State of California would acknowledge what the courts have done in this malicious litigation, i.e, reward criminal perjury in a strategic litigation by authors of policy for the US Chamber of Commerce; the fraud of the US Chamber would come to a screeching halt.

Thus far, none have and none will. **It is not acceptable in the United States of America to do this to a person who went above and beyond for her fellow man. It is not acceptable to allow this fraud to continue in health policy on behalf of the affiliates of the US Chamber and adverse to public health. It is a dangerous precedence that the First Amendment of the Constitution could be so violated on behalf of the interests of industry and the US Chamber, by the State of California.**

Irrefutable evidence of my above statements may be found in the courts records file in San Diego, CA. Many of the relevant documents may be read online in links at:

<http://katysexposure.wordpress.com/2010/04/30/truth-out-sharon-kramer-letter-to-andrew-saxon-mold-issue/>

and

<http://katysexposure.wordpress.com/2010/10/27/presiding-justice-candidate%C2%A0judith-mcconnell-nine-subordinate-san-diego-judiciariesassisting-with-strategic-litigation-by-criminal-means-by-an-author-of/>

As such, I am asking the US Attorney General to intercede to stop the rampant corruption in the California legal system and stop the fraud in policy regarding illnesses caused by water damaged buildings. If the State of California can do this to me while using the courts to play politics; they can and most likely will, do it to anyone who challenges the direction of the US Chamber of Commerce in the future. Dangerous precedence is being set of instilling fear of retribution for speaking the truth in America.

Please let me know how the US DOJ will be addressing this gravely serious matter. One only needs to look at the court records file in San Diego county under Kelman v Kramer to verify that I am telling the truth of the courts rewarding criminal perjury by author of fraudulent health policy on behalf of the affiliates of the US Chamber and to silence, demean, discredit and financially cripple a whistleblower of the fraud. Courts cannot simply choose to ignore irrefutable evidence of criminal perjury just because someone authors policy for the US Chamber of Commerce. You do not treat people like this in the democracy. If this is where democracy is headed in the United States of American, then God help us all.

Sincerely,

Mrs. Sharon Noonan Kramer

CC:

President of the United States of America, Barak Obama
Governor of California, Jerry Brown

Attached:

February 10, 2011 Letter to Justices Judith McConnell and Patricia Benke, cc'd to many along with attachments and detailing their willful aiding and abetting insurer fraud by aiding with a strategic litigation carried out by criminal means. .

Billing records for the US Chamber of Commerce paper that was written specifically to influence the courts with phoney science. This shows only Kelman and Hardin, two owners of the litigation defense firm VeriTox with PhD's, authored the fraudulent US Chamber paper that cites false University of California physician authorship. (Not mentioned in the opinion, this is all part of the court record on Appeal in the case of Kelman v. Kramer)

Evidence the California courts turned a blind eye to criminal perjury by an author of policy for the US Chamber, Bruce J. Kelman, in a malicious litigation for SIX YEARS.

Evidence that I was only sued for words "*altered his under oath statements.*"

Evidence that "They" are now seeking I be gagged from ever writing again of how it became a fraud in US public health policy that moldy buildings do not harm; and gagged from writing of the CA legal system shamelessly aiding and abetting it by aiding and abetting a strategic litigation carried out by criminal means by authors of policy for the US Chamber of Commerce.

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February 10, 2011

To the:

- Honorable Justice Judith McConnell, Chair of the CA Commission on Judicial Performance, Admin Presiding Justice, Fourth District Div. One
- Honorable Justice Patricia Benke, Fourth District Division One
- Honorable Jerry Brown, Governor of California, President of the Regents of UC
- Honorable Kamala Harris, California Attorney General
- Honorable Tani Cantil-Sakauye, Chief Justice California Supreme Court
- Honorable Bill Hebert, President of the California State Bar,
- Honorable California Commissioners on Judicial Performance
- Honorable James Towery, Cal State Bar Chief of Trial Counsel, Intake Unit,
- Honorable San Diego County District Attorney, Bonnie Dumanis, Board Member Ca State Bar and Advisor to the Attorney General Harris
- Honorable Justice Richard Huffman, Fourth District, Division One and California Judicial Council Member
- Honorable Justice Joann Irion, Fourth District Division One
- Honorable Justice Cynthia Aaron, Fourth District Division One
- Honorable Justice Alex McDonald, Fourth District Division One
- General Counsel, Regents of the University of California, Mary MacDonald
- Honorable Judge Kevin Enright, Presiding Judge of the Superior Court of California, County of San Diego, Judicial Council Advisor
- Honorable Eric Holder, Attorney General of the United States

**The Death Of Democracy In The California Legal System On Behalf Of The
Affiliates Of The US Chamber Of Commerce, While Leaving California and US
Workers & Citizens Maimed and Deceased**

Re: Letter received from the Honorable Justice Judith McConnell, January 19, 2011, regarding her and the Fourth District Division One Appellate Court's role in aiding insurer unfair advantage in California policy, aiding strategic litigation carried out by criminal means, bias in the courts & using the courts to promote the political whims of the past Governor of California, Arnold Schwarzenegger, adverse to the public's best interest. The ongoing saga of Kelman v. Kramer.

Honorable Justice McConnell (and Honorable Justice Benke et. al.),

Thank you for your reply letter of January 21, 2011, in response to my January 19, 2011 letter. In your letter, you state that as the Presiding Justice of the Fourth District Division One Appellate Court you have no duty under Local Rule 1.2.1 Policy Against Bias because my "*complaint deals with dissatisfaction with legal rulings*" you "*do not think it appropriate to comment further*"; and the policy against bias "*rules [I] refer to apply to the trial courts and not to the Court of Appeal*".

With all respect due, I disagree. By law, it is more than appropriate that you comment further, Justice McConnell. It is not my *“dissatisfaction with legal rulings”*. It is my dissatisfaction with your and Justice Benke’s et. al., *illegal rulings* in your unpublished Opinions written in 2006 along with Justices McDonald & Aaron; and Justice Benke’s in 2010 along with Justices Huffman and Irion. Your Opinions, when compared against the undisputed facts in the court records, are like reading tales of two different lawsuits.

Both of your unpublished Opinions ignored the undisputed evidence of the crimes of perjury and suborning of perjury by an author of environmental policy for the US Chamber of Commerce, Bruce (“Kelman”) and his “legal” counsel, Keith (“Scheuer”) to establish false yet needed reason for malice in a libel litigation. Both ignored there is no evidence in the case of me even once being impeached as to the subject belief in the validity of my words that Kelman *“altered his under oath statements”* to hide the true connection of how the (“US Chamber”) of Commerce got their unclean hands into health policy over the mold issue, by being closely associated with the American College of Occupational and Environmental Medicine (“ACOEM”), to propagate biased thought based on scant scientific foundation for the purpose of limiting insurer liability for causation of illness and death.

Both Opinions ignored the fact that in this libel litigation, the courts cannot even state what is incorrect of my purportedly libelous writing of March 2005. Both ignored there is a stealth party to this litigation, Bryan (“Hardin”). He is the never disclosed on Certificates of Interested Parties, sixth owner of VeriTox, Inc and retired Deputy Director, Centers for Disease Control & Prevention, National Institute for Occupational Safety and Health, (“NIOSH”). VeriTox was formerly known as (“GlobalTox”). He is also a co-author of the fraud in policy on behalf of the affiliates of the US Chamber and ACOEM.

As you are both evidenced of being aware, this litigation has aided with the continuance of the false concept in California workers comp policy and US public health policy that it is scientifically proven water damaged buildings (“WDB”) pose no harm to human health. Under the premise of workers comp “reform” Governor Schwarzenegger endorsed this false scientific concept into occupational medicine policy in October of 2005.

This endorsement came one month after the first lower court judge denied my anti-SLAPP motion over the first public writing (mine) to expose how the scientific fraud in health policy was being marketed. This was the first of many courts to ignore the evidence of perjury by the US Chamber & ACOEM policy author, Kelman, and suborning of perjury by his California licensed attorney, Keith (“Scheuer”) to establish malice. As you are aware, Kelman claimed to have given a testimony in my own mold litigation of long ago that made me “launch into an obsessive campaign” to destroy his reputation. All of you have been provided direct and impeaching evidence proving he never even gave the purported malice causing testimony. He committed perjury to make up a reason of why I would write of the fraud in policy, and the courts turned a blind eye to the irrefutable evidence of the perjury for *six years*.

All of the judiciaries to have overseen this case have been evidenced of the criminal perjury to establish false extenuating circumstances for malice in a strategic libel litigation. One will find this referenced and evidenced extensively in the court records, on tape of oral argument before the Appellate Court and even on video in Kelman's own words while in deposition. But one will never find any mention of this irrefutable evidence in any ruling or Opinion.

This is called: Judiciaries aiding and abetting criminal activity in malicious litigation over a matter adverse to public health, while aiding enterprises of insurer unfair advantage in claims handling practice and litigation, interstate. This is also called: RICO.

As endorsed into policy by Arnold Schwarzenegger, Governor State of California, Kimberly Belshé, Secretary Health and Human Services Agency, Sandra Shewry, Director Department of Health Services, John Rea, Acting Director Department of Industrial Relations in October of 2005:

"Physicians can refer to the American College of Occupational and Environmental Medicine (ACOEM) statement, Adverse Human Health Effects Associated with Molds in the Indoor Environment. www.acoem.org/guidelines/article.asp?ID=52."

The following are falsehoods in science and policy as found within the ACOEM statement that have aided workers comp insurers to shift cost of illness from water damaged buildings ("WDB") onto state and federal taxpayer funded disability and social service programs, while adding to the debt burden on taxpayers in the State of California:

In recent years, the growth of molds in home, school, and office environments has been cited as the cause of a wide variety of human ailments and disabilities. So-called "toxic mold" has become a prominent topic in the lay press and is increasingly the basis for litigation when individuals, families, or building occupants believe they have been harmed by exposure to indoor molds. **...Except for persons with severely impaired immune systems, indoor mold is not a source of fungal infections. Current scientific evidence does not support the proposition that human health has been adversely affected by inhaled mycotoxins in home, school, or office environments.**

There is no scientific foundation what so ever that only the severely immune compromised are harmed by molds and their toxins found in WDB's, nor was this ever current accepted science. It is a scientific fraud used by the insurance industry to deny liability for causation of illness. It was legitimized by ACOEM in 2002, who writes California workers comp policy occupational physicians must follow under Senate Bill 899. It was then mass marketed to the courts in 2003 by the US Chamber of Commerce in an insurer cost shifting scheme of epic proportion; of which you both are evidenced of being well aware.

Both ACOEM's and the US Chamber's papers carry the name "University of California" in implied credentialed endorsement that sways courts to believe the science is legitimate, intrastate and interstate. The Regents of the UC have been profiting from this scientific fraud for years. When their employees testify as insurer defense witnesses in mold litigations the Regents keep over half the monies generated from the expert witness fees, while families of the sick and deceased can receive no restitution for the true causation of illnesses and death.

The UC has also accepted federal funds from NIOSH used to hold mock mold trials in physician “educational” seminars at UCLA/UC Irvine, based on the teaching of the ACOEM mold statement. These seminars are taught by ACOEM members who are also employees of the Regents and who also generate income for the Regents by serving as expert defense witnesses in mold litigations.

The following are excerpts from my purportedly libelous writing of March 2005 that the California courts have done everything possible to try to discredit and gag me for *six years* for daring to write the truth of a fraud in health and workers comp policy that Governor Schwarzenegger endorsed, adverse to workers’ and the public’s best interest:

“Upon viewing documents presented by the Hayne's attorney of Kelman's prior testimony from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand. **He 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.** Although much medical research finds otherwise, the controversial piece claims that it is not plausible the types of illnesses experienced by the Haynes family and reported by thousands from across the US, could be caused by "toxic mold" exposure in homes, schools or office buildings. **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.**”

The San Diego Reader recently ran an article titled “*Well Behaved Women Rarely Make History*”. It writes of your pioneering role, Justice McConnell, in stopping bias against women in the legal profession. With all respect due, I did not walk into a restaurant in downtown San Diego with a couple of my girl friends in the seventies like you did; bluff and intimidate a maître d' by citing known irrelevant case law from New York; and demand that females in the legal profession in San Diego deserve a spot at the table in the local Good Ole Boys Club.

I walked into Washington DC in 2005, armed with legitimate legal documents; evidence of innocent people losing everything from a fraud in policy; and ethical scientists and knowledgeable physicians supporting that I was telling the truth. I demanded that the federal government stop Good Ole Boys and Good Ole Girls from promoting false science that one could apply math to data from a single rat study and prove health policy should be that thousands of sick and deceased workers and citizens were just liars out to scam insurers as to what caused their illnesses and deaths. From the new book “*Surviving Mold*” by Dr. Ritchie Shoemaker on the subject:

“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.”

My purportedly libelous writing of March 2005 speaks for itself as being completely accurate, as you are both evidenced of being well aware. Double speak used in Opinions, when one reads between the lines, the courts cannot even cite what is inaccurate in the writing. As accurately stated in my writing, Kelman and GlobalTox were paid by the Manhattan Institute to write a paper that was mass marketed by the US Chamber of Commerce. A version of this think-tank paid for hire work was another marketing piece of propaganda in medical science legitimized by ACOEM. ACOEM mass marketed into health policy.

As evidenced above, I knocked the scientific fraud that was caused by White Collars teaming up with White Coats to perpetrate a fraud in policy, out of federal ball park by being instrumental in causing a Federal Government Accountability Office audit into the true current understanding of the health effects of mold. You are both evidenced of being made aware of this fact many times over. Although one would never know that from reading your Opinions and letters.

In your unpublished Opinion of 2006, Justice McConnell, covered up by your unpublished Opinion in 2010, Justice Benke, you deemed that a prima facie showing of the falsehood of my writing had been established; while interpreting Kelman's testimony in question, *exactly* how I had written it. From your 2006 anti-SLAPP Opinion, page 10, Justice McConnell:

"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 of the paper issued by ACOEM. **He admitted being paid by the Manhattan Institute to write a lay translation.** In sum, Kelman and GlobalTox presented sufficient evidence to satisfy a prima facie showing the statement in the press release was false" And on page 20, "The order is affirmed. Kelman is awarded costs on appeal". McConnell, McDonald, Aaron, November 16, 2006.

From my purportedly libelous writing of March 2005 stating the same thing:

He 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... 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."

From your unpublished Opinion of 2010, Justice Benke, covering up for what Justice McConnell et al, did in 2006, that has aided with insurer unfair advantage remaining in California workers comp policy and US public health policy since 2006, now five years:

"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. We also found there was sufficient evidence to defeat Kramer's claim she was protected by the fair reporting privilege provided to journalists by Civil Code section 47, subdivision (d)(1). Under the doctrine of the law case, these determinations are binding on us and compel us to find there is sufficient evidence to support the jury's determination Kramer libeled Kelman and was not entitled to the fair reporting privilege.

We find no error in the trial court's award of costs. Accordingly, we affirm the judgment....

Application of the law of the case doctrine disposes of Kramer's initial argument on appeal that the trial court erred in relying on our prior opinion in framing the issues tried on remand. The trial court was bound by our determinations of law and thus did not err in relying on those determinations in framing the issues for trial...

We do not propose to catalogue or to attempt to conjure up all possible circumstances under which the 'unjust decision' exception might validly operate, but judicial order demands there must at least be demonstrated a manifest misapplication of existing principles resulting in substantial injustice before an appellate court is free to disregard the legal determination made in a prior appellate proceeding."...

Our review of our prior opinion does not show our analysis of the evidence of falsity and malice or our application of the fair reporting privilege were in any sense manifestly incorrect or radically deviated from any well-established principle of law. Thus any disagreement we might entertain with respect to our prior disposition would be no more than that: a disagreement. Given that circumstance and the fact that only nominal damages were awarded against Kramer, the value of promoting stability in decision making far outweighs the value of any reevaluation of the merits of our prior disposition. Benke, Huffman, Irion September 13, 2010.

In the case of Kelman v. Kramer, GIN044539/ D054496, the sole claim of the case was that my phrase "*altered his under oath statements*" was a maliciously false accusation of perjury (coincidentally in the first public writing to expose how ACOEM and the US Chamber were connected to market a fraud in health policy that gives insurers unfair advantage, interstate). Now we have a new malicious lawsuit, Case No. 37-2010-00061530-CU-DF-NC Kelman v. Kramer, North San Diego Superior Court, Department 30, the Honorable Judge Thomas Nugent presiding, filed November 4, 2010.

As you are both evidenced of being aware, Kelman is now seeking an injunctive relief that I be gagged from "*stating, repeating, publishing or paraphrasing, by any means whatsoever, any statement that was determined to be libelous in the action titled Kelman v Kramer, San Diego Superior Court Case No. Gin 044539*" As you both are evidenced of being aware, he then goes on to deem that I should be gagged from writing words far beyond only the five for which I was sued, "*altered his under oath statements.*"

To quote from the injunctive relief motion, the following is what Kelman and his California licensed attorney, Scheuer, are seeking I be gagged from ever writing again:

"The libelous passage of the press release states: 'Dr. Bruce Kelman of GlobTox, Inc, a Washington based environmental risk management company, testified as an expert witness for the defense, as he does in mold cases through the country. Upon viewing documents presented by the Hayne's [sic} attorney of Kelman's prior testimony from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand. He 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."

I was only sued for five words, “*altered his under oath statements*”. I am published in a peer reviewed medical journal using most of the above words that are of how it became a fraud in US (and California health policy) that WDBs do not harm people. From my writing that was published in the International Journal of Occupational and Environmental Health, September 2007, “*ACOEM A Professional Association In Service To Industry*” that you have both seen:

“In the spring of 2003, Veritox, [formerly known as GlobalTox] a risk-management company that provides defense testimony in mold litigation, and of which two of the authors of the JOEM article are principals, was paid \$40,000 by the Manhattan Institute to convert the ACOEM Statement on Mold into a “lay translation” to be shared through the United States Chamber of Commerce with stakeholder industries—real estate, mortgage, construction, and insurance. The authors unfairly presented the essence of the mold controversy as, ‘Thus the notion that ‘toxic mold’ is an insidious secret ‘killer’ as so many media reports and trial lawyers would claim is ‘junk science’ unsupported by actual scientific study.’”

So who benefits from seeing me gagged from writing of this case and for words which I was never even sued, in this new malicious litigation? Answers:

Those California judiciaries who have established new stealth case law in the State of California that if one is an author of policy for the US Chamber and it aids the insurance industry under the whims of governors to shift cost onto the public, they and their attorneys are permitted to maliciously and strategically litigate by criminal means to silence, vex, harass, demean discredit and financially cripple anyone who speaks out of fraud in the governor’s policy that is harming the public.

Those judiciaries who have established new stealth case law that if a California citizen dares to speak and write of the fraud in policy that has been aided to continue by the courts; the courts will deem them a liar and malicious aid to force them into silence without a shred of evidence required impeaching them of the subjective belief in the validity of their words; or even any evidence required to establish that their words are incorrect.

Those judiciaries who have sold the First Amendment of the Constitution to the US Chamber of Commerce; and the California legal system policing agencies who have turned a blind eye in incestuous Deliberate Indifference.

“Well behaved women rarely make history”. Justice McConnell and Justice Benke, what your misbehavior is pioneering as your future legacy in history is fear of retribution from Good Ole Girls in black robes for any California citizen who dares to speak out for the public good against the interests of the affiliates of the US Chamber of Commerce. You are pioneering fear of retribution for any California judiciary who dares to try to follow the law for the public good and for the sake of Democracy, if it is adverse to your interests and the interests of the US Chamber of Commerce.

You both took an under oath pledge to uphold the Constitution on behalf of the citizens of California and the United States. As taken from the website of the San Diego Lawyer's Club which you, Justice McConnell, helped to form forty years ago to stop bias in the courts:

“Section 3 of article XX of the California Constitution requires that judges, among others, take and subscribe an oath that, in pertinent part, reads as follows: “I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

You have now both become threats to the cherished Democracy you were elected and appointed to uphold and protect. Once you have given your robes to whims of politicians and the political fervor of the moment, they will never let you wear them again without always monitoring and influencing your actions as judiciaries in reviewing courts and on reviewing committees. Your robes will show as being soiled in your future rulings and reviews of the works of other judiciaries until the day you step down from the bench.

What you have both proven along with four other justices of the Fourth District Division One Appellate Court, is that you are not concerned of protecting the public's health and safety; or protecting women or children from bias; or upholding the Constitutions of California and the United States; or protecting speech for the public good. You are only concerned of keeping your seats at the table of the Good Ole Boys Club that has now also become the Good Old Girls Club. You have become the epitome of what you set out to change many, many, long years ago.

By law, Justice McConnell, it is more than appropriate that you comment. Our courts (including the California Supreme Court that refused to hear this case, *twice*, as signed by Chief Justice Ron George) and the state agencies that are to police our courts are not playgrounds for those who would put the whims of politicians over the best interest of the public, over the Constitution of California and the over the Constitution of the United States. It is wrong of you and it is *illegal*, Justices McConnell and Benke, to put others in positions of having to choose between loyalties to you in your good ole positions of power and influence; or of upholding the Constitutions of California and of the United States.

You need to fall on your political swords as you step down from the bench, Sisters. Because of you, some good people are unnecessarily dying while other good people and Democracy are being dragged along by you down a murky, twisted path of no return.

The Honorable Thomas Nugent who as been assigned this newest malicious litigation is soon to retire. He has a long and distinguished career and is well known as being an honest, ethical judge. The tangled web you have woven places him in the precarious position in this newest malicious litigation of either following Constitutional law and protecting my First Amendment rights; or covering up for the two of you by ordering I should be gagged from writing the truth of the fraud in policy and the truth of your fraudulent Opinions in lawsuit of Kelman v. Kramer.

I did not even bother filing an anti-SLAPP motion in this newest litigation. I could not, as any anti-SLAPP appeal would go right to you, Justice McConnell, as the Fourth, One, Administrative Appellate Presiding Justice. You, the one who would benefit most by seeing me be gagged by this newest Strategic Litigation Against Public Participation.

I cannot even get an attorney to represent me in this newest malicious litigation. They are afraid of you and retaliation by the Good Ole Boys and Girls Club when the interests of the US Chamber of Commerce are involved. They know that once you have shared your Black Robes with the White Collars and White Coats, you never fully own them again. It could ruin their careers and their families' lives to become involved in this case. Democracy and freedom of speech for the public good in California have been strangled to death by your unclean hands.

California Rules of the Court ,10.1004(b) states, "The administrative presiding justice is responsible for leading the court, establishing policies, promoting access to justice for all members of the public, providing a forum for the fair and expeditious resolution of disputes, and maximizing the use of judicial and other resources."

Canon 3D(1). Disciplinary Responsibilities states, "Whenever a judge has reliable information that another judge has violated any provision of the Code of Judicial Ethics, the judge shall take or initiate appropriate corrective action, which may include reporting the violation to the appropriate authority".

Canon 3D(2) states, " Whenever a judge has personal knowledge that a lawyer has violated any provision of the Rules of Professional Conduct the judge shall take appropriate corrective action."

The court records and the certified letters I have sent to you and others, speak for themselves of how many times you, in the capacity of Chair of the California Commission on Judicial Performance and elected Administrative Presiding Justice of the San Diego courts, have been provided irrefutable evidence of the crimes of perjury and suborning of perjury by Kelman and his lawyer, Scheuer, going ignored in your courts. The court rulings and Opinions also speak for themselves by their willful omission of the undisputed and irrefutable evidence found in the court records of crime in a strategic litigation over a matter of public health. Your Opinions are fraudulently beneficial to the interests of the affiliates of US Chamber of Commerce.

This crime and the California courts' *illegal rulings* have cost my family everything we own for me not to be silenced of a deceit in science and policy that aids with a multi-billion dollar intrastate and interstate insurer cost shifting scheme, while leaving the sick nowhere to turn for help. I have no intention of being forced into silence by your illegal rulings and Opinions going ignored in the California "legal" system.

Justice McConnell and Justice Benke (along with the other Justices of the Fourth, Div. One), you now have personally vested interests in seeing me be *illegally gagged* by the courts from ever being able to write of this case and the following truthful words that are at the heart of how it became a fraud in policy that mold does not harm; and involving a California medical policy writing body and a paid for hire endeavor on behalf of the affiliates of the US Chamber of Commerce:

“He 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.... 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.”

If I showed you that other pioneering women in the legal profession are dying, would you and the State of California then be interested in following the laws that govern proof of libel and what courts and legal system governing bodies are required by law to do when a litigant is irrefutably evidenced to be litigating by criminal means adverse to the public’s best interest? Because judges *are* dying and you and your courts’ willful disregard for the laws that govern proof of libel with actual malice used to discredit a truthful whistle blower are aiding and abetting it to continue. From the Miami Herald, January 11, 2011:

“Concerning that a 52-year-old Florida jurist’s death from lung cancer last month may have been linked to courthouse mold, three of Judge Cheryl Aleman’s colleagues on the ninth floor have moved their chambers out of the Broward County Courthouse and are seeking environmental testing. ‘There were issues with a serious illness with one or more judges in the area,’ Judge Patti Englander Henning tells the Miami Herald. ‘Prudence suggested that we request to be moved until they can test and determine what the problem is and how it can be remedied. And obviously, it was a valid enough claim that they were good enough to move us.’”

Odds are that this deceased judge just needed some anti-fungals to kill the mold growing in her lungs and she would still be here today. But by aiding with a malicious litigation carried out by criminal means by authors of the ACOEM and US Chamber policies on mold; you have aided in keeping the physicians misinformed of this fact. You have aided to promote the continuance of fraud in medical teaching universities that aids insurers to deny proof of causation of illness and death, that **“Except for persons with severely impaired immune systems, indoor mold is not a source of fungal infections”** ACOEM Mold Statement 2002, authors, Bruce Kelman and Bryan Hardin of VeriTox, Inc along with Andrew Saxon, UCLA.

I am a citizen of the State of California who went above and beyond for my fellow man and who has been maliciously and falsely deemed a *“malicious liar”* by the courts with not a shred of evidence to support this finding, adverse to the public’s best interest and to the benefit to the financial interests of the affiliates of the US Chamber of Commerce, primarily the insurance industry.

I am a victim of crime in the California courts that judiciaries have aided for six years by repeatedly pretending they were not undisputedly evidenced of the crimes of perjury and suborning of perjury to try to silence me of a fraud in health policy.

The Commission on Judicial Performance has not stopped it. The State Bar has not stopped. The California Supreme Court has not stopped it. The San Diego County District Attorney, Bonnie Dumanis, has not stopped it.

As such, I am now being victimized again by a new malicious prosecution that would gag me of writing of the courts' involvement in aiding insurer fraud by aiding with a malicious litigation carried out by criminal means; of which not only the courts would now benefit from seeing me gagged; but all the California government legal system policing agencies who have turned a blind eye to crime in the courts by author of policy for the US Chamber of Commerce and ACOEM, in incestuous Deliberate Indifference.

Canon 2 A. Promoting Public Confidence

A judge shall respect and comply with the law* and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 2 B. Use of the Prestige of Judicial Office

(1) A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment, nor shall a judge convey or permit others to convey the impression that any individual is in a special position to influence the judge.

Canon 3 B. Adjudicative Responsibilities

(2) A judge shall be faithful to the law* regardless of partisan interests, public clamor, or fear of criticism, and shall maintain professional competence in the law.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (1) bias or prejudice, including but not limited to bias or prejudice based upon...disability.... [Sic, bias against a class of people - those disabled by molds who are costly for insurers and affiliates of the US Chamber of Commerce; along with bias to the point of aiding criminal activity in legal proceedings against their advocates].

(8) A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A judge shall manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law.

Canon 3 C. Administrative Responsibilities

(1) A judge shall diligently discharge the judge's administrative responsibilities impartially, on the basis of merit, without bias or prejudice, free of conflict of interest, and in a manner that promotes public confidence in the integrity of the judiciary.

Canon 3 D. Disciplinary Responsibilities

(1) Whenever a judge has reliable information that another judge has violated any provision of the Code of Judicial Ethics, the judge shall take or initiate appropriate corrective action, which may include reporting the violation to the appropriate authority.

(2) Whenever a judge has personal knowledge that a lawyer has violated any provision of the Rules of Professional Conduct, [sic, a defendant's uncontroverted evidence of willful and repeated suborning of perjury by the plaintiff's attorney to create false extenuating circumstances, false theme of personal malice to inflame the courts for *six years* in the San Diego Court system] the judge shall take appropriate corrective action.

Again, from your 2006 unpublished anti-SLAPP opinion, Justice McConnell, falsely deeming my truthful whistle blowing as evidence of personal malice for Kelman; and as evidenced for you in 2010, Justice Benke, but not mentioned in your Opinion:

“Further, in determining whether there was a prima facie showing of malice, the trial court also relied on the general tone of Kramer’s declarations. These declarations reflect a person, who motivated by personally having suffered by mold problems, is crusading against toxic mold and against those individuals and organizations who, in her opinion, unjustifiably minimized the dangers of indoor mold. Although this case involves only the issue of whether the statement “*Kelman altered his under oath statements on the witness stand*” was false and made with malice, Kramer’s declarations are full of language deriding the positions of Kelman, GlobalTox, ACOEM and the Manhattan Institute. [Sic, the Appellate Court neglected to mention the US Chamber of Commerce and US Congressman Gary Miller (R-Ca)]

For example, Kramer states that people ‘were physically damaged by the ACOEM Statement itself’ and that the ACOEM Statement is a document of scant scientific foundation; authored by expert defense witnesses; legitimized by the inner circle of an influential medical association, whose members often times evaluate mold victims o[n] behalf of insurers and employers; and promoted by stakeholder industries for the purpose of financial gain at the expense of the lives of others.’ (Appellant Appendix Vol.1 Ex.12:256, 257) [from the McConnell unpublished anti-SLAPP Opinion, 2006]

Both the Honorable Judge Michael P. (“Orfield”) (retired) and the Appellate Court violated Kramer’s constitutional rights of freedom of speech right out of the gate by deeming her a liar for her truthful words written in her defense within her declarations that are to be protected in a legal proceeding under review by a judicial body. C.C.P 425.16(e) (2) states, ‘As used in this section, ‘act in furtherance of a person's right of petition or free speech under the United States or California Constitution in connection with a public issue’ includes: (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law’. Are litigants who are trying to blow a whistle not permitted to state their defense without fear of retribution?” (My Reply To Court’s Query, Justice Benke,, January 2010, page 3)

In summary, Tom Donahue’s mother could not have written more biased, flawed, illegal and insurance industry beneficial Opinions. Please let me know how the new California Attorney General, the new Governor, the new Chief Justice of the California Supreme Court, the new President of the State Bar, the new State Bar Chief of Trial Intake Unit, the new US Attorney General, the CJP and the Regents of the University of California, will be addressing this. It has cost my family all we own to defend the truth of my words for the public good in the face of unbridled criminality in malicious litigations that are politically motivated and have been aided by the California courts.

I especially look forward to your replies to this letter, Honorable Justice McConnell and Justice Benke; and yours, District Attorney Dumanis, who refused to take action against sisters in the San Diego Lawyers’ Club. Your courts have stolen six years from me as I have been forced to watch in horror as innocent people lose everything, sometimes even their lives. You have willfully ruined my good name in the process by avoiding rules of law you are *all* in place uphold on behalf of the public you have been elected and appointed to serve. You have stolen my First Amendment rights and given them to the US Chamber of Commerce.

Now, if none of you, who have been sent this letter, move to stop this new malicious litigation; then *you are all aiding* with the California courts being *illegally used again* to try to gag me from ever writing of this shameful history made by misbehaving women in the California legal system; while aiding the Regents of the UC and the insurance industry to profit off of the misery and death of others at the expense of California and US taxpaying citizens. Now that you know what I know, for you to remain silent could only be deemed more Deliberate Indifference.

Your silence on the matter is not silent when you are where you are to implement actions that protect the public from corrupt judges, corrupt lawyers and corrupt professional witnesses with connections to write frauds policy that support their expert witnessing enterprises, favorable to the interests of insurance industry and the US Chamber of Commerce. Your jobs are to protect me from corruption and to protect Democracy in California and the United States.

If there is any evidence in existence that refutes my above well evidenced statements, now would be a good time to bring it to my attention. I will not be silenced. It is not going to happen. On behalf of myself, my family, and the citizens, workers and taxpayers of California and the United States and their families; I look forward to your prompt replies with your intents of how you will be rectifying this gravely serious matter.

Sincerely,

Mrs. Sharon Noonan Kramer
Thirty-three year resident, San Diego
County
Citizen of the State of California,
Citizen of the United States of America

Attached:

January 21, 2010 letter from Justice McConnell

January 19, 2010 letter to Justice McConnell

Brief Overview of what the Fourth District, Division One Appellate Court *Knows They Have Illegally Done* to Aid Strategic & Criminal Libel Litigation; while Aiding to Adversely Impact Public Health and Threaten Democracy on Behalf of the Affiliates of the US Chamber of Commerce

Past Governor Arnold Schwarzenegger's Hair-Brained Scheme of Workers Comp "Reform" Bringing in the Medical Front Men of the Insurance Industry to Write California Policy.



Court of Appeal

FOURTH DISTRICT, DIVISION ONE
750 B STREET, SUITE 300
SAN DIEGO, CALIFORNIA 92101-8196

CHAMBERS OF
JUDITH McCONNELL
PRESIDING JUSTICE

January 21, 2011

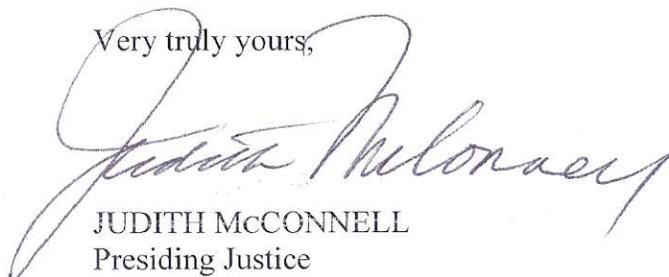
Sharon Kramer
2031 Arborwood Place
Escondido, CA 92029

Dear Ms. Kramer:

I have received your letter dated January 19, 2011. The rules you refer to apply to the trial courts and not to the Courts of Appeal. We do not have subordinate judicial officers.

Because your complaint deals with dissatisfaction with legal rulings, I do not think it appropriate to comment further.

Very truly yours,



JUDITH McCONNELL
Presiding Justice

JM/jp

January 19, 2011

Court of Appeal Fourth District
RECEIVED

JAN 19 2011

Stephen M. Kelly, Clerk
DEPUTY

Sharon Kramer
2031 Arborwood Place
Escondido, CA 92029
760-746-8026

Justice Judith McConnell
Administrative Presiding Justice
Fourth District Division One Appellate Court

Honorable Justice McConnell,

I am attaching a Motion to Recall and Rescind The Remittitur. I am filing a complaint under Local Rule of the Court, Policy Against Bias, 1.2.1. This policy states, "It is the policy of the court to provide an environment free of all types of bias, prejudice, any kind of discrimination, or unfair practice. All judges, commissioners, referees, court officers, and court attachés must perform their duties in a manner calculated to prevent any such conduct, either by court personnel or by those appearing in court in any capacity....Any violation of this policy by any judge, commissioner, referee, court officer, or court attaché should be reported directly to the presiding judge or executive officer, or assistant executive officer of the division in which the alleged violation occurred."

. I would like for you to review how it is even remotely possible that your court can repeatedly ignore evidence of criminal perjury in a strategic litigation by authors of fraudulent health policy for the American College of Occupational and Environmental Medicine (ACOEM) and the US Chamber of Commerce.

I would like for you to review how it is even remotely possible your court could deem one who has helped to change US public health policy for the good of the public to be a "malicious liar" without a shred of evidence ever presented that she was ever impeached as to the subjective belief in the validity of her words.

I would like for you to review how it is even remotely possible that a retired high level CDC NIOSH employee could be an undisclosed party to a litigation for six years; and still end up awarded costs by a party that prevailed over him and four other owners of the corporation VeriTox, Inc., in trial.

I would like an explanation of why your did not acknowledge a prior complaint on the same matter, filed on September 17, 2010; or take any action.

Under California Rules of the Court 10.603(f)(3). "The presiding judge must give written notice of receipt of the complaint to the complainant."

California Rules of the Court 10.603(g)(4) states, "The court must maintain a file on every complaint received, containing the following:(A) The complaint;(B) The response

of the subordinate judicial officer, if any;(C) All evidence and reports produced by the investigation of the complaint, if any; and(D) The final action taken on the complaint."

California Rules of the Court 10.603(i)(5) states, "If the presiding judge terminates the investigation and closes action on the complaint, the presiding judge must:(A) Notify the complainant in writing of the decision to close the investigation on the complaint. The notice must include the information required under (I)" which states: "When the court has completed its action on a complaint, the presiding judge must promptly notify the complainant and the subordinate judicial officer of the final court action.(2) The notice to the complainant of the final court action must:(A) Provide a general description of the action taken by the court consistent with any law limiting the disclosure of confidential employee information; and (B) Include the following statement: If you are dissatisfied with the court's action on your complaint, you have the right to request the Commission on Judicial Performance to review this matter under its discretionary jurisdiction to oversee the discipline of subordinate judicial officers. No further action will be taken on your complaint unless the commission receives your written request within 30 days after the date this notice was mailed. The commission's address is: Commission on Judicial Performance 455 Golden Gate Avenue, Suite 14400 San Francisco, California 94102"

Sincerely,



Mrs. Sharon Noonan Kramer

Attachment (1)

CC: California Commission On Judicial Performance

*health toxicologist for sixteen years for the State of Washington Department of Health...As a senior toxicologist for two agencies of the State of Washington, I have been required to act to protect the health of Washington citizens through analyses of environmental exposures and real and potential health effects associated with such exposures.....I was a member of **National Academy of Sciences, Institute of Medicine, Damp Indoor Spaces and Health**, which produced the report “Damp Indoor Spaces and Health” [(“IOM Report”)]. **I authored the chapter on Toxic Effects of Fungi and Bacteria** and contributed to the chapter Damp Buildings, and the chapter on Human Health Effects Associated with Damp Indoor Environments. I am a section editor for Section 1, Underlying Principles and Background for Evaluation and Control in the 2008 American Industrial Hygiene Association [(“AIHA”)] Book, Recognition, Evaluation and Control of Indoor Mold, and a contributing author to chapter 1. Indoor Mold Basis For Health Concerns...*

I traveled to Vista, California on August 19, 2008.. specifically in order to testify...on issues related to health effects.... I was prepared to testify regarding issues of mold and health that had been raised in testimony by Dr. Kelman in this case as it related to his prior testimony in October of 2003, in the case of Mercury Insurance vs. Kramer, which was, in part, used to establish grounds for the finding of personal malice in the trial of Kelman and Veritox v. Kramer. I was not called to testify since issues of science were not permitted to be discussed in the trial...”(Appellant Appendix Vol.IV Ex.27:880)

IX.

THE SIX KEY FACTS OF THIS STRATEGIC LITIGATION

Much like a Santa Ana wind blowing into the San Diego Appellate court. When the static, immovable airs and visibility blocking smut are purged from this strategic litigation; six facts remain in evidence, clear as day, for this Reviewing Court’s opened eyes.

After five years of litigation:

A. Kelman cannot even state how Kramer’s phrase “altered his under oath statements” translates into a false accusation of perjury – the sole claim of the case.

B. Kelman cannot direct any court’s eyes to one piece of evidence of Kramer ever being impeached as to her belief of her validity and logic of her use of her March 2005 phrase “altered his under oath statements” when describing Kelman’s testimony given in a legal proceeding in Oregon, February, 2005.

C. Kelman cannot direct this court’s eyes to a single piece of evidence of Kramer even uttering a harsh word of him, personally, before she wrote in March of 2005. To speak out of the “positions” of many entities involved in mass marketing a scientific fraud to US courts (scientifically proven the toxins of mold are not toxic) is not evidence of personal malice for one of the many entities and individuals involved. It is a First Amendment right guaranteed to all US citizens to freely speak truthful words that are for the public good.

D. This Court has been provided with uncontroverted and irrefutable evidence that since September of 2005, Kramer has provided all judges and justices to oversee this litigation with uncontroverted and irrefutable evidence that Kelman has committed criminal perjury in this libel action to establish a fictional theme of Kramer having malice for him, personally. She has provided all courts with uncontroverted and irrefutable evidence that Scheuer has willfully suborned Kelman’s perjury. “Uncontradicted and unimpeached evidence is generally accepted as true.” Garza v. Workmen’s Comp. App. Bd. (1970) 3 Cal.3rd 312 317-318

E. Kelman cannot state a reason for this Reviewing Court that Kramer would harbor malice for him, personally. Now that the

“Foaming At The Mouth, Vindictive Ninny of a Litigant Out To Get an Esteemed Scientific Expert Witness From Her Personal Mold Litigation of Long Ago” theme for Kramer’s malice is gone with the Santa Ana winds by the exposing of the criminal perjury and suborning of criminal perjury (Perjury by Kelman: *“I testified that the types and amounts of mold in the Kramer house could not have caused the life threatening illnesses she claimed”* & Suborning Perjury by Scheuer: *“Apparently furious that the science conflicted with her dreams of a remodeled home, Kramer launched into an obsessive campaign to destroy the reputations of Dr. Kelman and GlobalTox”*); the replacement absurd and character assassinating theme for Kramer’s purported malice is “An Unquenchable Desire To Be Known as ‘Queen of the Chatboards’”. *“A state of mind, like malice, “can seldom be proved by direct evidence. It must be inferred from objective or external circumstantial evidence.”* (Drum v. Bleau, Fox & Associates (2003) 107 Cal.App.4 1009, 1021.

However, this would indicate that the late Honorable Senator Edward Kennedy was only motivated to request a Federal Government Accountability Office audit into the health effects of mold at Kramer’s urging because he too, held the same unquenchable desire. And it would indicate that the reporters and editors of the Wall Street Journal published at Kramer’s urging and with Kramer’s research input, *“Amid Suits Over Mold, Experts Wear Two Hats Authors of Science Paper Often Cited by Defense Also Help in Litigation”* with Kelman and Hardin being the subject author/experts with ACOEM’s and the US Chamber of Commerce’s oxes getting rightfully gored; because the respected newspaper professionals also were motivated to be known as “Queens of the Chatboards.”

E. Kelman and undisclosed party to this litigation, VeriTox owner Hardin, are the authors of the US mold policy paper *“Adverse Human Health Effects Of Molds In An Indoor Environment”*, ACOEM (2002). They are also the authors of the legal mold policy paper, *“A Scientific View Of The Health Effects Of Mold”* US Chamber of Commerce

Institute For Legal Reform & Manhattan Institute Center For Legal Policy (2003).

This means an author of influential US medical and legal mold policy papers has been proven by uncontroverted and irrefutable evidence to have been committing criminal perjury before the San Diego courts, in a libel action against the first person to publicly write of how these two “questionable” policy papers were closely connected and how they are used in litigation; while the other author did not disclose he was a party to the strategic litigation.

The anti-SLAPP Appellate Panel ignored the evidence of both of these facts when ruling over a strategic litigation impacting US public health policy as they deemed Kramer had falsely accused Kelman of perjury about taking money to make edits in a medical association paper without apparently reading Kramer’s writing to see it is 100% correct about who paid whom for what.

In other words, the anti-SLAPP Appellate Panel ignored the evidence one party was committing a fraud on the courts, while ingoring other evidence that the other party was telling the truth about the other party lying. *“If the remittitur issues by inadvertence or mistake, or as a result of fraud or imposition practiced on the appellate court, the court has inherent power to recall it and thereby reassert its jurisdiction over the case. This remedy, though described in procedural terms, is actually an exercise of an extraordinary substantive power. ...its significant function is to permit the court to set aside an erroneous judgment on appeal obtained by improper means. In practical effect, therefore, the motion or petition to recall the remittitur may operate as a belated petition for rehearing on special grounds, without any time limitations.”* (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 733, pp. 762-763.)

This Court has the ability to fashion orders with origin in Article VI, section 1 of the California Constitution which gives this Court broad inherent power *“not confined by or dependent on statute.”* Slesinger,

American College of Occupational and Environmental Medicine (ACOEM):

A Professional Association in Service to Industry

**JOSEPH LADOU, MD, DANIEL T. TEITELBAUM, MD, DAVID S. EGILMAN, MD, MPH,
ARTHUR L. FRANK, MD, PHD, SHARON N. KRAMER, JAMES HUFF, PHD**

The American College of Occupational and Environmental Medicine (ACOEM) is a professional association that represents the interests of its company-employed physician members. Fifty years ago the ACOEM began to assert itself in the legislative arena as an advocate of limited regulation and enforcement of occupational health and safety standards and laws, and environmental protection. Today the ACOEM provides a legitimizing professional association for company doctors, and continues to provide a vehicle to advance the agendas of their corporate sponsors. Company doctors in ACOEM recently blocked attempts to have the organization take a stand on global warming. Company doctors employed by the petrochemical industry even blocked the ACOEM from taking a position on particulate air pollution. Industry money and influence pervade every aspect of occupational and environmental medicine. The controlling influence of industry over the ACOEM physicians should cease. The conflict of interests inherent in the practice of occupational and environmental medicine is not resolved by the ineffectual efforts of the ACOEM to establish a pretentious code of conduct. The conflicted interests within the ACOEM have become too deeply embedded to be resolved by merely a self-governing code of conduct. The specialty practice of occupational and environmental medicine has the opportunity and obligation to join the public health movement. If it does, the ACOEM will have no further purpose as it exists, and specialists in occupational and environmental medicine will meet with and be represented by public health associations. This paper chronicles the history of occupational medicine and industry physicians as influenced and even controlled by corporate leaders. *Key words:* American College of Occupational and Environmental Medicine; industry influence; public health; policy; conflicts of interest.

INT J OCCUP ENVIRON HEALTH 2007; 13:404-426

Address correspondence and reprint requests to: Joseph LaDou, MD, Division of Occupational and Environmental Medicine, University of California School of Medicine, San Francisco, CA 94143-0924, U.S.A.

With the passage of the Occupational Safety and Health Act in 1970 we came under public scrutiny as never before, as to how we practice occupational medicine. “Whose agent is the occupational physician—the employer’s or the employee’s?” The workers are the company—what’s best for them is best for the enterprise.—IRVING R. TABERSHAW, MD, delivered the C. O. Sappington Memorial Lecture entitled “The Health of the Enterprise” to the annual meeting in 1977.¹

The American Association of Industrial Physicians and Surgeons was organized in 1915 as a professional association of physicians concerned with health hazards in the workplace.² As a result of the positive image industrial medicine projected during the First World War, the new specialty was guardedly embraced by organized medicine.³ Again during the Second World War, because of their contribution to wartime industry, physicians working in the war effort enjoyed a high level of esteem.⁴ Moreover, industrial medicine was viewed as an attractive opportunity by military physicians returning to civilian life.⁵ The transition of so many physicians to company employment was met with surprising endorsements. The AMA Council on Medical Education ventured that, “given proper compensation, professional experience should be as stimulating and attractive in industrial medicine as in other medical specialties.”⁶

By 1959, renamed the Industrial Medical Association (IMA), the association had a membership of 4,000 physicians, almost as large as the American College of Occupational and Environmental Medicine (ACOEM) of today. Then, as now, the majority of IMA members practiced occupational medicine on less than a full-time basis. Only a small percentage of the members had any formal training or board certification in occupational medicine. On the other hand, most officers and Directors of the IMA and its successors were an elite group of full-time medical directors of major industrial corporations.^{7,8}

and AOEC often work jointly, and advance policy recommendations that go into government proposals and health directives.^{112,115,177}

Because of concern about conflicts of interests, AOEC sought to develop a position on ethical conduct. It is a disappointment that AOEC turned to the International Commission on Occupational Health (ICOH) for a code of ethics to emulate. The AOEC board of directors in 1996 recommended that the organization adopt the ICOH International Code of Ethics, one noted for its entirely voluntary and unenforceable provisions.^{115,118} Goodman had warned that, “A bad or shallow code is worse than none at all.”¹¹⁴ Goodman’s warning went unheeded. Many of the same people who met on behalf of AOEC later met again, this time representing ACOEM, and followed the ICOH precedent since it had served their purposes before.¹¹² The ICOH is widely recognized for its support of industry.^{153,178} ICOH committees have advanced the interests of asbestos mining and manufacture, chemicals, and pesticides.^{179–182} The ICOH membership and activities are similar to those of ACOEM, only conducted on a global scale. ACOEM and ICOH conduct joint meetings and share common philosophies and practices.¹⁸³

STATEMENT ON MOLD

The ACOEM Statement on Mold was introduced in 2002 as an evidence-based statement and published in JOEM.¹⁸⁴ The policy statement by ACOEM is that mold exposure in an indoor environment could not plausibly reach a level of exposure to cause toxic health effects. Reported to be a review of scientific literature on the subject of illnesses caused by molds and the toxins they may produce, ACOEM concluded that,

Levels of exposure in the indoor environment, dose–response data in animals, and dose-rate considerations suggest that delivery by the inhalation route of a toxic dose of mycotoxins in the indoor environment is highly unlikely at best, even for the hypothetically most vulnerable subpopulations.

However, none of the references cited in the JOEM paper and in the ACOEM Statement on Mold arrive at this conclusion.^{185,186} To form this conclusion, the authors made their own calculations from a single rodent study conducted by other investigators.

The matter of ACOEM conflicts of interest was detailed in a front page *Wall Street Journal* article, January 9, 2007, “Court of Opinion Amid Suits Over Mold, Experts Wear Two Hats: Authors of Science Paper Often Cited by Defense Also Help in Litigation.”¹⁸⁷ The result of a six-month investigation, the *Wall Street Journal* article outlined how three authors who frequently testified in mold lawsuits as experts for the defense were specifically selected by ACOEM to write the ACOEM position statement on mold. One of the three,

Bryan Hardin, had recently retired from NIOSH. The *Wall Street Journal* quoted a senior toxicologist for the Washington State Department of Health, “They [the ACOEM authors] took hypothetical exposure and hypothetical toxicity and jumped to the conclusion there is nothing there.” ACOEM predictably defended its message and the authors, stating that it was not alone in its interpretation of the evidence.¹⁸⁸

The issue that ACOEM refused to address was that the ACOEM Statement on Mold was written with no apparent effort to determine the conflicts of interest among the authors. One of the authors had published a review article on mold in 2000 stating that there were no health effects.¹⁸⁹ The authors had extensive experience as consultants to many industries and as defense witnesses in court cases. Authorship of the ACOEM Statement on Mold advanced the interests of industry and advanced the reputations with industry of the authors, who went on to aid the industry in defending against claims.

Jonathan Borak, in charge of the peer review of the ACOEM Statement on Mold, reported to the ACOEM officers and executive director in 2002,

I am having quite a challenge in finding an acceptable path for the proposed position paper on mold. Even though a great deal of work has gone into it, it seems difficult to satisfy a sufficient spectrum of the College, or at least those concerned enough to voice their views. I have received several sets of comments that find the current version, much revised, to still be a defense argument. On the other hand, Bryan Hardin and his colleagues are not willing to further dilute the paper. They have done a lot, and I am concerned that we will soon have to either endorse it or let it go. I do not want to go to the Board of Directors and then be rejected. That would be an important violation of Bryan. I have assured him that if we do not use it he can freely make whatever other uses he might want to make. If we “officially” reject it, then we turn his efforts into garbage.¹⁹⁰

In the spring of 2003, Veritox, a risk-management company that provides defense testimony in mold litigation, and of which two of the authors of the JOEM article are principals, was paid \$40,000 by the Manhattan Institute to convert the ACOEM Statement on Mold into a “lay translation” to be shared through the United States Chamber of Commerce with stakeholder industries—real estate, mortgage, construction, and insurance. The authors unfairly presented the essence of the mold controversy as, “Thus the notion that ‘toxic mold’ is an insidious secret ‘killer’ as so many media reports and trial lawyers would claim is ‘junk science’ unsupported by actual scientific study.” The Chamber of Commerce presents the benign Veritox interpretation of mold as,

Hardin and his team of scientists provide a detailed primer on mold in A Scientific View of the Health

Effects of Mold. Fungi, they point out, play an “essential role in the cycle of life as the principal decomposers of organic matter, converting dead organic material into simpler chemical forms that can in turn be used by plants for their growth and nutritional needs. Without fungi performing this essential function, plant and animal debris would simply accumulate.” Mold is everywhere.¹⁹¹

The authors and many other ACOEM members have cited the JOEM paper and the ACOEM Statement on Mold before the courts in an effort to deny illness claims when testifying as experts on behalf of those with financial stakes in the building and finance industries.¹⁹² Although the defense testimony has been deemed to be an unscientific nonsequitur by the Institute of Medicine¹⁸⁶ and by the courts,¹⁹³ ACOEM continues to deny that there is any basis in fact to dispute its position statement.¹⁸⁸

To make matters worse, ACOEM and AOEC together mocked the mold victims who gave interviews to the *Wall Street Journal* in an Internet message that they falsely attributed to the *FDA News* as an April Fool’s joke. Government symbols appeared on the ACOEM-AOEC message, and the contact information was a legitimate FDA phone number.¹⁹⁴ Principals in both organizations later sent a note of apology to the mold victims, saying that they were the sole authors, but the note of apology was not sent to the international distribution of the phony *FDA News* that was received by thousands of occupational and environmental physicians around the world, who would not be expected to notice the potential significance of an April 1 date on official FDA letterhead.¹⁹⁵

As a result of the organizational biases, the close affiliations with industry, funding and contracts from government agencies, and the perverse influence over the practice of medicine and the appearances in court of company-sponsored experts, the ACOEM Statement on Mold has exerted far too much influence.^{196–198} The ACOEM Statement on Mold brings into serious question the objectivity of those formulating position papers; and of equal concern, the ethics of those who profit from the position taken by ACOEM and AOEC.¹⁹⁹

REFORM

The workers’ compensation model of occupational and environmental medicine should be converted to a public health model. Occupational and environmental medicine, as a part of the public health infrastructure, could play a much more substantive part in bringing about a national program to deal with occupational and environmental health. Abolishing workers’ compensation would remove the perverse incentives that currently undermine the practice of occupational medicine.⁸⁹ If occupational physicians were not protected

from litigation by workers’ compensation law, there would be much less attention paid to the interests of employers, and a lot more concern for the wellbeing of workers. It is also likely that there would be far fewer health and safety professionals working for companies. The vacuum could be filled by health and safety professionals with public health training working in settings that are much less likely to respond to the influence of corporations and insurers. Medical care for workers should be provided without question or clearance criteria by health care professionals who are not subject to influence by employers or insurers. ACOEM has supported, “changes in regulatory and procedural areas that have made recovery from injuries unnecessarily complicated in the workers’ compensation system,” but has not supported fundamental change to the system itself.²⁰⁰

In the area of professional competence, ACOEM publishes lofty recommendations for competencies, but is woefully short on ideas of how to provide them to its members.²⁰¹ The primary purpose of the sketchy training offered by ACOEM is to increase membership in a failing organization. The short courses and introductory sessions conducted by ACOEM at its annual gatherings are wholly insufficient, and merely provide the pretence of training and background that assures the membership of new physicians to replace the losses of recent years.

BACK TO THE FUTURE

In 1977, Irving R. Tabershaw gave an address entitled “The Health of the Enterprise” to the ACOEM annual meeting. He noted that occupational medicine had come under public scrutiny with the passage of the OSHA Act. The public, according to Tabershaw, wondered whether the occupational physician was the agent of the employer or the employee. His answer became a historic defense of industry-supported medicine, and initiated the stunning growth in industry consultants in the years that followed that continues to the present.

It is evident that the basic ethical and moral responsibility of all physicians, including occupational physicians, is to safeguard the health of the individual—the worker. There is, however, another consideration—“the health of the enterprise”—in which the employee earns his livelihood and which retains and pays for the services of the occupational physician.¹

Although mindful of the difficulty in doing so, Tabershaw defended the practice of occupational medicine, and if anything, called for a major expansion of its breadth and scope. He referred to, “our responsibility for the total health of the enterprise, be it a corporation, a conglomerate, a multinational, a nonprofit institute, an educational institution, or a privately owned company.” This clever sleight of hand drew

Indoor Environment Connections

December, 2006

The Latest News...

Industry Views: The Best and Worst of IAQ in 2006

At the end of every year since 2000, IE Connections has rounded up the most important stories affecting the IAQ situation. As part of this coverage, members of the newspaper's Editorial Advisory Board reveal what they believe were the best and worst developments taking place in the year.

[There were eight IAQ Professionals quoted, the following is Carl Grimes]

Carl Grimes, President, Healthy Habitats, Denver, Colo.

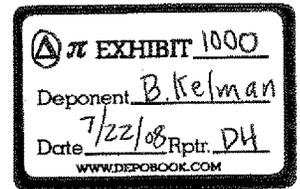
BEST – Sometimes, we can't see the forest for the trees and overlook the obvious. On the other hand, my selection for the Best of 2006 could be seen as an obvious conflict of interest. With that said, my candidate for the best of 2006 is this paper, Indoor Environment Connections. Think back over the past year with the comprehensive coverage of a multitude of areas about the indoor environment. Then consider the breaking news and the investigative stories. Where else would you get this reporting? And I don't believe they missed anything.

WORST – My list for the worst is a tie between two candidates. First is the continuing lack of response from public health on any indoor environmental issues except those that kill, as if those that sicken aren't of consequence. One example is the ongoing controversy about the health effects of mold exposure. Because public health takes the stance that any mold can be a problem for any individual who is sensitized to it, don't you think they should provide guidance or a definition to identify such an individual? Without that, their statement is little more than an excuse to continue ignoring those victims.

Which leads directly to the second on my Worst list. No, it's not the ACOEM and their position statement as reported in the Sharon Kramer interview last month. Rather, it's the silence of all those in the know. And there seems to be a lot of them. I've had conversations with "a number" of people since I wrote that interview who essentially confirm the disingenuousness of that paper. Some even add additional evidence and further wrongdoing. Yet not a one, not a single one, is willing to go public with their information. When I ask them why I can't use their name, or why they don't write a rebuttal, they all offer essentially the same answer: the fear of retribution.



GLOBALTOX
SEATTLE • PORTLAND • GUELPH



March 28, 2003

Our ref: 6257

Paul Howard
The Manhattan Institute
52 Vanderbilt Avenue
New York, NY 10017

RE: Manhattan Institute Project

Dear Mr. Howard:

We are pleased to confirm The Manhattan Institute has retained GLOBALTOX, Inc. to investigate the above-referenced matter on an hourly rate-plus-expenses basis, unless otherwise specified. GLOBALTOX's retention on this case is solely with your firm and, as such, all fees and expenses incurred by GLOBALTOX will be the responsibility of The Manhattan Institute.

GLOBALTOX's services are offered only in accordance with our current Terms and Conditions agreement. Our charges will be billed according to our current Schedule of Rates and Charges, with professional fees at our current commercial rates. To ensure that you are apprised of the technical efforts expended on your project, periodic invoices will be provided. Payment of each billing is due upon receipt.

GLOBALTOX's charges for this activity will not exceed \$25,000 without prior approval of The Manhattan Institute.

Please indicate your acceptance and understanding of the contents of this letter by signing and returning the enclosed copy. Copies of our current Terms and Conditions and Schedule of Rates and Charges are enclosed and made a part hereof by reference. If you have any questions regarding any of the above terms, please do not hesitate to contact me.

Thank you again for your interest in GLOBALTOX, Inc. We look forward to working with you.

Sincerely,

GLOBALTOX, INC.

Bruce J. Kelman, Ph.D., DABT
Principal

BJK/bmw

Enclosures

032803bjk1.doc

Accepted by: Lawrence More

Date: 4/8/03

- 1 A. No. I mean -- no, I did not. I made them
2 aware of it, and then when they publish it, I mean, they
3 published it.
- 4 Q. When the lay version of the ACOEM paper was
5 printed by the Institute For Legal Reform, the ACOEM
6 again did not have any conflict-of-interest waiver on
7 your part, did it?
- 8 A. I have no idea. I've never seen that version.
9 I'll call it the nonscientific piece that has my name on
10 it.
- 11 Q. From your view, did you make any efforts,
12 despite anyone calling you or anything else, to make
13 sure that a conflict-of-interest waiver was included
14 with the lay version put out by the Institute For Legal
15 Reform?
- 16 A. No, because I didn't even know my name was on
17 it.
- 18 Q. The ACOEM paper was also given an iteration in
19 the Manhattan Institute document. You were aware of
20 that?

1 A It didn't occur to us.

2 Q Did you get Dr. Saxon's permission to list
3 him as a co-author in the Manhattan Institute
4 paper?

11 :00:42 5 A We did.

6 Q You asked for it and he said yes?

7 A He said he had no objection.

8 Q So when Dr. Saxon testified in a separate
9 matter that he did not know his name was on it, do
11 :01:00 10 you believe he was not testifying truthfully?

11 MR. SCHEUER: Objection; assumes a fact
12 not in evidence. There's no evidence at all that
13 Dr. Saxon said that.

14 MS. KRAMER: This is testimony from
11 :01:36 15 Mr. Saxon saying he didn't know his name was on it.

16 BY MR. BANDLOW:

17 Q I'm looking at trial testimony from the
18 case, looks like it was in Nevada, involving
19 Dr. Saxon. He was -- and I will represent for the
11 :01:52 20 record, based on this transcript, he was asked a
21 question, quote, "When the lay version of the ACOEM
22 paper was printed by the Institute for Legal
23 Reform, the ACOEM again did not have any conflict
24 of interest waiver on your part, did it?"

11 :02:08 25 And he answered, quote, "I have no idea.

GlobalTox, Inc.

18372 Redmond-Fall City Road
Redmond, WA 98052

EIN 91-1877454

BILL TO

The Manhattan Institute
Paul Howard
52 Vanderbilt Avenue
New York, NY 10017

Invoice

| DATE | INVOICE # |
|-----------|-----------|
| 4/30/2003 | 5258 |

| DUE DATE | TERMS |
|-----------|--------|
| 5/30/2003 | Net 30 |

| FOR PERIOD ENDING |
|-------------------|
| April 18, 2003 |

PROJECT

6257 - Manhattan Institute Project

| DESCRIPTION | SERVICE | HOURS OR UNITS | TYPE | AMOUNT |
|--|---------------|----------------|-----------|----------|
| Write article; teleconferences with client and other authors | Kelman, B | 5.5 | Labor | 1,925.00 |
| | Hardin | 8 | Labor | 2,800.00 |
| | Admin Support | 1 | Labor | 60.00 |
| Copying Fee | Copy | 5 | Non-labor | 0.75 |

Tel: (425) 556-5555
Fax: (425) 556-5556

This invoice may not include other project expenses unavailable at invoice date. Interest of 2% per month charged on accounts outstanding.

| | |
|--------------|-------------------|
| Total | \$4,785.75 |
|--------------|-------------------|

PLEASE REMIT PAYMENT TO:
GLOBALTOX, INC.

2 of 11

GlobalTox, Inc.

18372 Redmond-Fall City Road
Redmond, WA 98052

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The Manhattan Institute
Paul Howard
52 Vanderbilt Avenue
New York, NY 10017

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| DATE | INVOICE # |
|-----------|-----------|
| 5/30/2003 | 5412 |

| DUE DATE | TERMS |
|-----------|--------|
| 6/29/2003 | Net 30 |

| FOR PERIOD ENDING |
|-------------------|
| May 16, 2003 |

PROJECT

6257 - Manhattan Institute Project

| DESCRIPTION | SERVICE | HOURS OR UNITS | TYPE | AMOUNT |
|---|---------------|----------------|-------|----------|
| Compose and edit paper; consultations with Dr. Hardin | Kelman, B | 5 | Labor | 1,750.00 |
| | Admin Support | 0.25 | Labor | 15.00 |

Tel: (425) 556-5555
Fax: (425) 556-5556

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| | |
|--------------|-------------------|
| Total | \$1,765.00 |
|--------------|-------------------|

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3 of 11

GlobalTox, Inc.

18372 Redmond-Fall City Road
Redmond, WA 98052

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Paul Howard
52 Vanderbilt Avenue
New York, NY 10017

Invoice

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| DATE | INVOICE # |
| 6/12/2003 | 5493 |

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|-----------|--------|
| DUE DATE | TERMS |
| 7/12/2003 | Net 30 |

| |
|-------------------|
| FOR PERIOD ENDING |
| May 30, 2003 |

PROJECT

6257 - Manhattan Institute Project

| DESCRIPTION | SERVICE | HOURS OR UNITS | TYPE | AMOUNT |
|----------------------------------|---------------|----------------|-----------|----------|
| Revise and edit manuscript | Kelman, B | 4 | Labor | 1,400.00 |
| Revise and edit draft manuscript | Hardin | 27 | Labor | 9,450.00 |
| Find references; review paper | Technical Spt | 4.75 | Labor | 405.50 |
| Library services | Library Spt | 6 | Labor | 600.00 |
| | Admin Support | 1.75 | Labor | 105.00 |
| Copying Fee | Copy | 48 | Non-labor | 7.20 |

Tel: (425) 556-5555

Fax: (425) 556-5556

This invoice may not include other project expenses unavailable at invoice date. Interest of 2% per month charged on accounts outstanding.

| | |
|--------------|--------------------|
| Total | \$11,967.70 |
|--------------|--------------------|

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GlobalTox, Inc.

18372 Redmond-Fall City Road
Redmond, WA 98052

EIN 91-1877454

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Paul Howard
52 Vanderbilt Avenue
New York, NY 10017

Invoice

| DATE | INVOICE # |
|-----------|-----------|
| 7/24/2003 | 5759 |

| DUE DATE | TERMS |
|-----------|--------|
| 8/23/2003 | Net 30 |

| FOR PERIOD ENDING |
|-------------------|
| July 11, 2003 |

PROJECT

6257 - Manhattan Institute Project

| DESCRIPTION | SERVICE | HOURS OR UNITS | TYPE | AMOUNT |
|---|---------------|----------------|-----------|----------|
| Edit manuscript; write biosketches | Kelman, B | 6.25 | Labor | 2,187.50 |
| Assist manuscript edit; verify references | Technical Spt | 7 | Labor | 580.50 |
| Library services | Library Spt | 8 | Labor | 800.00 |
| | Admin Support | 0.25 | Labor | 15.00 |
| Copying Fee | Copy | 6 | Non-labor | 0.90 |

Tel: (425) 556-5555

Fax: (425) 556-5556

This invoice may not include other project expenses unavailable at invoice date. Interest of 2% per month charged on accounts outstanding.

| | |
|--------------|-------------------|
| Total | \$3,583.90 |
|--------------|-------------------|

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GlobalTox, Inc.

18372 Redmond-Fall City Road
Redmond, WA 98052

EIN 91-1877454

BILL TO

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Paul Howard
52 Vanderbilt Avenue
New York, NY 10017

Invoice

| DATE | INVOICE # |
|----------|-----------|
| 8/6/2003 | 5869 |

| DUE DATE | TERMS |
|----------|--------|
| 9/5/2003 | Net 30 |

| FOR PERIOD ENDING |
|-------------------|
| July 25, 2003 |

PROJECT

6257 - Manhattan Institute Project

| DESCRIPTION | SERVICE | HOURS OR UNITS | TYPE | AMOUNT |
|--|---------------|----------------|------------|-----------|
| Prepare for and attend Chamber of Commerce meeting | Hardin | 7 | Labor | 2,450.00 |
| Consultation with Dr. Hardin | Kelman, B | 0.25 | Labor - NC | 0.00 |
| Library services | Library Spt | 4 | Labor | 400.00 |
| | Admin Support | 0.25 | Labor | 15.00 |
| Postage | Postage | | Non-labor | 6.96 |
| Document retrieval | Other | | Non-labor | 25.30 |
| Travel expenses - airfare | Travel | | Non-labor | 692.30 |
| Travel expenses | Travel | | Non-labor | 401.07 |
| Credit given for travel expenses | Travel | | Non-labor | -1,092.98 |

Tel: (425) 556-5555

Fax: (425) 556-5556

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| | |
|--------------|-------------------|
| Total | \$2,897.65 |
|--------------|-------------------|

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6 of 11

MANHATTAN INSTITUTE FOR POLICY
RESEARCH, INC.
52 VANDERBILT AVENUE
NEW YORK, NY 10017

THE CHASE MANHATTAN BANK
NEW YORK, NY 10021

0006724

Check No.

1-2/210

GLOBALTOX, INC
Four Thousand Seven Hundred Eighty-Five Dollars and 75/100-----AMOUNT
DATE 06/01/03 \$4,785.75

PAY
TO THE
ORDER
OF

Michael Baneris
Lawrence M me

⑈006724⑈ ⑆021000021⑆ ⑆21501045865⑈

MANHATTAN INSTITUTE FOR POLICY
RESEARCH, INC.
52 VANDERBILT AVENUE
NEW YORK, NY 10017

THE CHASE MANHATTAN BANK
NEW YORK, NY 10021

0006890

Check No.

1-2/210

GLOBALTOX, INC
Thirteen Thousand Seven Hundred Thirty-Two Dollars and 70/100--- AMOUNT

DATE
07/01/03

AMOUNT
\$13,732.70

PAY
TO THE
ORDER
OF

Michael Baranov
Laurence Mone

⑈006890⑈ ⑆02⑆00002⑆⑆62⑆50⑆045865⑈

MANHATTAN INSTITUTE FOR POLICY
RESEARCH, INC.
52 VANDERBILT AVENUE
NEW YORK, NY 10017

THE CHASE MANHATTAN BANK
NEW YORK, NY 10021

0007170

Check No.

1-2/210

GLOBALTOX, INC.

Six Thousand Four Hundred Eighty-One Dollars and DATE/100-----AMOUNT

09/01/03

\$6,481.55

PAY
TO THE
ORDER
OF

Michael J. Parsons
Laurence M. ...

⑈007170⑈ ⑆021000021⑆ ⑆21501045865⑈

The Growing Hazard of Mold Litigation



Papers commissioned by the U.S. Chamber Institute for Legal Reform and the Center for Legal Policy at The Manhattan Institute

Released July 17, 2003



About The Authors

Dr. Bryan D Hardin GLOBALTOX

Bryan D. Hardin, Ph.D., holds positions as a senior consultant with GlobalTox and Adjunct Assistant Professor at the Rollins School of Public Health, Emory University. He was commissioned into the US Public Health Service and began his public health career with the National Institute for Occupational Safety and Health (NIOSH) in 1972, where he served in research, policy, and management roles, culminating as Deputy Director of NIOSH and Assistant Surgeon General in the Public Health Service.

Dr. Hardin holds a Ph.D. in Environment Health Sciences from the University of Cincinnati. Dr. Hardin is a full member of the American Association for the Advancement of Science, the American Industrial Hygiene Association, the American Public Health Association, and the Teratology Society. He has served on working groups of the World Health Organization, the International Labor Office, and the International Agency for Research on Cancer.

Coreen A. Robbins, Ph.D., C.I.H. GLOBALTOX

Coreen A. Robbins, M.H.S., Ph.D., CIH, holds a position with GlobalTox, Inc. as a consulting Industrial Hygienist for projects in field investigations and in litigation support activity. She has approximately 13 years of experience in industrial hygiene and has served as a consultant in many investigations throughout the U.S.

Dr. Robbins holds a master's degree in Occupational Safety and Health (1989), and a Ph.D. (1995) in Environmental Science from the Johns Hopkins University. Dr. Robbins is also a Certified Industrial Hygienist (CIH). Dr. Robbins has extensive practical experience in conducting industrial hygiene surveys in areas including indoor air quality, mold, asbestos and man-made mineral fibers, chemical exposure assessment and industrial noise exposure. Dr. Robbins is a full member of the American Academy of Industrial Hygiene and the American Industrial Hygiene Association (AIHA), and an affiliate member of the American Conference of Governmental Industrial Hygienists. She is currently serving on the AIHA's Task Force on Microbial Growth as the representative for the AIHA Toxicology Committee.

Andrew Saxon

Chief, Division of Clinical Immunology and Allergy
UCLA School of Medicine

Andrew Saxon, MD, is a professor and Chief of the Division of Clinical Immunology and Allergy at the UCLA School of Medicine. Dr. Saxon has over 25 years of experience in immunology, he has published approximately 165 peer-reviewed research articles, and he has three patents in the immunology field. Since 1999, Dr. Saxon has served as editor-in-chief of the journal *Clinical Immunology*.

Dr. Saxon received his MD from Harvard Medical School. He is board-certified in Internal Medicine, Allergy and Immunology, and Diagnostic Laboratory Immunology. He is a member of the American Academy of Allergy and Immunology, where he serves on the Research Awards Committee, the Nominating Committee, the Primary Immunodeficiency Disease Committee and the Clinical and Diagnostic Immunology Committee; and where has served in the past as Chairman of the Basic and Clinical Immunology Section.

Dr. Bruce J. Kelman

GLOBALTOX

Bruce J. Kelman, Ph.D., D.A.B.T., holds positions as Principal and President of GlobalTox, Inc. Dr. Kelman has approximately 25 years experience in toxicology and has served as a consultant and expert in numerous investigations across North America. He has evaluated numerous claims of personal injury and health impacts from many chemicals and drugs, and has presented a variety of health risk concepts to policy makers, government regulators, citizen groups, and individuals involved in all aspects of the legal process.

Dr. Kelman holds a Ph.D. from the University of Illinois (1975) and is certified in toxicology by the American Board of Toxicology (original certification in 1980 with recertifications in 1985, 1990, 1995 and 2000). Dr. Kelman is a member of the Society of Toxicology, American College of Occupational and Environmental Medicine, American College of Toxicology, American Society for Experimental Pharmacology and Therapeutics, Society for Experimental Biology and Medicine, and Teratology Society.

A SCIENTIFIC VIEW OF THE HEALTH EFFECTS OF MOLD

Nevertheless, except for persons with severely impaired immune systems, indoor mold is not a source of fungal infections, and current scientific evidence does not support the idea that human health has been adversely affected by inhaled mold toxins in home, school, or office environments. Thus, the notion that “toxic mold” is an insidious, secret “killer,” as so many media reports and trial lawyers would claim, is “junk science” unsupported by actual scientific study.



U.S. Chamber Institute for Legal Reform

The U.S. Chamber Institute for Legal Reform was founded in 1998 as a 501(c)(6) tax-exempt, separately incorporated affiliate of the U.S. Chamber of Commerce. The mission of ILR is simple: to make America's legal system simpler, fairer and faster for everyone. ILR's multi-faceted program seeks to promote civil justice reform through legislative, political, judicial and educational activities at the national, state and local levels.

Center for Legal Policy at the Manhattan Institute

The Center for Legal Policy at the Manhattan Institute is a leading voice for reform of America's civil justice system. The Center's mission is to communicate thoughtful ideas on civil justice reform to real decision-makers through books, publications, conferences and public or media appearances. Founded in 1986, hundreds of news reports have cited the Center's work, with The Washington Post going so far as to call Senior Fellows Peter Huber and Walter Olson the "intellectual gurus of tort reform."



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6 **FOURTH DISTRICT DIVISION ONE COURT OF APPEAL**

7 **SHARON KRAMER,**
8 **Defendant & Appellant**

9 **v**

10 **BRUCE J. KELMAN &**
11 **GLOBALTOX, INC.,**
12 **Plaintiffs & Respondents**

13 **CASE NO.D054496**

14 **MOTION TO RECALL & RESCIND REMITTITUR**

- 15 1.) Remittitur Issued By Error Of Court Ignoring
16 Respondent Fraud In Reply Brief,
- 17 2.) Clerical Error, Court Mailed Pro Per Kramer A
18 Document in 2009 Not In Court File, No
19 Judgment or Notice of Entry On Record To Be
20 Affirmed
- 21 3.) Administrative Appellate Presiding
22 Justice, Clerical Error. Local Rules of the Court;
23 Policies Against Bias 1.2.1, Forgot That Court
24 Must Respond To Complaints Under Ca Rules of
25 the Court 10.603 & 10.703,
- 26 4.) Errors of Opinion Causing Malicious
27 Prosecution To Gag Kramer From Writing of
28 Opinion Ignored Fraud In Respondent's Reply
Brief; Court Case No.37-2010-00061530-
CU-DF-NC Kelman v. Kramer, NC Superior Court
Dept. 30, Honorable Thomas Nugent, Served
November 28, 2010
- 5.) Opinion & Remittitur Placing A Superior Count
Judge In Compromised Position Of Having To
Roll Over On His Judicial Peers & Superiors Or
Send A Whistle Blower To Jail

OPINION ISSUED SEPTEMBER 14, 2010
REMITTITUR ISSUED DECEMBER 20, 2010

24 **MOTION TO RECALL AND RESCIND REMITTITUR**

25 This Motion and accompanying Points and Authorities may be read online
26 at _____ . It is filed in accordance with California Rules
27 of the Court 8.54(a).

28 January 19, 2011

Sharon Kramer, Pro Per

MOTION TO RECALL AND RESCIND REMITTITUR

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MEMORADUM OF POINTS & AUTHORITIES

- 1.) Remittitur Issued By Error Of Court Ignoring Respondent Fraud In Reply Brief,
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- 5.) Opinion & Remittitur Placing A Superior Court Judge In Compromised Position Of Having To Roll Over On His Judicial Peers & Superiors Or Send A Whistle Blower To Jail

OPINION ISSUED SEPTEMBER 14, 2010
REMITTITUR ISSUED DECEMBER 20, 2010

23 Memorandum of Points and Authorities

24 I.

25 **BACKGROUND**

26 Although never mentioned in any Opinion or ruling, in this litigation Sharon
27 ("Kramer")s use of the phrase, *"altered his under oath statements on the witness*
28 *stand"* which was deemed by this court to be a malicious lie, just happened to be in

1 the same writing that was the first to publicly expose how it became a fraud in US
2 public health policy that moldy buildings do not harm prior healthy people.

3
4 Never mentioned in any Opinion or ruling, as even being in evidence; Kramer
5 has evidenced since July of 2005, that she believes Bruce ("Kelman")'s statements
6 of "lay translation" to "two different papers, two different activities" and back to
7 "translation" were altered under oath testimony to hide the true connection of the
8 medical policy writing body, ACOEM, from that of the US Chamber of Commerce
9 when marketing the fraud into policy and to the courts.

10 As such, this court has deemed a whistle blower of fraud in US and California
11 health and workers comp policies to be a malicious liar while not being able to cite
12 to one piece of evidence of her ever being impeached as to the subjective belief in
13 the validity of the truthfulness of her words "altered his under oath statements on the
14 witness stand" ..because they never even mentioned she provided the
15 unimpeached evidence of her logic for her use of these words.

16
17 The fraud in policy that this court is aiding to cover up by deeming a never
18 impeached whistle blower to be a malicious liar, is that Kelman (and irrefutably
19 evidenced to be an undisclosed party to this litigation on the Certificates of
20 Interested Parties; CDC NIOSH Big Wig Bryan ("Hardin")) could apply math to a
21 single rodent study and prove no one is sick from the toxins found in water
22 damaged buildings. Thousands of lives have been devastated from the fraud.

23
24 Not mentioned in the Opinion, this court was clearly evidenced by Kramer that it
25 is a fraud in science to make such an outlandish claim used to deny causation of
26 illness in the courts, based on such limited data. Kramer also evidenced how it has
27

1 impacted policy and mold litigation for the past nine years. But that is not
2 mentioned in the Opinion, either.

3
4 Not mentioned in the Opinion, this court was evidenced that Kramer virtually
5 castrated the defense in mold litigation when she exposed it as a fraud in policy by
6 getting a Federal GAO audit into the current scientific understanding of the health
7 effects of mold.

8 Excerpts of a new book published in December 2010, by Dr. Ritchie Shoemaker
9 and regarding Kramer's role in reshaping policy:

10 The arguments about health effects caused by exposure to the interior
11 environment of water-damaged buildings were brought to the U.S.
12 Senate Health Education Labor and Pension Committee (HELP) in
13 January 2006, largely through the tireless efforts of Sharon Kramer.
14 She'd provided Senator Ted Kennedy's office with an overwhelming
15 amount of data to show that the current U.S. government approach to
16 mold illness was not only shortsighted and biased, it was plain wrong.
17 Senator Kennedy of HELP and Senator Jeffords of the Senate Public
18 Works Committee called for a legislative staff briefing, with invitations
19 provided to all Senate members. The meeting was held in the Dirksen
20 Building in January 2006. Thank goodness that it wasn't held in the
21 Rayburn Building; (see Chapter 21, Tourists' Guide to Moldy Buildings in
22 DC). Panelists were Vincent Marinkovich, MD; Chin Yang, PhD; David
23 Sherris, MD; and Ritchie Shoemaker, MD, with Mrs. Kramer organizing
24 and moderating the briefing. The EPA, CDC and HHS were supposed to
25 send speakers as well so that an informed dialog could take place for
26 the benefit of the Senate legislative staffers, and therefore the U.S.
27 citizens. The agencies cancelled their appearance at the last minute...

28 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

1 ask questions. I expected that there would be some sort of maneuver
2 surrounding this scientific and political event, so it was no surprise that
3 government agencies, including the EPA, pulled their representatives at
the last minute, though no explanation was given...

4 That area of enquiry subsequently led to a request from Senator
5 Kennedy's office in October 2006 to the General Accountability Office
6 for a review of the Federal effort. Again, Sharon Kramer's incredible
7 effort was..... instrumental in the GAO request that led in turn to the
8 2008 US GAO report that completely destroyed the defense or
9 government Nay-sayers' credibility in mold illness issues. Thanks to
10 Sharon and Senator Kennedy's staff, the longstanding idiotic
11 arguments about mycotoxins alone being the problem from WDB have
12 now been put to rest, with the exception of some really primitive
13 defense attorneys who don't know that the old ACOEM-quoting
14 defense and the old AAAAI quoting defense are a prescription for a loss
15 in court.

16 Additionally, never mentioned in any ruling or Opinion, Kramer has provided the
17 courts with uncontroverted evidence since September of 2005 that Kelman
18 committed perjury and his attorney, Keith ("Scheuer") repeatedly and willfully
19 suborned it, to establish false extenuating circumstances for Kramer's purported
20 malice. This includes in his Reply Brief of September 2009 submitted to This Court.

21 Kramer evidenced this, but it was not mentioned in the Opinion that this court
22 willfully accepted suborning of perjury in a legal brief by a California licensed
23 attorney over a matter adversely impacting public health and involving billions of
24 dollars.

25 There is now a new malicious litigation filed November 4, 2010, in which Kelman
26 and Scheuer are seeking an injunctive relief that Kramer be gagged from ever
27 writing of this libel litigation. This means Kramer would be gagged from writing of
28 this court's aiding with interstate insurance fraud by not following the laws that
govern proof of libel with actual malice and repeatedly ignoring what courts are

1 must to do by law, when provided irrefutable evidence that a litigant and their
2 attorney are committing perjury to strategically litigate.

3
4 With this newest attempt to gag Kramer, this now makes Kelman and Scheuer
5 agents of this court in a new malicious litigation to cover up what this court was
6 willing to do to aid the continuance of fraud in health policies on behalf of affiliates
7 of the US Chamber of Commerce, primarily the insurance industry.

8
9 This newest attempt to gag Kramer, also places a San Diego North County
10 Superior Court Judge, the Honorable Thomas Nugent, in the compromised
11 position that he will have either have to roll over on this court (and the Chair of the
12 California Commission on Judicial Performance who did the same thing when
13 denying Kramer's anti-SLAPP motion in 2006) for aiding with a malicious litigation
14 to silence a Whistle Blower with this court being the true beneficiaries if Kramer
15 were to be gagged;

16 or Judge Nugent will have to put the never once impeached Kramer behind bars
17 when she refuses to be silenced of the fraud in US policy and the fraud of the
18 Fourth District Division One Appellate Court aiding in the continuance of the
19 insurance fraud adverse to public health, the public's best interest and in egregious
20 dereliction of duty as Justices of the State of California.

21
22 Email sent yesterday to the San Diego District Attorney's Office:

23 Dear. Mr. Koerber and Mr. Hawkins,

24 I hope you are doing well. Please share this email with District Attorney
25 Dumanis.

26 I need to meet with you again and file a new complaint about what the
27 Fourth District Division One Appellate Court has done. Kelman sued
28

1 me again seeking an Injunctive Relief

2 [<http://freepdfhosting.com/bfaeafa6ea.pdf>] that I not repeat my phrase "*altered*
3 *his under oath statements*" and many others for which I was not even
4 sued, on the Internet or anywhere else.

5 I have never reposted or even discussed my purportedly libelous
6 writing since the day he sued me in May 2005 without disclosing it was
7 the subject of a libel suit [<http://freepdfhosting.com/2ea637d61d.pdf>], which is
8 my right to do. Even people on death row are permitted to profess and
9 evidence their innocence.

10 If I can never mention the phrase or my writing connecting ACOEM to
11 the US Chamber and litigation; what this means is that a successful
12 whistle blower [<http://freepdfhosting.com/40ef44be08.pdf>] of a fraud in US
13 health and CA workers comp policy also would not be able to discuss
14 how the San Diego courts turned a blind eye for six years to the
15 undisputed facts that:

16 1. There was no evidence presented that I did not believe my words -
17 because they never even acknowledged that I explained
18 [<http://freepdfhosting.com/21f71b9b4e.pdf>(pdf pg 12 -18)] why I used my words in
19 any of their rulings or Opinions.

20 2. They ignored the uncontroverted evidence that Kelman committed
21 perjury [<http://freepdfhosting.com/21f71b9b4e.pdf>(pdf pg 25 to pg 29)] to establish
22 false extenuating circumstances for my purported malicious motivation
23 to publicly write of how it became false US health policy that mold does
24 not harm prior healthy people. Never even mentioned there was
25 evidence of the perjury to establish libel law needed reason for malice -
26 not once.

27 3. Never mentioned, Bryan Hardin, retired Deputy Director of CDC
28 NIOSH was irrefutably evidenced [<http://freepdfhosting.com/dc748c7054.pdf>] to
be improperly undisclosed to be a party
[<http://freepdfhosting.com/57726d547a.pdf>] to this litigation as the sixth owner
of VeriTox, Inc. (and author of fraudulent environmental policy for the
US Chamber and ACOEM). Never saw them mention his name in any
opinion or ruling, once.

Now, with this newest litigation meant to gag me of what really
occurred in my libel litigation at the hands of the Fourth District
Division One [<http://freepdfhosting.com/9aa603f298.pdf>] - presided over by the

1 Chair of the California Commission on Judicial Performance;
2 [http://freepdfhosting.com/de56fb0895.pdf] Kelman and his attorney Scheuer,
3 have become agents of the court to cover up their six years of
4 involvement in aiding [http://katysexposure.wordpress.com/2010/10/27/presiding-
5 justice-candidate%C2%A0judith-mcconnell-nine-subordinate-san-diego-
6 judicuariesassisting-with-strategic-litigation-by-criminal-means-by-an-author-of/] this
7 insurer fraud cost shifting scheme
8 [http://www.youtube.com/watch?v=eIGlZT6g50Q&feature=mfu_in_order&list=UL] to
9 continue [http://freepdfhosting.com/21f71b9b4e.pdf(pdf pg 6 & 7)] to be promoted
10 in policy by private sector medical associations adverse to the public
11 interest and not based on science (as you know from the Toyota of
12 Poway case), and while the Regents of the UC profit from it
13 [http://freepdfhosting.com/1d6ae0b8a2.pdf]

14 This newest litigation is placing a San Diego Superior Court judge,
15 Judge Thomas Nugent, in a compromised position. He will either have
16 to:

17 1. acknowledge the evidence that this is new strategic litigation in the
18 interest of the Fourth District Division One and Justice McConnell to
19 see me gagged that they ignored a well connected plaintiff's perjury on
20 the issue of malice while strategically litigating; and ignored there was
21 no evidence impeaching the whistle blowing defendant -but deemed
22 her a "malicious liar" anyway to the advantage of the insurance industry
23 and US Chamber of Commerce by discrediting her; or

24 2. put a US citizen who has done more than her part for her fellow man
25 behind bars when she refuses to be silenced of the fraud in health
26 policy and those who have aided it to continue.

27 I have to have a reply brief to the court by January 27th. I am not even
28 hopeful the court will take seriously a Pro Per's amateur writing by one
who has been deemed a "malicious liar" describing his 10 judge and
justice peers ignoring irrefutable evidence of perjury over a matter of
public health and billions of dollars.

This has got to stop somewhere. The State Bar turned a blind eye. The
CA Supreme Court turned a blind eye. The Commission on Judicial
Performance turned a blind eye. The Regents turned a blind eye. And
so did Governor Arnold Schwarzenegger who had endorsed the fraud
into CA workers comp policy

[http://www.cdph.ca.gov/programs/IAQ/Documents/moldInMyWorkPlace.pdf]

1 I think it stops with you and Bonnie Dumanis of the San Diego District
2 Attorney's office.

3 At least that is what the CA Ins. Fraud Assessment Commission says.
4 [http://www.youtube.com/watch?v=az7laEuLCtA] I am aware that the LA County
5 DA's office investigates local judiciaries and elected officials of the court
6 and county as part of their purview.

7 PLEASE HELP, Mr. Koeber, Mr. Hawkins and District Attorney Dumanis.
8 Or if you ever want to come visit me, it will be in the San Diego County
9 Jail when I refuse to be silenced of the insurer fraud written into policy
10 and the Fourth District Division One Appellate Court's aiding it,
11 including Presiding Justice Judith McConnell, Chair of the CJP.

12 I don't deserve this for delving deeply into a problem that is harming
13 thousands, daring to write the truth of a matter and working diligently
14 to change it.

15 When would be a good time to meet? And thank you in advance for
16 stopping this tragic situation of the San Diego courts being unduly
17 influenced in a manner not in the public's best interest or in fulfilling
18 their duties as officers of the courts - while working to punish,
19 discredit and silence a whistle blower of the fraud, ME..

20 Sincerely,
21 Sharon Kramer
22 760-746-8026

23 Forwarded Message To the San Diego DA's Office in same email:

24 Oversight Needed Of Federal Funds Used To Educate US Pediatricians
25 Of The Dangers Of Water Damaged Buildings

26 Dear CDC, Agency For Toxic Substance & Disease Registry and EPA, Are
27 We Federally Funding Insurer Cost Shifting Environmental "Science"

28 When Educating US Doctors on Behalf
of the Affiliates of the US Chamber of
Commerce?



On January 17, 2011, Seventy Five
Physicians, Scientists & Citizens sent a
letter to CDC ATSDR & EPA requesting

1 transparency and oversight of what America's pediatricians and other
2 US physicians are being taught of children's illnesses caused by
3 exposure to Water Damaged Buildings (WDB) through the
4 collaboration of private medical associations and Federal funds. The
5 gist of the concerns raised is *"Certainly, the directors can understand
6 the concern when tax dollars are used to potentially harm the public
7 when some of the US policy writers involved in influencing America's
8 pediatricians and occupational physicians of the causes and effects of
9 WDB exposures also generate income aiding insurers to deny any
10 causation or effect even exists. This in turn, may aid insurers to shift the
11 cost of WDB-illness onto us, the US taxpayer."* View the letter sent to
12 our nation's leaders in entirety at [KatysExposure.Wordpress.Com](http://katysexposure.wordpress.com/2011/01/18/request-for-transparency-oversight-of-federal-funds-used-to-educate-us-pediatricians-of-children%E2%80%99s-illnesses-caused-by-water-damaged-buildings-%E2%80%9Cwdb%E2%80%9D/)
13 "Exposing Environmental Health Threats And Those Responsible" -
14 Katy's Exposure Blog

15 [http://katysexposure.wordpress.com/2011/01/18/request-for-
16 transparency-oversight-of-federal-funds-used-to-educate-us-pediatricians-
17 of-children%E2%80%99s-illnesses-caused-by-water-damaged-buildings-
18 %E2%80%9Cwdb%E2%80%9D/]

19 A video of Kramer before the California Fraud Assessment Commission,
20 November 16, 2010, discussing how Governor Schwarzenegger endorsed the fraud
21 of Kelman, Hardin, ACOEM and the US Chamber into California Workers Comp
22 Policy, that this court is aiding to continue may be viewed at:

23 http://www.youtube.com/watch?v=eIGIZT6g50Q&feature=mfu_in_order&list=UL

24 In summary, please rescind the remittitur and step down as Justices of the State
25 of California. Your Opinion and the actions of the newly re-elected Administrative
26 Presiding Justice, who is also Chair of the California Commission on Judicial
27 Performance, are clearly evidenced to have lost sight of your duties to uphold the
28 law on behalf of the citizens of California, the citizens of United States and in
protection of the First Amendment of the Constitution. You are willfully aiding in
discrediting truthful speech for the public good and chilling speech of others for
fear of retribution by judiciaries such as yourselves.

1 As such, you have become the epitome of exactly what the First Amendment is
2 meant to protect against from occurring for the sake of public good. And you are
3 now willing participants and beneficiaries of a new malicious litigation to attempt
4 to gag a Whistleblower of fraud in policy and your involvement in aiding the fraud
5 by your blatant refusal to acknowledge irrefutable evidence of criminal perjury in a
6 strategic litigation. by authors of a deception in US policy for ACOEM and the US
7 Chamber of Commerce. Please rescind the remittitur and step down as Justices of
8 the State of California. You no longer deserve the right to be in such a position of
9 authority while adversely impacting the lives of thousands of citizens by your
10 actions.

11 II.

12 RESCIND THE REMITTITUR, OPINION ISSUED BY IGNORING EVIDENCE OF
13 KELMAN'S & SCHEUER'S FRAUD ON THE APPELLATE COURT

14 1. On September 9, 2009, Kelman filed a reply brief. Within the brief the
15 following statement is made on page 16:

16 "She never asked Vance why he wanted her to wait for the
17 transcript. (Reporter's Transcript, 335:2-4.) And she flailed at trial
18 when she tried to justify her willful refusal to heed Vance's
19 warning. (Reporter's Transcript, 334:5-19.)"

20 2. As evidenced for this court in Kramer's Reply Brief of October 5, 2009, page
21 31, Scheuer made the above statement to mislead this court that Kramer had
22 been impeached as to the subjective belief in the validity of her words in trial.
23 He then cited to a "Reporter's Transcript, 334:5-19", that does not support the
24 fallacy that Kramer was ever impeached as to the subjective belief of her words
25 or maliciously rushed to publish.
26
27
28

1 3. From Kramer's Reply Brief of October 2009, while citing the fraud in
2 Kelman's Brief of September 2009, of which this court must have overlooked
3 that they were evidenced there is simply no evidence of Kramer ever being
4 impeached as to the subjective belief in the truthfulness of her words "*altered*
5 *his under oath statements on the witness stand*" in trial or any other time, or that
6 her Press Release was maliciously motivated:

7 "(Respondent's Brief, Page 16) proves that Respondent knows he
8 did not impeach Appellant as to the belief in her words. For
9 Counsel to resort to the statement, "*And she flailed at trial when she*
10 *tried to justify her willful refusal to heed Vance's warning. (Reporter's*
11 *Transcript, 334:5-19)*" in which Appellant had mixed the word
12 "*what*" with "*that*", is an acknowledgement that Respondent and
13 Counsel know they have never impeached Appellant as to the
14 belief in her words." (Kramer's Reply Brief, pg 31)

15 4. Reporter Transcript, 334:5-19 of the trial states:

16 Mr. Scheuer: Why didn't you want to wait?

17 Mrs. Kramer: Because this – old news is no news, and this was a
18 case of national significance. It was one the first in the northwest
19 where a jury had found that children had suffered neurocognitive
20 damage from the exposure to mold, and it was important to get it
21 out.

22 "And the other reason I didn't want to wait is because I didn't want
23 to see this spun by industry into, 'Some stupid jury found toxic
24 mold did blah, blah, blah'. I have a degree in marketing, and I
25 understand what time is important –"

26 Mr. Bandlow: "That timing"

27 Mr. Scheuer: I'm sorry.

28 Q. (by Mr. Scheuer) –"That timing is important when you are
putting information out".

1 5. As shown above this court was informed and evidenced, "Reporter
2 Transcript, 334:5-19", does not support the statement in Kelman & Scheuer's

1 brief of *"And she flailed at trial when she tried to justify her willful refusal to heed*
2 *Vance's warning. (Reporter's Transcript, 334:5-19.)"* Its fraud in a brief to falsely
3 portray impeachment and malice and this court was evidenced it was fraud.

4 6. In Kelman's reply brief of September 9, 2009, on page 20 the following
5 statements are made:

6 "Appellant virtually ignores this mountain of evidence of actual
7 malice, and fixates instead on purported deposition testimony
8 from her old lawsuit against Mercury Casualty (which settled long
9 before the instant action commenced).

10 Appellant's theory apparently is that Dr. Kelman bamboozled
11 several trial court judges and this Court about the substance of his
12 testimony in her Mercury Casualty case, and that this
13 bamboozlement irretrievably tainted this entire lawsuit – creating
14 what Appellat calls "insurmountable judicial perception bias of the
15 case." (Appellant's Errata Opening Brief, page 33.)

16 She claims that this bias "stopped Appellant from being able to
17 discuss what she needed to in order to defend herself."
18 (Appellant's Errata Opening Brief, page 35.)

19 "The judicial perception bias went from court to court, ruling to
20 ruling causing a manifest destiny verdict that the press release
21 was wrong and Appellant had maliciously lied with the use of the
22 word 'altere.' (Appellant's Errata Opening Brief, page 45.)

23 There are many, many problems with Appellant's theory.
24 First, it has no factual basis."

25 7. This court must have missed the numerous times and numerous amounts
26 of uncontroverted evidence Kramer provided that Kelman committed perjury
27 in this litigation to establish false extenuating circumstances based on a
28 testimony he is irrefutably evidenced to have never even given in Kramer's
Mercury case of long ago - because the Opinion does not even mention any of
the evidence of the fraud. Some of the bate stamped evidence from Kramer's

1 appendix, Vol. 4, 988 -1055) may be viewed online at
2 <http://freepdfhosting.com/c35afb9c81.pdf> (huge pdf, takes a minute to open)

3
4 8. The court must have missed the irrefutable evidence that Scheuer willfully
5 suborned Kelman's perjury including in his reply brief, to inflame all courts to
6 make Kramer's writing appear to be maliciously motivated from a lawsuit in
7 which she received approximately one half of one million dollars in settlement.

8
9 9. Kramer evidenced this to this court in her reply brief of October 5, 2009,
10 but "*insurmountable judicial perception bias*" must have caused this court to not
11 be able to understand that one cannot use perjury to make up a reason why
12 someone would want to accuse them of perjury. This rule of law holds true,
13 even if the Regents of the UC profit from the perjury in this strategic litigation
14 and even if it benefits an insurer fraud that Governor Schwarzenegger signed
15 into workers comp policy, while aiding to shift cost onto taxpayers.

16 10. From Kramer's Reply Brief of October 2009, page 8:

17 Beginning in September of 2005, Respondent and Counsel started
18 submitting declarations to the courts providing a purported
19 reason for Appellant's malice stemmed from a purported expert
20 testimony Respondent claimed to have given in Appellant's
21 personal mold litigation with Mercury Casualty, 2003. (Opening
22 Brief. App.6-12)

23 In reality, Respondent never even gave the purported malice
24 causing testimony that supposedly, in the words of Counsel,
25 caused Appellant to be "*furious that the science conflicted with her
26 dreams of a remodeled home*". So she "*launched into an obsessive
27 campaign to destroy the reputations of Dr. Kelman and GlobalTox*".
28 (Opening Brief App.8) Appellant's evidence, uncontroverted by
Respondent's Brief, proves Respondent's declarations submitted
to the courts under penalty of perjury established a false theme
for Appellant's malice. It also proves Counsel has been willing to

1 suborn his client's perjury right up through September, 10, 2009
2 by "emphatically" denying the perjury, with no corroborating
3 evidence to support the emphatic (and false) denial. (Resp. Brief
P.20,21)

4 Their bamboozlement caused a wrongful anti-SLAPP ruling by this
5 Court in 2006; and a wrongful denial of Appellant's Motion for
6 Summary Judgment in 2008. (Appellant's Brief, P.6-12) In addition
7 Respondent's perjury on the issue of malice impacted the framing
8 of the scope of the trial in conjunction with the Honorable Lisa C.
9 Schall's (trial judge) violating C.C.P 425.16.(b)(3) by erroneously
10 relying on this Court's anti-SLAPP ruling for her understanding of
11 the litigation. (Opening Brief, P. 12-16)

11 11. As repeatedly evidenced for this court, the perjury by Kelman that set the
12 false theme of Kramer's purported malice is:

13 "I first learned of Defendant Sharon Kramer in mid-2003, when
14 I was retained as an expert in a lawsuit between her, her
15 homeowner's insure and other parties regarding alleged mold
16 contamination in her house. She apparently felt that the
17 remediation work had been inadequately done, and that she and
18 her daughter had suffered life-threatening diseases as a result. I
19 testified that the type and amount of mold in the Kramer house
20 could not have caused the life-threatening illnesses that she
21 claimed."

22 12. As repeatedly evidenced for this court, the suborning of perjury by
23 Scheuer that set the false them of malice is:

24 "Dr. Kelman testified in a deposition that the type and amount
25 of mold in the Kramer house could not have caused the life
26 threatening illnesses that Kramer claimed. Apparently furious
27 that the science conflicted with her dreams of a remodeled
28 house, Kramer launched an obsessive campaign to destroy the
reputation of Dr. Kelman and GlobalTox."

13. As evidenced above, Scheuer's brief submitted to THIS court and when
rendering THIS opinion practiced a fraud on THIS court on September 9,

1 2009. It is a fraud in Kelman and Scheuer's Reply Brief to state, "There are
2 many, many problems with Appellant's theory. First, it has no factual basis."

3
4 14. "If the remittitur issues by inadvertence or mistake or as a result of fraud or
5 imposition practiced on the appellate court, the court has inherent power to recall
6 it and thereby reassert its jurisdiction over the case. This remedy, though described
7 in procedural terms, is actually an exercise of an extraordinary substantive power.
8 ...its significant function is to permit the court to set aside an erroneous judgment
9 on appeal obtained by improper means. In practical effect, therefore, the motion or
10 petition to recall the remittitur may operate as a belated petition for rehearing on
11 special grounds, without any time limitations." (9 Witkin, Cal. Procedure (4th ed.
12 1997) Appeal, § 733, pp. 762-763.)

13 III.

14 KRAMER PRO PER WAS MAILED A FALSE DOCUMENT FROM THE COURTS NOT
15 IN COURT RECORD OF A JUDGMENT NEVER ENTERED, RECALL REMITTITUR TO
16 CLARIFY "JUDGMENT AFFIRMED" and "RESPONDENTS" OF OPINION &
REMITTITUR

17 1. California Rule of the Court 8.278(b)(2) states "If the clerk fails to enter
18 judgment for costs, the court may recall the remittitur for correction on its own
19 motion, or on a party's motion made not later than 30 days after the remittitur
20 issues." California Rule of the Court 8278(a)(3) states, "If the Court of Appeal
21 reverses the judgment in part or modifies it..., the opinion must specify the award or
22 denial of costs."

23
24 2. Not mentioned in the Opinion, this court was evidenced that there was no
25 judgment entered after amended rulings awarding costs to both Kelman and
26 Kramer of December 16, 2008; and that. Kramer, Pro Per, was sent a fraudulent
27 document from the clerk of the court, Department 31 in January 2009 falsely

1 indicating there *was* judgment entered after rulings. What Kramer was sent was
2 a false document awarding only Kelman costs.

3
4 3. On December 16, 2008 after oral argument of December 12th (which was
5 Judge Schall's last day to preside over Department 31), an amended ruling after
6 trial that differed from the judgment entered on October 16 (that had
7 originally awarded only Kelman costs and not Kramer's as prevailing over
8 GlobalTox) was issue. In the 12/16/08 ruling, Kelman was awarded costs and it
9 was determined Kramer could motion for her costs. Kramer was later awarded
10 costs in a ruling of April 3, 2009. There was no amended judgment entered or
11 notice of entry after either of these two rulings.

12 4. On December 22, Kramer filed a motion for reconsideration to the presiding
13 judge of the North County court, Judge Joel ("Pressman") in Schall's absence.
14

15 5. On January 7th, 2009, Kramer was mailed a denial for reconsideration based
16 on the statement in the denial that the court had lost jurisdiction because a
17 judgment was entered on December 18, 2008. (Appellate Appendix Vol.5,
18 1078)

19
20 6. Kramer had received no Notice of Entry of any judgment. On January 9,
21 2009, she physically went to the court house and checked the court record file.
22 There was no evidence of any judgment entered on December 18, 2008. (And
23 there still is not.)

24
25 7. Kramer went upstairs to Department 31. She was directed to go to Judge
26 Thomas Nugent's Department 30 where Judge Schall's clerk, Michael
27 ("Garland"), would come out to speak with her.
28

1 8. In front of two of Judge Nugent's court personnel, Kramer asked Garland why
2 she was mailed a denial for reconsideration based on a judgment being
3 entered, but there was no record in the court file of any judgment entered after
4 amended rulings and she had received no notice of such.

5 9. Garland, in front of the Department 30 personal replied "*We are all sick of*
6 *you.*". Kramer being a new Pro Per because she could no longer afford legal
7 counsel to help defend the truth of her words for the public good, thought she
8 had done something wrong, and questioned Garland no further.

9
10 10. On January 9, 2009, the new clerk of the court for Department 31 mailed Pro
11 Per Kramer a false document indicating that a judgment was entered on
12 December 18, 2008, awarding only Kelman costs contrary to the recent ruling
13 mailed on 12/16/08. Next to the dollar amount it had a hand written "*Michael*
14 *Garland 12/18/08*". This document with its "*12/18/08*" and mailed to Kramer
15 from the court, is not in the court record. Kramer is the only one who appears
16 to have any such document, as evidenced in her (Appendix, Vol. 5, 1081-1083)

17
18 11. As "Notice of Entry", the document mailed to Pro Per Kramer was attached
19 to a yellow Post it that stated:

20 "Ms. Kramer – 9-24-2008 judgment reflects costs of \$7252.65 entered as
21 of 12-18-2008. See page 3 of highlighted [illegible]. This is the
22 information you are seeking. Lynn D31". (Appellant's Appendix Vol.5,
1081)

23 12. "*For example, courts have held that the 'document entitled 'Notice of Entry' '*
24 *mentioned in the rule must bear precisely that title, and the 'file stamped copy of*
25 *the judgment' [citation] must truly be file stamped.*" (*Id.* At p. 903, quoting rule
26
27
28

1 8.104(a)(1).) "Citizen for Civic Accountability v. Town of Danville (2008) 167
2 Cal.App.4th 1162.

3
4 13. Based on a false date of entry of 12/18/08 of a purported judgment not
5 found in the court records and not consistent with the amended rulings mailed
6 December 16th; the lower court claimed they lost jurisdiction over the case.

7
8 14. On November 28, 2010, Kramer was served papers for an Injunctive Relief that
9 she not be permitted to discuss the words "*altered his under oath statements*" and
10 many others for which she was not even sued, which means she would gagged
11 from this writing of this court ignoring her evidence of Kelman's perjury while
12 strategically litigating and ignored Kramer was mailed a false document from the
13 case of a judgment never entered in the court record after amended rulings. It is
14 Case No.37-2010-00061530-CU-DF-NC Kelman v. Kramer, NC Superior Court Dept.
15 30, Honorable Thomas Nugent.

16 15. What is relevant on this point is that Kelman is now seeking an injunctive relief
17 in a new case that Kramer be gagged of writing of this court's involvement in
18 aiding insurer fraud, based on a fictional judgment that was never even entered in
19 this case after amended rulings of December 16, 2008 and April 3, 2009.

20
21 16. On January 13, 2011, Scheuer submitted costs on appeal of \$762.30

22
23 17. Page 16 of the Opinion states, "*Judgment affirmed. Respondents to recover*
24 *their costs of appeal*". "*Respondents*" is restated in the Remittitur.

25
26 18. Not mentioned in the Opinion, this court was evidenced, Bryan ("Hardin") is
27 the sixth owner of GlobalTox. He is also a retired Deputy Director of CDC

1 NIOSH. As this court was evidenced he was an improperly undisclosed party to
2 this litigation on the Certificate of Interested Parties in 2006 when denying
3 Kramer's anti-SLAPP motion. When this court uses the plural term "*respondents*
4 *to recover costs*" in the Opinion and Remittitur, is this court referring to
5 undisclosed party, Hardin, as an additional party to recover costs and one who
6 Kramer prevailed over in trial as one of the owners of GlobalTox? Because on
7 the Certificate of Interested parties submitted to this court in 2009, there is only
8 one disclosed respondent, Bruce Kelman.

9 19 . As such, this court needs to recall the remittitur to clarify what they mean
10 by the term "*judgment affirmed*" and "*respondents*" (plural) of what costs are
11 being awarded to whom; based on what date a judgment properly noticed as
12 entered becomes the valid judgment; and whom they are referring to with the
13 plural "*respondents*" being awarded costs on appeal.

14
15 20. California Rule of the Court 8278(a)(3) states, "*If the Court of Appeal reverses*
16 *the judgment in part or modifies it..., the opinion must specify the award or denial*
17 *of costs.*"

18
19 21. "*A remittitur can be recalled to permit the court to 'clarify and make certain' any*
20 *matters that are implicit in the court's opinion and judgment. (Ruth v. Lytton Sav.*
21 *& Loan Ass'n (1969) 272 Ca 2d 24, 25, 76 CR 926, 927"* Witkins Rule of Law 14;41

22
23 22. "*A recall may also be ordered on the ground of the court's inadvertence or*
24 *misapprehension as to the true facts, or if the judgment was improvidently*
25 *rendered without due consideration of the facts"* McGee (1951) 37 C2d 6,9, 229
26 P2d, 780, 782" Witkins 14:38

IV.

1 RECALL REMITTITUR ADMINISTRATIVE PRESIDING JUSTICE "CLERICAL ERROR"

2
3 1. The Opinion was rendered on September 14, 2010 deeming Kramer a
4 malicious liar for the word "altered"; in which the Opinion by inadvertence,
5 neglect or error, did not mention Kramer's evidence within her Appellate Reply
6 Brief of fraud on this court, ie, Scheuer again suborning Kelman's perjury on the
7 issue of malice in his reply brief of September 2009; and the Opinion did not
8 mention being evidenced of Scheuer's citing to trial transcript that did not
9 support statements in the brief to falsely portray Kramer had been impeached
10 in trial and was falsey portray she evidenced to have written with malice.

11 2. On September 17, 2010, Kramer filed a complaint with the Administrative
12 Presiding Justice under Local Rules of the Court, Policy Against Bias 1.2.1. This
13 policy states, "*It is the policy of the court to provide an environment free of all types*
14 *of bias, prejudice, any kind of discrimination, or unfair practice. All judges,*
15 *commissioners, referees, court officers, and court attachés must perform their*
16 *duties in a manner calculated to prevent any such conduct, either by court*
17 *personnel or by those appearing in court in any capacity....Any violation of this*
18 *policy by any judge, commissioner, referee, court officer, or court attaché should be*
19 *reported directly to the presiding judge or executive officer, or assistant executive*
20 *officer of the division in which the alleged violation occurred."*

21 3. In error and in violation of California Rules of the Court; no
22 acknowledgement of even receiving the date stamped complaint Kramer had
23 submitted was sent to Kramer from the Administrative PJ

24
25 4.. Under California Rules of the Court 10.603(f)(3). "*The presiding judge must give*
26 *written notice of receipt of the complaint to the complainant."*

1 5. California Rules of the Court 10.603(g)(4) states, *"The court must maintain a*
2 *file on every complaint received, containing the following:(A) The complaint;(B) The*
3 *response of the subordinate judicial officer, if any;(C) All evidence and reports*
4 *produced by the investigation of the complaint, if any; and(D) The final action*
5 *taken on the complaint."*

6 6. California Rules of the Court 10.603(i)(5) states, *"If the presiding judge*
7 *terminates the investigation and closes action on the complaint, the presiding*
8 *judge must:(A) Notify the complainant in writing of the decision to close the*
9 *investigation on the complaint. The notice must include the information required*
10 *under (l)" which states: "When the court has completed its action on a complaint,*
11 *the presiding judge must promptly notify the complainant and the subordinate*
12 *judicial officer of the final court action.(2) The notice to the complainant of the final*
13 *court action must:(A) Provide a general description of the action taken by the court*
14 *consistent with any law limiting the disclosure of confidential employee*
15 *information; and (B) Include the following statement: If you are dissatisfied with the*
16 *court's action on your complaint, you have the right to request the Commission on*
17 *Judicial Performance to review this matter under its discretionary jurisdiction to*
18 *oversee the discipline of subordinate judicial officers. No further action will be taken*
19 *on your complaint unless the commission receives your written request within 30*
20 *days after the date this notice was mailed. The commission's address is:*
21 *Commission on Judicial Performance 455 Golden Gate Avenue, Suite 14400 San*
22 *Francisco, California 94102"*

23 7. As the Opinion failed to mention the fraud in Kelman's Reply brief that was
24 evidenced by Kramer to falsely portray to this court that Kramer had been
25 impeached in trial and falsely portray that Kelman had *not* committed perjury,
26 when in fact he had; review for bias in the court is essential and the remittitur
27 should be recalled and stayed for the Administrative PJ to perform her duty,
28

1 required actions and adhere to the policies against bias, as dictated under
2 Local and California Rules of the Court.

3
4 8. *"A recall may also be ordered on the ground of the court's inadvertence or*
5 *misapprehension as to the true facts, or if the judgment was 'improvidently*
6 *rendered without due consideration of the facts"* McGee *"A stay may be ordered*
7 *only for 'good cause'. 'Good cause' for this purpose requires a showing of some*
8 *extraordinary reason for retaining appellate court jurisdiction and further delaying*
9 *lower court proceedings on the judgment (e.g., likely irreparable damage from*
10 *immediate enforcement of the judgment)* Reynolds v. E. Clemens Horst Co. *supra,*
11 36 CA at 530, 172 P at 624] Witkins 14:30

12 9. Clerical error of the Administrative Presiding Justice not acknowledging her
13 subordinates bias that deemed a Whistle Blower of a fraud in policy to be a
14 *"malicious liar"* ; while ignoring the fraud in policy author's fraud in his Reply
15 Brief; or not acknowledging she even received a complaint is "Good Cause" for
16 this remittitur to be recalled and the Opinion re-evaluated. Irreparable
17 damaged is being done to Kramer by having to answer to a new malicious
18 litigation filed by Kelman and Scheuer seeking Kramer be gagged from
19 discussing this case and the bias in the Opinion.

20 IV
21 NEW MALICIOUS LAWSUIT TO GAG KRAMER FROM WRITING OF FRAUD IN
22 OPINION
23 Kelman & Scheuer Now Agents Of This Court

24 1. In a litigation where the sole claim of the case has been over the phrase
25 *"altered his under oath statements on the witness stand"*, Kelman is seeking
26 injunctive relief that Kramer be:

27 "restrained from stating, repeating, publishing or paraphrasing, by any
28 means whatsoever, any statement that was determined to be libelous

1 in an action titled Kelman [sic & GlobalTox] v. Kramer San Diego
2 Superior Court case no. GIN044539. The libelous passage of the press
3 release states:

4 'Dr. Bruce Kelman of GlobalTox, Inc., a Washington based
5 environmental risk management company, testified as an
6 expert witness for the defense, as he does in mold cases
7 through the country. Upon viewing documents presented
8 by the Hayne's [sic] attorney of Kelman's prior testimony
9 from a case in Arizona, Dr. Kelman altered his under oath
10 statements on the witness stand. He admitted the Manhattan
11 Institute, a national political think-tank, paid GlobalTox
12 \$40,000 to write a position paper regarding the potential
13 health risks of toxic mold exposure.'

14 IT IS FURTHER ORDERED that, before this order may take effect,
15 Plaintiff [sic Kelman] must file a written undertaking in the sum of
16 \$_____, as required by C.C.P. 529, for the purpose of
17 indemnifying Defendants for the damaged they may sustain by
18 reason of the issuance of this preliminary injunction if the Court
19 finally decides that Plaintiff is not entitled to it. The preliminary
20 injunction shall issue on Plaintiff's filing of such written
21 undertaking."

22 Pacific Legal Foundation v. California Costal Comm'n, *"The court can recall the*
23 *remittitur if the appellate judgment resulted from a fraud or 'imposition' perpetrated*
24 *upon the court. "* Although this case says nothing of fraud or imposition
25 perpetrated by the court, with an Administrative Presiding Justice ignoring she was
26 evidenced of such and evidenced of her own involvement when denying an anti-
27 SLAPP in 2006; and with the Fourth District Division One Appellate Court being the
28 beneficiary of a new malicious litigation to gag Kramer; a recall of the remittitur in
this case would appear to be legally required to stop the court from covering up
that they have been aiding insurer fraud in health policy by aiding with a strategic
litigation carried out by criminal means to silence a Whistle Blower. It is also

1 required so as not to put the Honorable Judge Thomas Nugent in a compromised
2 position when Kramer files a new anti-SLAPP motion in the new case while
3 detailing the fraud in the Opinion as the primary reason for strategic litigation
4 against public participation.

5
6 January 19, 2011

7
8 _____
9 Sharon Kramer , Pro Per
10
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1 LAW OFFICES OF KEITH SCHEUER
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3 4640 Admiralty Way, Suite 402
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5 (310) 577-1170
6 Attorney for Plaintiffs
7 BRUCE J. KELMAN and GLOBALTOX, INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO, NORTH DISTRICT

10 BRUCE J. KELMAN,) CASE NO. BC
11 GLOBALTOX, INC.,) Assigned for All Purposes to:
12 Plaintiffs,) HON.
13) DEPARTMENT
14 v.)
15) UNLIMITED CIVIL CASE
16 SHARON KRAMER, and DOES 1)
17 through 20, inclusive,) COMPLAINT FOR LIBEL
18 Defendants.)
19)
20)

21 Plaintiffs BRUCE J. KELMAN (hereafter "KELMAN") and
22 GLOBALTOX, INC. (hereafter "GLOBALTOX") complain against
23 Defendants as follows:

24 FIRST CAUSE OF ACTION
25 (Libel Against All Defendants)

- 26 1. Plaintiff BRUCE J. KELMAN (hereafter "KELMAN") is
27 an individual who resides in the State of Washington.
28 2. Plaintiff GLOBALTOX, INC. (hereafter "GLOBALTOX")
is a corporation organized and existing under the laws of the
State of Washington, with its principal place of business in

1 8. Commencing on or about March 9, 2005, Defendants
2 published and distributed written press releases that falsely
3 implied that KELMAN and GLOBALTOX provided perjurious
4 testimony in lawsuits and stated that KELMAN, while working
5 for GLOBALTOX, "altered his under oath statements" while
6 testifying on the witness stand in an Oregon lawsuit.
7 Defendants posted these statements on various online message
8 boards and internet sites, including ToxLaw.com and
9 ArriveNet.com.
10

11 9. Such statements are false, and are libelous on
12 their face. They expose Plaintiffs to hatred, contempt,
13 ridicule, and obloquy, and tend to injure Plaintiffs in their
14 business, in that such statements accuse Plaintiffs of
15 providing false testimony under oath, and engaging in
16 dishonest and criminal conduct.
17

18 10. These defamatory statements were seen and read by
19 persons across the United States and elsewhere who visited
20 the above-referenced message boards and internet sites.
21

22 11. As a proximate result of Defendants' wrongful
23 publication, Plaintiffs have suffered loss to their
24 reputation, shame and mortification, all to their general
25 damage in an amount to be proved at trial.

26 12. In addition, as a further proximate result of the
27 above-described publication, Plaintiffs have suffered special
28

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5 (310) 577-1170
6 Attorney for Plaintiff
7 BRUCE J. KELMAN

8
9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11
12 **FOR THE COUNTY OF SAN DIEGO, NORTH DISTRICT**

13 BRUCE J. KELMAN,) CASE NO. :
14 Plaintiff,) 37-2010-00061530-CU-DF-NC
15 v.) Assigned for All Purposes to:
16 SHARON KRAMER, and DOES 1) HON. THOMAS P. NUGENT
17 through 20, inclusive,) DEPARTMENT: N-30
18 Defendants.) UNLIMITED CIVIL CASE
19) [PROPOSED] PRELIMINARY
20) INJUNCTION

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Hearing Date: March 25, 2011
Time: 1:30 p.m.
Department: N-30

On proof made to the Court's satisfaction, and good cause appearing:

IT IS HEREBY ORDERED that, during the pendency of this action, the above-named Defendants, and each of them, and all persons acting under their instructions or in concert with them or any of them, are enjoined and restrained from stating, repeating, publishing or paraphrasing, by any means whatsoever, any statement that

1 was determined to be libelous in an action titled Kelman v.
2 Kramer, San Diego Superior Court case no. GIN 044539. The
3 libelous passage of the press release states:

4 "Dr. Bruce Kelman of GlobalTox, Inc., a Washington
5 based environmental risk management company, testified
6 as an expert witness for the defense, as he does in
7 mold cases throughout the country. Upon viewing
8 documents presented by the Hayne's [sic] attorney of
9 Kelman's prior testimony from a case in Arizona, Dr.
10 Kelman altered his under oath statements on the witness
stand. He 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."

11 IT IS FURTHER ORDERED that, before this order may take
12 effect, Plaintiff must file a written undertaking in the sum
13 of \$ _____, as required by C.C.P. § 529, for the
14 purpose of indemnifying Defendants for the damages they may
15 sustain by reason of the issuance of this preliminary
16 injunction if the Court finally decides that Plaintiff is
17 not entitled to it. The preliminary injunction shall issue
18 on Plaintiff's filing of such written undertaking.

19
20 The Court reserves jurisdiction to modify this
21 injunction as the ends of justice may require.
22

23
24 _____
Judge of the Superior Court