

*Mrs. Sharon Noonan Kramer
2031 Arborwood Place
Escondido, California 92029*

Tele:(760)746-8025 Fax:(760)746-7540 Email:SNK1955@aol.com

September 15, 2010

The Honorable Presiding Justice Judith McConnell
Fourth District Division One Appellate Court
Symphony Towers
750 B Street, Suite 300
San Diego, California 92101

Re: Bias in the courts & failure to stop key criminal activity by a litigant and attorney, in Kelman vs. Kramer, Case No. D054496

Honorable Presiding Justice McConnell,

San Diego Rule of the Court 1.2.1, Policy Against Bias, 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. This rule does not preclude legitimate comment or advocacy when race, gender, religion, national origin, disability, age, sexual orientation, social economy, or other similar factors are issues in court proceedings.

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. Any violation of this policy by persons appearing in court should be reported directly to the judicial officer before whom the proceedings were conducted.”

As you are aware, this case is a libel action which impacts many cases throughout the United States. The reason for this is that in 2005, I was the first to publicly write of:

i.) a fraud in health marketing over the mold issue that it had been scientifically proven all claims of illness from mold were a result of “trial lawyers, media and junk science” – US (“Chamber”) of Commerce, A Scientific View of the Health Effects of Mold;

ii.) who was involved in the mass marketing of scientific misinformation to the courts and into US health policy to the benefit of insurers, employers and other financial stakeholders of moldy buildings for the purpose of biasing the courts against the sick and injured:

- a. US Chamber of Commerce, Manhattan Institute - self professed gurus of tort reform;
- b. Bruce ("Kelman") & Bryan ("Hardin") -co-owners of VeriTox, Inc. formerly known as GlobalTox, Inc;
- c. Congressman Gary Miller (R-Ca); and
- d. the American College of Occupational and Environmental Medicine ("ACOEM")

iii.) how a 2005 Oregon jury was able to see through the mass marketing of misinformation once the professional insurer defense witness, Kelman, was forced to discuss the true close connection of two medico-legal mold policy papers of the Chamber and ACOEM in front of them, caused by a prior testimony of Kelman's from Arizona being allowed into the Oregon trial.

iv.) twenty-two months after I first wrote of the deception, the Wall Street Journal ran a front page expose' of it, titled "Court of Opinion, Amid Suits Over Mold Experts Wear Two Hats, Authors of Authors of Science Paper. Often Cited by Defense. Also Help in Litigation". Had I been intimidated into silence by this litigation, this WSJ article never would have come to be and neither would have a Federal Government Accountability Office audit that negates the false science of the US Chamber et al, which aids the sick and injured to obtain medical treatment and restitution in the courts.

The irrefutable transcript of the Oregon trial proceeding I wrote of in 2005, shows that Kelman, once forced to discuss, was attempting to say the two medico-legal policy papers of the Chamber and ACOEM were separate endeavors while having to admit one was simply a translation of another after his prior testimony from another proceeding was permitted into the trial over defense counsel objection. To quote Kelman's altering under oath statements of February 18, 2005, as found in the transcript,

"lay translation" "two different papers, two different activities" and flipping back to "lay translation".

The court record in this libel action also shows that one of four sources I relied on, Calvin ("Vance"), who was in the courtroom on February 18, 2005 to witness Kelman's testimony, submitted an affidavit stating,

“I understand that she [Kramer] put out a press release about the Haynes case and that Mr. Kelman sued her for saying something to the effect in the release that he “altered” his testimony on the witness stand. The transcript proves that he did so. In fact, a fair observer could say that he changed his testimony more than once in a matter of minutes.”

Contrary to numerous rulings in this libel litigation and even found in the “Plaintiff’s Special Jury Instructions Actual Malice”; there has never been one piece of evidence presented that I had any reason to doubt the validity of my use of the sentence, “Upon viewing documents presented by the Haynes’ attorney of Kelman’s prior testimony from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand” as a fair and accurate account of Kelman’s February 18, 2005 Oregon testimony.

There has never been one piece of evidence to corroborate that I harbored personal malice for Kelman when I wrote in March of 2005, of a professional witness forced to acknowledge the connection of the Chamber and ACOEM in mass marketing scientific misinformation over the mold issue. As explained and evidenced for the courts numerous times since July of 2005, I am highly of the opinion that Kelman was attempting to hide the marketing trail of how the “environmental science” of the US Chamber became health policy via ACOEM to be used to stave off insurer liability of mold induced illnesses (while shifting the cost burden of these illnesses onto US and California taxpayers).

On September 14, 2010, the San Diego Appellate Panel of Justices Benke, Huffman and Irton issued a ruling in which none of the above irrefutable evidence of the case is even mentioned, just like your anti-SLAPP ruling of the matter in November 2006 did not acknowledge the exact same evidence. In fact, their ruling claims they reviewed your ruling in detail, how it pertained to the framing of the scope and outcome of the trial, and my evidence presented of what you ignored in 2006. They state,

“ In a prior opinion, a previous panel of this court affirmed an order denying Kramer’s motion to strike under the anti-SLAPP statute. In doing so, we largely resolved the issues Kramer now raises on appeal. In our prior opinion, we found sufficient evidence Kramer’s Internet post was false and defamatory as well as sufficient evidence the post was published with constitutional malice.” (See Attachment 1, pg 2)

There are many misstatements of fact in the new ruling. For instance, there is no evidence of me even uttering a harsh personal word of Kelman to support the theory of personal malice, before he sued me. Speaking out and evidencing a deception and conflicts of interest in health marketing over the mold issue for the sake of public health in which he is just one of many involved, yes. Personally harsh words of Kelman, borne from personal malice, no.

The most concerning omission of evidence in the latest ruling is that they were clearly evidenced that since the summer of 2005, I have provided every judge and justice to oversee this case with uncontroverted and irrefutable evidence Kelman has been committing criminal perjury to make up a libel law needed reason for my purported malice for him and his attorney has been willfully suborning it. This, in a litigation where the sole claim of the case is that my use of the phrase “altered his under oath statements” was a malicious accusation of perjury.

It does not take a legal scholar to understand that one cannot use criminal perjury to prove they were falsely accused of perjury. While uncontroverted evidence is generally accepted as true in a court of law, to not even have the uncontroverted evidence of Kelman’s perjury mentioned in the newest ruling, just like your ruling, is an indication that something is terribly amiss in this litigation and in the San Diego courts.

If at anytime in the past five years, even one San Diego judge or justice had acknowledged the irrefutable and uncontroverted evidence that Kelman, Hardin, VeriTox and Scheuer were strategically litigating by the use of criminal perjury on the issue of malice; the insurer unfair advantage in the courts caused by the legitimizing of bogus science of the Chamber and ACOEM mold papers, would have come to a screeching halt by the acknowledgement they were even willing to use criminal means to keep the scheme going. Thus far, none have.

As you are aware, I have filed a complaint with San Diego District Attorney Bonnie Dumanis for Kelman’s criminal perjury going unchecked in the San Diego courts for over five years; and the impact this is having of aiding and abetting insurer fraud over the mold issue. I am deeply concerned that the San Diego courts are playing politics favorable to the interests of the US Chamber of Commerce et al, in this libel litigation and detrimental to the health and safety of the California and American public. With this latest ruling that once again does not even mention the undeniable evidence of Kelman’s criminal perjury while strategically litigating to silence me and retaliate against me for adversely impacting his interstate expert witnessing enterprise; my concerns have grown even deeper.

Even though you were provided the majority of the following on August 25, 2010, via notarized and registered letter, I am attaching again to this complaint for bias in violation of Local Rule 1.2.1. This time, I am requesting you take swift action as the Presiding Justice of the Fourth District, Division One Appellate Court; as the costs of defending the truth of my words for the public good for over five years has left my family soon to be bankrupt:

Attachment 2: Overview of the adverse impact of your bias when making your anti-SLAPP ruling in 2006 and letter sent to you on August 25, 2010.

Attachment 3: My complaint to the DA, August 25, 2010, of criminal perjury by Kelman to make up a purported reason for personal malice;

and willful suborning of it by his attorney, Keith Scheuer, going unchecked in the San Diego courts for five years.

Attachment 4: My follow up letter to the DA of August 28, 2010.

Attachment 5: The injured workers of Toyota of Poway's complaint to the San Diego DA for Workers Comp insurer fraud involving an ACOEM physician.

Attachment 6: Letters written by Ca Insurance Commissioner Candidate Dina Padilla to DA Dumanis, Commissioner Poizner and Atty Gen, Jerry Brown.

Attachment 7: Letters to Regents of the UC, including Governor Schwarzenegger, addressing the UC's name used in aiding this systemic insurer fraud of the US Chamber et al, over the mold issue.

Attachment 8: What you were told by irrefutable and uncontroverted evidence in 2006 but failed to acknowledge in your ruling that this Appellate panel is now relying on as error free:

- a. US Chamber/ACOEM author Kelman's criminal perjury on the issue of malice while strategically litigating – evidenced for, but not mentioned in the Benke panel ruling of 2010
- b. retired high level federal employee, Hardin, who is the business partner of Kelman improperly missing from the Certificate of Interested Parties – evidenced for, but not mentioned in the Benke panel ruling of 2010
- c. Sacramento judge deeming the mold science of Kelman & Hardin that is policy in California "a huge leap" – evidenced for, but not mentioned in the Benke panel ruling of 2010

In the capacity of Presiding Justice and in accordance with Local Rule 1.2.1, please clarify for me how it is possible that ten San Diego judges and justices just cannot seem to grasp that one cannot use criminal perjury to prove they were wrongfully accused of criminal perjury, even if they are an author of two medico-legal policy papers - one for the US Chamber and one for ACOEM. ACOEM writes the workers comp guidelines physicians must follow for the state of California under SB 899. In the face of undeniable evidence that this has occurred in the San Diego courts for over five years, the only plausible explanation for such behavior could be "bias, prejudice, discrimination and unfair practice" in violation of Local Rule of the Court 1.2.1, Policy Against Bias.

I will be filing a Petition for Rehearing in accordance with Chapter Four Rules of the Court 8.268 by September 29, 2010. I would be appreciative of an explanation of the above from you before that time. As the Presiding Justice of the Fourth District, Division One Appellate Court and the elected government official in San Diego county who presides over all judges and justices; please let

me your intent of how you will address this matter of US Chamber and ACOEM author Kelman's and his attorney's criminal activities while strategically litigating, going unacknowledged and not stopped by the San Diego courts for over five years.

Thank you, Justice McConnell, for your prompt attention to this gravely serious matter of bias in the San Diego courts that continues to adversely impact the health and safety of many California and US citizens, while aiding and abetting the cost of illnesses from exposure to contaminants in water damaged buildings to shift off of insurers and onto taxpayers.

Sincerely,

Sharon Kramer

cc: Bonnie Dumanis, San Diego District Attorney
Virgil Hawkins, Criminal Investigator, District Attorney's Office

enc: 8

Mrs. Sharon Noonan Kramer
2031 Arborwood Place
Escondido, California 92029
Tele:(760)746-8025 Fax:(760)746-7540 Email:SNK1955@aol.com

August 25, 2010

Justice Judith McConnell, Chair
California Commission on Judicial Performance
455 Golden Gate Avenue Suite 14400
San Francisco, California 94102-3660

Re: Complaint filed with San Diego District Attorney, Bonnie Dumanis, for criminal perjury while strategically litigating by author of US Chamber & ACOEM mold statements. ACOEM writes workers comp guidelines for the state of California.

Honorable Chariperson McConnell,

I continue to witness injured workers and others not be able to receive restitution or medical treatment when injured by mold. There is a problem in workers compensation reform under SB 899. It is allowing workers comp insurers to game the system.

All of this would have been stopped if at anytime, any judge or justice to oversee the litigation of *Kelman & GlobalTox vs. Kramer D054496, Fourth District Division One*, San Diego, would have acknowledged the irrefutable evidence that one of the authors of the US Chamber's & ACOEM's environmental science used to deny insurer responsibility for mold induced illnesses, Bruce Kelman, was committing criminal perjury to make up a libel law needed reason for malice when attempting to silence me of the misapplication of science used in furtherance of insurer fraud; and the other author, Bryan Hardin, was improperly missing as a named party to the strategic litigation on the Certificate of Interested Parties.

Thus far, none have. I still await the Appellate Court ruling that is due by September 15, 2010. In the meantime, Dina Padilla who is running for California Commissioner of Insurance is calling for an investigation into the systemic insurance fraud that has flourished under the premise of "reform". There are injured workers in Poway who are speaking out of how the cost for their injuries are being shifted onto the taxpayers. To assist the DA to understand their claims of abuse are true and accurate, I have let the DA's office know of your errors caused by bias of assuming I was a malicious liar, without fact checking, when I explained the deception and its impact in health policy and the courts.

From your ruling affirming the lower court anti-SLAPP denial in violation of 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"*.

“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)

All of your subordinate judges followed your lead in violation of CCP 425.16(3). Again even though this has cost my family over \$2.5M and everything we own to defend the truth of my words for the public good; I am not filing a complaint against the judges and justices involved in this unbridled strategic litigation, whose bias has failed to stop a deception in science that has harmed many by its ability to continue to be used in health policy and insurance claims handling practices. But, I also am not one to speak behind anyone’s back. Again, a heads up that I am speaking out of the vast misery caused to the lives of many by the bias in the San Diego courts automatically assuming I was a malicious liar as I attempted to blow the whistle to them of the deception that continues on in spite of my informing the courts over five years ago.

Attached to this letter is:

1. overview of the adverse impact of your bias when serving in the capacity of a justice as opposed to Chair of the California Commission on Judicial Performance
2. my complaint to the DA of criminal perjury by Kelman to make up a purported reason for personal malice; and willful suborning of it by his attorney, Keith Scheuer.
3. a 40 minute video given to the DA that was also given to the State Bar over a year ago
4. the injured workers of Toyota of Poway’s complaint to the DA for Workers Comp insurer fraud
5. letters written by Candidate Padilla to DA Dumanis, Commissioner Poizner and Atty Gen, Jerry Brown.
6. letter to Regents of the UC addressing their involvement in aiding this systemic insurer fraud over the mold issue.

7. what you were told by irrefutable and uncontroverted evidence in 2006 of
 - a. US Chamber/ACOEM author Kelman's criminal perjury on the issue of malice while strategically litigating
 - b. retired high level federal employee, Hardin, who is the business partner of Kelman improperly missing from the Certificate of Interested Parties.
 - c. Sacramento judge deeming the mold science of Kelman & Hardin that is policy in California "a huge leap"

This is a very odd situation. I don't file a complaint to the Commission about the Chair of the Commission and other judiciaries, because I am of the opinion the judiciaries are also victims in this scenario. They (you) were the target market of the deception of ACOEM and the US Chamber mold campaign as spelled out for you in 2006. But as the Chair of the Commission I feel I need to keep you informed of what is still occurring and what I am having to say and evidence about my case and the San Diego courts and your errors caused by your view point bias, as this case impacts many cases.

Sincerely,

Sharon Kramer.

Enclosure: 7

Declaration of Kramer submitted to the courts, July 2005:

"Within the prior sentences, Kelman testified "We were not paid for that...", not clarifying which version he was discussing. There was no question asked of him at that time. He went on to say GlobalTox was paid for the "lay translation" of the ACOEM Statement. He then altered to say "They're two different papers, two different activities." He then flipped back again by saying, "We would have never been contacted to do a translation of a document that had already been prepared, if it hadn't already been prepared." By this statement he verified they were not two different papers, merely two versions of the same paper. And that is what this lawsuit is really all about.

The rambling attempted explanation of the two papers' relationship coupled with the filing of this lawsuit intended to silence me, have merely spotlighted Kelman's strong desire to have the ACOEM Statement and the Manhattan Institute Version portrayed as two separate works by esteemed scientists.

In reality, they are authored by Kelman and Hardin, the principals of a corporation called GlobalTox, Inc. - a corporation that generates much income denouncing the illnesses of families, office workers, teachers and children with the purpose of limiting the financial liability of others. One paper is an edit of the other and both are used together to propagate biased thought based on a scant scientific foundation.

Together, these papers are the core of an elaborate sham that has been perpetrated on our courts, our medical community and the American public. Together, they are the vehicle used to give financial interests of some indecent precedence over the lives of others." (Appellant Appendix Vol.1 Ex.8:157-158)

Appellant Kramer anti-SLAPP Response Brief, April 7, 2006 :

Kelman states in his declaration at page 5, paragraph 8, line 7-10 (Appendix 358) that Mrs. Kramer and her daughter were claiming life threatening illness from exposure to mold in the underlying litigation, when in fact, in Mrs. Kramer's declaration in reply, she showed that she never claimed a life threatening illness in that suit.....Kelman stated at page 5, paragraph 8, line 10 (Appendix 358) that, in the litigation he testified it couldn't cause a life threatening illness when a.) Sharon Kramer never claimed a life threatening illness and b.) as to her daughter, Erin, he admitted he was not competent to make

such a medical opinion. (Exhibit 6 to Defendant's reply declaration, Appendix 494) (Vol.1. Ex.10:207, 208)
(Appellant Appendix Vol.I Ex.10:208)

Criminal perjury to establish a fictional reason for personal malice, submitted to the courts 3 times by US Chamber & ACOEM mold statement author, Bruce Kelman, and his attorney, Keith Scheuer, 2005, 2006, 2008. Bias in the courts that anyone who says mold can harm is automatically to be considered a malicious liar caused them to accept this never corroborated fictional theme for personal malice, even in the face of irrefutable evidence it is criminal perjury. The irrefutable and uncontroverted evidence of Kelman's criminal perjury on the issue of malice has been submitted to all judiciaries to oversee the case since May of 2005 and to date of August 2010. The latest reviewing court has had the irrefutable evidence in their possession since October of 2009.

"I first learned of Defendant Sharon Kramer in mid-2003, when I was retained as an expert in a lawsuit between her, her homeowner's insurer [Mercury Casualty] and other parties regarding alleged mold contamination in her house. She apparently felt that the remediation work had been inadequately done, and that she and her daughter had suffered life-threatening diseases as a result. I testified that the type and amount of mold in the Kramer house could not have caused the life-threatening illnesses that she claimed. I never met Ms. Kramer." (Appellant Appendix Vol.IV Ex.28:1013)

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

From the unpublished Appellate anti-SLAPP ruling, November 2006.

3. Kramer asked us to take judicial notice of additional documents, including the complaint and an excerpt from Kelman's deposition in her lawsuit against her insurance company. We decline to do so as it does not appear these items were presented to the trial court." (Appellant Appendix Vol.I, Ex:12:249,250)

"Initially, we note this lawsuit is not about a conspiracy. This lawsuit was filed by Kelman and GlobalTox [sic VeriTox] alleging one statement in a press release was libelous. Thus, conspiracy issues are not relevant." (Appellant Appendix Vol.I Ex.12:262)

Attempted coercion into silence of the deception in science after defeating the anti-SLAPP motion through the use of criminal perjury on the issue of malice. I refused to sign this support for the bogus environmental science of the US Chamber of Commerce after being left bare from protection of retribution by the San Diego Appellate court's failure to acknowledge irrefutable evidence of Kelman's criminal perjury to establish a fictional theme of personal malice.

"..To my knowledge their testimony are based on their expertise and objective understanding of the underlying scientific data. I sincerely regret any harm or damage that my statements may have caused." (Appellant Appendix Vol.IV App.942)

California Code of Judicial Ethics, Canon 3.D (2) which states, Disciplinary Responsibilities

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.

California Code of Judicial Ethics, Canon 3.B (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 race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, or (2) sexual harassment.

California Code of Judicial Ethics, Canon 3.C (1)

(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.

California Code of Judicial Ethics, Canon 2.A (1) 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.

California Code of Judicial Ethics, Canon 3.D (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.*

Mrs. Sharon Noonan Kramer
2031 Arborwood Place
Escondido, California 92029
Tele:(760)746-8025 Fax:(760)746-7540 Email:SNK1955@aol.com

August 25, 2010

District Attorney Bonnie Dumanis
San Diego District Attorney Office
300 B Street
San Diego, California 92101

District Attorney Dumanis,

Agnotology is the study of culturally induced ignorance or doubt, particularly the publication of inaccurate or misleading scientific data. A prime example of the deliberate production of ignorance is the tobacco industry's conspiracy to manufacture doubt about the cancer risks of tobacco use. Under the banner of science, the industry produced research about everything except tobacco hazards to exploit public uncertainty. Some of the root causes for culturally-induced ignorance are media neglect, corporate or governmental suppression, and myriad forms of inherent or avoidable culturopolitical selectivity, inattention by decision makers and a desire to shift the cost burden for causation of illness onto other individuals or entities.

Agnotology also focuses on how and why diverse forms of knowledge do not come to be, or are ignored or delayed. When the misleading scientific data is allowed to be applied to establish health policies for the purpose of instilling bias in the courts to cause more favorable financial outcomes and unfair advantage for insurers, employers and other financial stakeholders of moldy buildings, it then becomes insurance fraud.

This complaint and request for investigation by the San Diego District Attorney's office is of the following:

- i.) Bruce J. ("Kelman"), co-owner of the corporation GlobalTox, Inc; now known as ("VeriTox") Inc. and a co-author of the US ("Chamber") of Commerce's and the American College Of Occupational and Environmental Medicine's ("ACOEM") Mold Position Statements that are used to set workers comp insurance policy in the state of California. This complaint is for Kelman's criminal perjury while strategically litigating for over five years in the San Diego courts, *Kelman & GlobalTox v. Kramer No. D054496, Fourth District Court of Appeal, Division One*; and
- ii.) Kelman's attorney Keith ("Scheuer") for his willful suborning of Kelman's criminal perjury to make up a libel law required reason for malice, while strategically litigating for over five years in the San Diego courts to

silence a whistleblower of an insurer fraud scheme. Scheuer has a no less than a 28 year history of willfully inflaming the courts by the use of misinformation, *ROSTON v. EDWARDS* 127 Cal.App.3d 842 (1982); and

iii.) bias within ten San Diego judges and justices for failure to stop strategic litigation carried out by criminal means of willful perjury on the issue of malice, for over five years in the San Diego courts; thus

iv.) aiding and abetting systemic unfair insurer advantage over the mold sick and injured as established by ACOEM and the Chamber to continue in workers comp and property casualty cases for over five years, both in California and interstate and while shifting the cost burden off of insurers and onto California and US taxpayers.

I have been a defendant in a libel litigation for over five years in the San Diego court system. The plaintiffs are the authors of the ACOEM and Chamber position statements on the purported science of mold. They are Kelman his business partner, Bryan (“Hardin”) and the company they own along with four others, Veritox.

The sole claim of the case is that my use of my phrase “altered his under oath statements” was a malicious accusation of perjury by Kelman when testifying as a defense witness in Oregon. Since July of 2005, I have provided every single judge and justice with a clear explanation of why and how Kelman “altered his under oath statements”, even citing to his exact words in black and white. Since September of 2005, I have provided every single San Diego judge and justice to oversee this case with irrefutable and uncontroverted evidence that Kelman has been committing perjury to make up a purported reason for personal malice while strategically litigating to silence me of the misapplication of science by ACOEM and the Chamber that has been mass marketed into health policy and to the courts as legitimate science, the reason for his altering under oath statements.

The writing in which the word “altered” was used by me in 2005 was the first, but not the last, to write of who was involved in instilling the false concept into public health policy that it had been scientifically proven mold in buildings does not seriously harm prior healthy people. This false scientific concept in health policy has aided insurers, employers and others to deny their rightful financial responsibility when people are injured by mold in buildings. With this, the study of agnotology becomes the study of systematic insurer fraud; where insurers are given this unfair advantage by the willful application of scientific misinformation of ACOEM, the Chamber and other interested parties in claims practices and litigation.

From my writing of 2005:

He [sic, Kelman] admitted the Manhattan Institute, a national political think-tank, paid GlobalTox \$40,000 to write a position paper regarding the potential health risks of toxic mold exposure. 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.

If at anytime in the past five years, even one San Diego judge or justice had acknowledged the irrefutable and uncontroverted evidence that Kelman, Hardin, VeriTox and Scheuer were strategically litigating by the use of criminal perjury on the issue of malice; the insurer unfair advantage in the courts caused by the bogus science of the Chamber and ACOEM mold papers would have come to a screeching halt by the acknowledgement they were even willing to use criminal means to keep the scheme going. Thus far, none have. The ten San Diego judges and justices to have overseen the case at various times with each and all provided irrefutable and uncontroverted evidence of Kelman's criminal perjury on the issue of malice are:

Michael P. Orfield (North County Superior Court, retired)

Justice Judith McConnell (Chair of the California Commission on Judicial Performance)

Justice Cynthia Aaron (Fourth District Court of Appeal)

Justice Alex MacDonald (Fourth District Court of Appeal)

Judge Lisa Schall (North County Superior Court – now moved to Family Court)

Judge Joel Pressman (Presiding Judge, North County Court)

Judge William Dato (North County Superior Court)

Justice Joel Huffman (Fourth District Court of Appeal – soon to rule, but having the uncontroverted evidence of Kelman's criminal perjury on the issue of malice since Oct 2009)

Justice Judith Benke (Fourth District Court of Appeal – soon to rule, but having the uncontroverted evidence of Kelman's criminal perjury on the issue of malice since Oct 2009)

Justice Joan Iron (Fourth District Court of Appeal – soon to rule, but having the uncontroverted evidence of Kelman’s criminal perjury on the issue of malice since Oct 2009)

I have not filed a complaint against any of the above named judiciaries for their blatant bias of failing to stop criminal activity in a strategic litigation, which allows the “science” of ACOEM and the Chamber to continue in the courts while unduly giving insurers unfair advantage in mold litigations and health policies. However, Justice McConnell, in the capacity as Chair of the California Commission on Judicial Performance, has been made aware of the systemic and systematic problem in the courts that judiciaries are to perceive that anyone who says mold can harm is automatically to be considered a malicious liar – no matter what the evidence of the case is, with herself serving as clear evidence in this libel action that has lingered in the San Diego courts for over five years.

I have not filed a complaint because the deceptive marketing campaign of ACOEM and the Chamber was specifically written with judiciaries being the target market. In other words, I am of the opinion the above named judiciaries are as much victims in the insurance fraud scheme of having bias intentionally instilled in them, as they are perpetrators in failing to stop it, caused by the bias that was intentionally instilled in them.

The problem in a nutshell:

In 2002, ACOEM brought in a PhD with a long history as a defense expert witness for Big Tobacco, Kelman, and his PhD business partner, Hardin, to write their position statement on mold. Hardin had recently retired from a position of influence at NIOSH/CDC. Neither man had a research background in mold. Neither are physicians, so no personal contact with the sick and injured. They applied math extrapolations to data they used from a mold researcher’s rodent study. Based solely on these calculations applied to a single rodent study, ACOEM set health policy that no one could ever inhale enough mycotoxins in a building to cause ill health. The implication being that no prior health people could be made ill from mold in buildings. This conclusion reached from these calculations have never been duplicated. They have been discredited many times in scientific journal publications and the media for both the misapplication of scientific data and the conflicts of interest behind the misapplication.

In 2003, the US Chamber of Commerce and the Manhattan Institute think tank paid Kelman and Hardin of VeriTox, Inc, to spin the misapplication of science further with the specific direction that the Chamber’s mold policy paper be written for judges. The two men wrote the following mantra to mislead and bias the courts by marketing false information to them, “Thus the notion that toxic mold is an insidious secret killer as so many trial lawyers and media would claim is Junk Science unsupported by actual scientific study”.

In 2005, under the premise of workers comp reform, Governor Arnold Schwarzenegger who is also President of the Regents of the University of California, put out a memorandum along with the California Department of Health and Human Services that all physicians in California should adhere to the ACOEM Mold Statement. It then became the firm concept in health policy and workers compensation in California that anyone who was healthy before an exposure but who claimed mold is making them severely ill, or anyone who speaks on the injureds' behalf, should automatically be considered a malicious liar by the California courts and medical professionals out to scam workers comp and property casualty insurers.

<http://www.cdph.ca.gov/programs/IAQ/Documents/moldInMyWorkPlace.pdf>
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.

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

I am aware of the Toyota of Poway situation in which the injured workers are serving as evidence of victims of systemic insurer fraud as established above. I am aware that Toyota of Poway and their insurer have hired an ACOEM toxicologist, Dr. Stephen Munday, to evaluate the workers' injuries and advise on reason to cast doubt for the workers comp claims. I am aware than no less than one of the injured workers will cost taxpayers over \$30,000 before his workers comp claim is to be evaluated again. I am aware that Dina Padilla, candidate for California Commissioner of Insurance is calling for an investigation into the Poway matter, systemic insurer fraud under SB 899 workers comp reform, and the science and misuse of the ACOEM mold policy in workers comp claims denials.

As the District Attorney of San Diego, please investigate the criminal perjury by an author of the ACOEM and Chamber mold policy while strategically litigating in furtherance of his enterprise, Bruce J. Kelman; and while strategically litigating in the San Diego courts system for over five years to silence the information Ms. Padilla is requesting be investigated of systematic insurer fraud in workers comp practices in California.

It does not take a legal scholar to understand that one cannot maliciously use criminal perjury in a legal proceeding to establish a purported reason of why they were maliciously accused of criminal perjury, even if one is an author of workers comp insurance policy for the state of California. Yet, somehow to date, ten San Diego judges and justices have failed to acknowledge this simple fact of law. Please investigate.

Attached to this complaint is a 40 minute video of under oath testimony, Bruce Kelman, regarding the ACOEM & US Chamber mass promotion of scientific misinformation to unduly influence the courts, and the irrefutable evidence of Bruce Kelman's criminal

perjury to make up a reason for purported malice while strategically litigating in the San Diego court system along with his attorney, Keith Scheuer, for over five years.

The irrefutable evidence of the above may be found in the files of the Fourth District, Division One Court of Appeal, 750 B Street, San Diego, California. I declare under penalty of perjury the above is true and correct. Submitted by me on August 25, 2010,. to the San Diego District Attorney, Bonnie Dumanis, in a complaint for systematic insurance fraud in California over the mold issue and criminal perjury in a strategic litigation in San Diego, by the authors of the misapplied scientific misinformation used in furtherance of insurer fraud.

Sharon Noonan Kramer

Enclosure: 1

CC: Justice Judith McConnell, Chair of the California Commission on Judicial Performance

Mrs. Sharon Noonan Kramer
2031 Arborwood Place
Escondido, California 92029
Tele:(760)746-8025 Fax:(760)746-7540 Email:SNK1955@aol.com

August 28, 2010

District Attorney Bonnie Dumanis
Office of San Diego District Attorney
Mr. Virgil Hawkins
Insurance Fraud Investigative Supervisor
300 W. Broadway, 7th Floor
San Diego, California 92101

Re: Complaint, criminal perjury by ACOEM/US Chamber mold statement author, Bruce J. Kelman, while strategically litigating for over five years in San Diego aiding & abetting Workers' Comp Insurer Fraud, Toyota of Poway et al.

Dear Mr. Hawkins (and Ms. Dumanis),

Thank you for making time to speak with the mold injured workers of Toyota of Poway; their attorney, Mr. Monroe; others and me; on Wednesday, August 25, 2010. I have been advocating for integrity in health marketing & policy on behalf of people injured by water damaged buildings and its resultant microbial contaminants (mold, etc), for over six years. I have a degree in marketing and study how and why it became erroneous US and California health policy that mold in buildings do not harm prior healthy people. Agnotology is the study of culturally induced ignored or doubt by the intentional misapplication of science in policy. That is basically what I have been studying over the mold issue. I am published on the subject in two medical journals in relation to the mold issue, The International Journal of Occupational and Environmental Health & The Journal of Allergy and Clinical Immunology.

I wish I could tell you that the manner in which these prior hard working contributors to society, the employees of Toyota of Poway, are being mistreated by their employer, Toyota of Poway; workers comp insurer, CorVel Corp; and the legal defense firm of Fisher & Phillips, LLP; along with their hired expert and ACOEM member/Ca Health Dept advisor, Dr. Stephen Munday; is an isolated incident. Unfortunately, it is not.

You indicated that you would be turning the complaints with requests to investigate over to an attorney in the DA's office for review. As I understand it, this includes my complaint for criminal perjury by the authors of the ACOEM and US Chamber mold statements going unchecked in the San Diego court system for five years in a strategic litigation meant to silence me of the shenanigans in health marketing/policy that the Toyota of Poway workers are now the victims.

Please pass along the following and attached information to the district's attorney who is reviewing the matter, regarding *how* insurers and employers are able to game the system by selling doubt of causation over these illnesses with Toyota of Poway and their mold injured workers serving as an illustration. There is a systemic problem in health policy established by ACOEM and the US Chamber over the matter that aids insurers, employers and others to easily game the system, game the injured, bias the courts and thereby game the taxpayers. CorVel is serving as evidence of an end user. "Views for dues" is the phrase used by lobbyists of the US Chamber to describe the perverse situation.

In my complaint and request for investigation that I personally filed with the DA's office for criminal perjury going unchecked in San Diego courts, I noted that I was copying Justice Judith McConnell, Chair of the California Commission on Judicial Performance on the complaint. See attached to this letter of what I mailed to the Honorable Chair, who oversees all judges of California, in regard to my complaint for investigation and that of the injured workers of Toyota of Poway. I am leaving out the documentation and video of deposition testimonies sent to Chairperson McConnell that were also previously shared with the San Diego District Attorney's office.

In regard to the Toyota of Poway workers, I cannot emphasis for you enough that the report on Mr. Hack's health and exposure - performed by ACOEM member, toxicologist Stephen Munday and dated April 15, 2010 - has statements that confuse, deny and delay the workers comp insurer's financial obligation to these injured employees. Whether intentional or simply careless, I couldn't say. But the matter could have easily been stated clearly and a key question could have been answered with one phone call made by Dr. Munday.

Below are excerpts of Dr. Munday's evaluation on behalf of the employer & WC insurer. This is the key report that is being misused as the reason to delay/deny the workers comp claims. Dr. Munday's report states that more information of the type of building testing is needed before he can say if the building is the proximate cause of the workers' new onset health problems and determine if the workers comp insurer, CorVel Corp, has financial responsibility to these injured workers. From his report:

"Specifically, I would state that the air samples per pages 19 and following show that there were elevated levels in the East Conference Room of penicillium and aspergillus, and in the left area there were elevated levels of Stachybotrys chaetomium. (Comment: Unfortunately, it is not clear, based on reading this report, whether or not these findings represented typical ambient samples or whether they were taken within the wall cavities or after destructive testing. It is important to know whether or not that is the case. If they did not do any in-wall cavity samples or any destructive testing, then of course these would be considered ambient samples and would be expected to be significantly elevated.)"

I sat on the ASTM International committee that drafted guidelines of how to sample for mold in occupational settings. There are two primary ways to test for mold in buildings. One way is to open up the walls to see what is behind them when determining the source and scope of the cause of poor air quality. This method disturbs the mold, making it airborne and thus the mold spore count in the air is higher when testing than what the workers typically breathe on a typical day. This type of testing is called "Destructive Testing". The other way to test is to not open the walls, not disturb the mold and just test the air for what molds the workers breathe on an average day. This type of testing is "Non-destructive Testing" to determine if the air is typically of sufficient quality for worker health and safety. Dr. Munday refers to this type of testing as "ambient samples" in his report.

Change Dr. Munday's above use of the phrase of "ambient samples" to the term "Nondestructive Testing" and his paragraph accurately and clearly reflects that all mold testing done at Toyota of Poway indicates the workers were breathing high levels of mold on a typical day:

"Specifically, I would state that the air samples per pages 19 and following show that there were elevated levels in the East Conference Room of penicillium and aspergillus, and in the left area there were elevated levels of Stachybotrys chaetomium.... If they did not do any in-wall cavity samples or any destructive testing, then of course these would be considered [nondestructive testing] and would be expected to be significantly elevated".. because that is what all tests results undeniably show the workers were breathing on a daily basis as nothing changed the air for testing purposes.

When the confusing term of "ambient samples" is taken out of the report, what Dr. Munday is really confirming with the above is that if these numbers come from testing when the walls have not been opened, then "of course" the numbers indicate that the workers were breathing high levels of mold by all accounts of all industrial hygienists involved. (If it was testing with the walls newly opened the numbers would have been even higher, but not lower.) There are no samples indicating anything close to an ambience of acceptable air quality in this building. One (as in judges) would never understand this, IF, they did not understand what Dr. Munday's phrase "ambient samples" actually means. It means testing to see if the workers were breathing good air. It does not mean high levels of mold in the air = acceptable samples as his report's ambiguity infers to my reading.

Dr. Munday states, "Next is a detailed report from 'Inspection Scientists, Inc.' entitled, 'Limited Mold Inspection Report,' prepared for Poway Toyota, dated Friday, March 12, 2010.... whether or not these findings represented typical ambient samples [*sic*, nondestructive testing of the air] or whether they were taken within the wall cavities or after destructive testing. It is important to know whether or not that is the case."

The company name of the report Dr. Munday reviewed is “Mold Inspection Sciences, Inc.” – not “Inspection Scientists Inc.” Please review their March 12, 2010 report Dr. Munday had in his possession that Mr. Hack provided to the District Attorney’s office on August 25th. It does not take a medical license to read the written words in the report to determine that testing was taken without opening up the walls, indicating the results are indicative of what the workers were breathing daily. Dr. Munday knows or should know this as he clearly states he saw the inspection report while even citing to specific pages in his evaluation. Nowhere in the inspection report does it mention opening up any walls as part of the testing process or the words “destructive testing”. Nor would it be logical to assume any ambiguity of the matter if destructive testing was not a method specifically called out in the report.

“It is important to know whether or not that is the case”, when determining if Dr. Munday’s report is being misused to confuse to shift the cost of these illnesses onto the taxpayer. If uncertain whether the testing was Destructive or Nondestructive; a quick phone call by Dr. Munday to Mold Inspection Sciences, Inc. - whose proper name and number is listed on the front page of the report, would have provided answers to Dr. Munday’s “important to know” question that has delayed, deferred and denied determining CorVel’s responsibility to the injured workers.

If this was such an “important to know” question for Dr. Munday in determining CorVel’s financial responsibility to the injured workers; then other “important to know” questions for the DA’s office to ask Dr. Munday and the workers comp insurer attorneys who hired him are:

- i.) why Dr. Munday did not make one phone call to answer this important question regarding testing before writing his report; and
- ii.) why Dr. Munday would assume ambiguity in testing methods when there is no mention of destructive testing anywhere within the Mold Inspection Sciences, Inc., 44 page report.

Because of this misstatement of fact caused by Dr. Munday’s failure to ascertain the answer to his important question, I am aware that Mr. Hack alone will cost taxpayers over \$30,000 before his next workers comp evaluation which is scheduled for December. I do not know the dollar amount of interim taxpayer costs for the other injured workers before they are evaluated again.

These workers are reporting new onset symptoms after the exposure that are consistent with those described by the World Health Organization and other authoritative scientific bodies on the subject (rashes, sleep disorders, memory problems, breathing problems, extreme fatigue, “perturbation of the immune system”, etc). The US Department of Labor has awarded workers comp based on these same symptoms in federal employees exposed to excessive mold at their place of employment. If it is good enough for federal government work, it should be good enough for CorVel, medical evaluator Dr. Munday and the workers’ comp system of California.

The Toyota of Poway used car building is confirmed by both Toyota of Poway's industrial hygienist report of March 12, 2010 and CorVel's industrial hygienist's report of March 30, 2010 to have continued moisture and high amounts of penicillium, aspergillus, cladosporium, basidiospores, stacybotrys chaetomium and other types of molds in the air that the workers were breathing. The injured workers' new onset symptoms are consistent with what current accepted science (sans ACOEM medical review officers) holds atypical exposure to these molds may cause. ACOEM writes the workers comp guidelines for the state of California under SB 899 and under the premise of Workers Comp "Reform".

Logic would hold that documented new exposure in the building + new onset of symptoms known to be caused by such an exposure by five people in the same building = the building would be the most likely proximate cause of the new onset symptoms. When what appears to be casting doubt of causation, Dr. Munday indicates Mr. Hack's (new onset) sleep disorders, rashes, etc, should be run through a battery of useless tests for allergies, thyroid problems, sleep studies, etc, to possibly establish other causes of the new onset symptoms. Of course, Toyota of Poway's workers comp insurer will not be paying for these recommended tests, as Dr. Munday is not able to link that the workers comp insurer is responsible for the most logical proximate cause - by failing asking the "important to know" question of were the tests indicative of what the employees were breathing.

In reality, Mr. Hack and the other injured employees should be treating with a physician who specializes in mold induced illnesses, knows proper diagnostics and treatment protocols; at the workers' comp insurer's expense. Delays make full recoveries more difficult, potentially leaving them unable to work and on the taxpayer dole indefinitely while the employer and workers comp insurer shift their financial responsibilities to the injured workers onto the taxpayer. It is a systemic problem.

According to Dr. Munday's curriculum vitae, he is a Qualified Medical Examiner, a Medical Review Officer and a Health Officer for the California Department of Health. It may behoove the DA's office to ascertain what percentage and dollar amount of Dr. Munday's income is generated by providing denial of causation of illness services on behalf of insurers and employers to better understand how conflicted interests impact health policy and insurance claims when paid insurer experts serve dual roles as health department policy advisors. As I understand it, the dollar amount for Dr. Munday's services rendered on behalf of insurers and employers is substantial.

Under California Labor Code 139.2(a) The administrative director shall appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical-legal issues...(b) "The administrative director shall appoint or reappoint as a qualified medical evaluator a physician...who is licensed to practice in this state and who demonstrates that he or she meets the requirements in paragraphs...(6) Does not have a conflict of interest as determined under the regulations adopted by the administrative director pursuant to subdivision (o) An evaluator may not request or accept any

compensation or other thing of value from any source that does or could create a conflict with his or her duties as an evaluator under this code. The administrative director, after consultation with the Commission on Health and Safety and Workers' Compensation, shall adopt regulations to implement this subdivision.”

I am aware that professional insurer defense witnesses in mold litigation can, and often do, generate six figures of income from single cases they evaluate while wearing their dual hats of health policy setters and insurer proponents. Being able to influence health policy unduly lends credibility to the weight of one's words on behalf of insurers and employers. This added air of credibility assists to bias courts against the sick and injured. The conflicts of interest over the mold issue are rampant and transparent. As a result, the taxpayers are picking up the large tab for workers comp insurers' responsibilities to workers who have been injured by water damaged buildings.

Thank you again for helping these injured workers who are up against some very serious and sophisticated misapplications of science and conflicted interest in the California workers' comp system and public health policy. This policy established by the US Chamber et al, has been penned, mass marketed and applied for the purpose of misleading and biasing the courts against the sick and injured. Thank you for reviewing how the unnecessary ambiguity in Dr. Munday's evaluation of Mr. Hack is being used to defer/deny the workers' comp insurer's, CorVel, responsibility to the injured workers of Toyota of Poway.

And thank you for looking into my complaint of the criminality of unchecked perjury on the issue of malice by the ACOEM/US Chamber mold statement author, Bruce J. Kelman and his attorney, Keith Scheuer, while strategically litigating in the San Diego courts for over five years. This, in an effort to keep the profitable game of insurer fraud in the mold issue going by attempting to silence and discredit me of what I know and can evidence to be fact. I was the first to publicly write of the matter in 2005 while naming the names of those involved in the deception in health marketing - and purportedly, maliciously using the horrid word “altered”.

Should the DA's office need more documentation of both matters, please do not hesitate to ask. I have six years worth of research in my possession and access to physicians, researchers and industrial hygienists who are knowledgeable of both the science of mold and the misapplication of science being used to support systemic insurer fraud over the mold issue.

Sincerely,

Enclosure: (5)

Sharon Kramer

cc Dina Padilla, Candidate for CA Ins. Comm (calling for investigation of ACOEM Mold Statement & SB 899)
Steve Poizner, California Insurance Commissioner
Steve Zelter, California Coalition for Workers Memorial Day

August 24,2010

District Attorney Bonnie Dumanis
San Diego District Attorney Office
330 Broadway/State St.
San Diego, California 92101

District Attorney Dumanis,

I am the victim as well as my fellow employees Garth Roundy, Greg Toliver and Soudhi Ghadrddan of workers compensation fraud. I 'am writing to express my concerns about the way our workers compensation cases have been handled so far, and ask you to investigate and seek prosecution against the owners of Toyota of Poway Troy Duhon, Vincent Castro and Rick Gallegher. Workers at the dealership were exposed and sickened by mold and unhealthy working conditions that the owners, Vincent Castro and Troy Duhon, as well as manager, Rick Gallagher, refused to acknowledge as a health hazard while placing the health and safety of workers at risk.

The used car building at Toyota of Poway was closed by the current owner and prior General Manager Rick Gallegher September 2006. Myself as well as other employees were informed by Rick Gallegher that the building had been closed prior for a gas leak, water damage and mold growth, after he became ill himself. I called SDGE to get the dates that the building was without a gas supply. I was informed that the gas was shut off September 2006 and not turned back on until January 2009. The building was reopened by the current owners in October 2008 by simply painting over water damaged building materials and concealing other damage with paper.

The HVAC system was fixed by a customer in January 2009 that wondered why we were using so many space heaters. The customer showed me the HVAC motor was rusted together. It appeared that it had not worked in a long time as well. This left the closed, moldy building to have no air circulation for a long time causing an increase in adverse health effects. Vincent Castros comments after seeing the motor "get it fixed as cheap as we can" Other employees as well as my self raised several issues about the building from day one. We were told things such as just open the doors, I will get the air filter changed, if their was a problem everyone would be sick. and if you want to see real mold go to New Orleans.

Rick Gallegher asked me to take photos of the used car building while he was in the hospital to document the many areas of debris, standing water and mold. He informed me that he thought it was the building that was causing so many of us and our family members ill effects. Rick Gallegher came to visit the employees of the used car department at a tent sale at Qualcomm a few days after leaving the hospital. He continued to share with us his knowledge of the Toyota of Poway buildings. I shared the photos that I had taken with Dr Scott Upton as he was treating me for a new staph infection, multiple rashes and other symptoms from toxic mold exposure. I had a physical right before I started to work at Toyota of Poway and was given a clean bill of health. Dr Upton agreed that I should have the building inspected and tested to see exactly what myself and family had been exposed to. Before I understood just how hazardous mold can be to your health, my

wife as well as my daughter would visit me at the dealership several times per month, subjecting them to direct mold exposure as well as contact with me and my clothing when I returned from work. I informed Vincent Castro of the problem, showing him the numerous areas in the used car building of concern and informing him of my own ill health, I stated my concern that he should no longer allow employees into this building.

The building has had several inspections and estimates for repair all showing elevated levels of mold contamination, water intrusion and other unhealthy conditions. The only report that fails to address the building's true conditions was performed at the request of Toyota of Poway by Ninyo and Moore. This report was then used to inform employees that the buildings condition was normal as mentioned in a letter given to employees. The Mold Inspection by mold inspection Sciences and the Ninyo & Moore report were performed on the same day at over lapping times.

Reports, photos and videos showing the true unhealthy working conditions can be viewed at WWW.MOLDTRUTH.WORDPRESS.COM

On March 25, 2010 I was sent paperwork to take FMLA family medical leave by Dawn Weiss business manager of Toyota of Poway. The paper work was already filled out for me and indicated a checked box "Your own serious health condition" This is one of the first examples of Toyota of Poway trying to shift their cost of disability from an on the job injury to the taxpayer. I had provided the workers compensation doctor, Stephen Munday, as well as Dawn Weiss with documentation that I was not to return to work do to mold in the contaminated building according to my family doctor who had witnessed and documented my decline in health. The workers comp insurer physician, Dr Munday, is a member of the American College of Occupational and Environmental Medicine, ACOEM. They write the workers comp guidelines for the state of California. Their position of the science of mold illnesses was discussed on the front page of the Wall Street Journal for having insurer expert witnesses write the paper that is used to deny insurer liability for claims of illness like mine. The 2007 front page article is titled, "Court of Opinion, Amid Suits Over Mold Experts Wear Two Hats, Authors of Science Papers also Serve For The Defense In Mold Litigation.

I also provided Toyota of Poway a copy of the mold inspection report, as done by Mold Inspection Services on March 12, 2010. On July 17, 2010, I was fired for not completing FMLA paperwork, which would have immediately put me on the dole of the federal government for injuries I sustained at work. The letter sent to me on July 17, 2010 stated "that they have not received any medical certification to confirm that I have and ongoing serious health condition". When in fact that information has been provided to them numerous times thru doctor visits sworn testimony and an ongoing workers compensation claim; and that my long time physician felt I needed to stay out of the moldy building to help me get better. I have not been called by the owners to check on my health even after I worked for them for almost two years as a manager.

I have tried to inform the other employees of the Unhealthy condition of the new and used car buildings and the potential for ill health, like I and others are experiencing. On August 5, 2010, I sent them the Health Hazard Evaluation done by NIOSH/CDC on the new and used car buildings via an email. The Niosh report shows that even after remediation indoor levels of fungal growth are higher then that of outside air. I was sent a Cease and Desist letter from Toyota Of Poway's attorneys with a threat that I would be sued for libel if I didn't stop telling the employees of the buildings'

problems. I was not aware that it was a crime to inform others of a health risk. The letter from NIOSH/ CDC states " The Bottom Line: Damp buildings conditions can cause building related symptoms in occupants."

I received today an order to appear at a restraining order hearing on September 3, 2010. This is a direct result of me attending a public Poway City Council meeting and voicing my concerns about the health and treatment of Toyota of Poway employees. I have also been informed Toyota of Poway seeks to end my ability to contact injured employees via their email, which are listed on a public web site. Vincent Castro also complains about my blog and the increased frequency in the last few months. Dr Kristin Cummings of the CDC Niosh Division complimented me on this blog. If standing up during a public meeting and asking the owner of Toyota of Poway what he is going to do for his injured workers is now considered harmful or a threat; then our freedom of speech has been thrown out the window.

Myself as well as the other employees injured have been denied any medical treatment from our exposure to Toxic Mold while working in a sick damp unhealthy building at Toyota of Poway. I have had to endure being told to pick a doctor for a workers' comp medical evaluation, and after arriving for my appointment set several weeks prior that my appointment had been cancelled. I will now have to wait until December 21, 2010 to see a different doctor assigned to me before my workers comp claim can be addressed. I have gone to see urgent care as directed by Corvel for treatment of my headaches, and being told that I should just take an aspirin for my debilitating pain. I have had to endure ACOEM affiliated doctors hired by Toyota of Poway's attorneys, stating they could not understand the mold reports, so "Whether or not he has sustained an injury AOE/COE cannot be determined on a reasonably medical probable basis at this time...".

They have reviewed other mold reports before in other mold cases for employers and insurers. They state they are unable to certify the mold reports, helping Toyota of Poway to establish doubt of causation for our illnesses, which helps to deny the workers' comp insurer's liability.

I was informed by Corvel that my next appointment would be December 21, 2010. The state of California will have spent an estimated \$32,000 on my disability claim by then, a cost that should be incurred by Toyota Of Poway and their Workers Compensation Insurer Corvel.

I thought the report done for Corvel by an inspector they hired would have brought this denial of benefits and treatment to an end. The report done by Andrew Bryson clearly shows a unhealthy building. I was surprise to read they had tested my desk at head level as if I was sitting their. The test came back for high levels of Stachybotrys which I had to find out thru disclosure. No one told me of the continued danger I was in from exposure to this toxic mold, that is one of the worst for causing long term ill health. I have several examples such as this one where when employee health is at risk they are not warned or informed. If the inspection report would have been shared with me sooner it would have revealed. I was Sitting in an unhealthy work environment, as well as the employees that worked in my office and building.

I have been diagnosed with Chronic Fatigue Syndrome as a result from Toxic Mold Exposure by my family doctor of three and a half years and now require the use of several medications for the treatment of pain and inhaler to help with my breathing. I HAD A PHYSICAL IN OCTOBER 2008, PRIOR TO WORKING AT TOYOTA OF POWAY AND WAS IN PERFECT HEALTH. I' am fortunate to have insurance thru my wife's company that allows me to be seen by our family doctor. The other workers which I have tried to be a voice for do not enjoy the luxury of health care and have received no medical treatment from Corvel. Several reports from the W.H.O. Lawrence Berkeley institute as well as common sense show you the true dangers from exposure to mold and sick damp buildings.

I' am sure you would agree that that the cost of Toyota Of Poway's employees sickness health care and disability payments should not be absorbed by the tax payers of the county and state of California. The evidence by way of reports, pictures and videos all show a condition that would sicken any person over a period of time. The workers of Toyota of Poway should not be harmed because Corvel and Toyota of Poway failed to maintain, inspect and notify the buildings inhabitants of its true hazardous conditions. The dealership was sold for an amount lower then market value in 2008 because the dealership was in need of a complete remodel. The inspection report and disclosures done at the time of sale would help all involved to get a clear picture as to what was disclosed or ignored.

Toyota of Poway is currently being provided \$3 million dollars more of taxpayer money by the City of Poway for a redevelopment deal. Before more taxpayer money is givin to this company, Toyota of Poway needs to be held accountable for their injuring workers and then shifting the cost burden onto taxpayers, with no regard for the health, safety, medical care and future of the workers who have been disabled by their negligence.

Timothy A Hack
2219 Eucalyptus Dr
El Cajon, Ca 92021
619-572-3337
CLOSEURDEAL@HOTMAIL.COM

May 15, 2010

Arnold Schwarzenegger
President of Regents, UC
300 S. Spring St. Suite 167
Los Angeles, CA 90013

Russell Gould
Chairman of Regents, UC
1111 Franklin Street, 12th Fl
Oakland, CA 94607

Mark G. Yudof
President, UC
1111 Franklin Street, 12th Fl
Oakland, CA 94607

RE: The University of California's name is included in implied endorsement of a 2003 U.S. Chamber of Commerce publication currently referenced in a 2010 legal proceeding.

Honorable Governor Schwarzenegger, Chairman Gould and President Yudof,

The University of California is world renowned for its role in promoting and protecting public health by its outstanding physician education and the integrity of its medical teaching facilities.

The Action Committee on the Health Effects of Mold, Microbes and Indoor Contaminants (ACHEMMIC) is comprised of volunteer physicians, scientists, researchers, indoor air quality experts, industrial hygienists, building engineers, teachers, advocates and others who work cohesively to promote integrity in U.S. public health policy with regard to the adverse health effects of mold, microbes and indoor contaminants that are frequently found in water-damaged buildings.¹

ACHEMMIC has the following concerns:

1. The University of California name is apparently being used as an implied signatory of the 2003 U.S. Chamber of Commerce publication.²
2. It appears that the name of the University of California is being used as an implied scientific endorsement of the contents of said U.S. Chamber publication.³
3. It is our understanding that it is a violation of the California Constitution, Article IX, Section 9 (f) for the University of California name to be used to promote a document of political and sectarian influence.
4. The contents of the document are contrary to recent scientific findings by national and international experts, including some within the State of California.

The people who have been harmed by contaminants in water-damaged buildings and erroneous public health policy over the mold issue come from all walks of life. They are white collar workers, blue collar workers, retirees, veterans, teachers, business owners, homeowners, tenants, children, parents and grandparents. They work or are schooled in newly constructed and older buildings. They reside in all parts of the United States and around the globe. They live

¹ (2010) Membership Roster for ACHEMMIC

² (2003) Listed authors and conclusion of "A Scientific View of the Health Effects of Mold" U.S. Chamber ILR in relevant part

³ (2009) Amicus Curiae Brief, National Apartment Association, citing "A Scientific View," in relevant part

in owned, mortgaged, or rented houses and apartments- large and small, new and old, grand and humble. Some live in military housing, trailers or on reservations. Those affected by this issue are affluent, poor and middle class. They are able-bodied taxpayers and disabled citizens. They are the insured and uninsured by health, workers compensation and property casualty insurance companies. They represent the melting pot of citizens that make up this great country of ours--the United States of America. They depend on integrity in medical science within U.S. medical teaching universities and within the courts to protect their health and safety and the health and safety of their families.

We appreciate the University of California Regents' prompt attention to this matter with broad implications impacting mold toxic torts and public health policy as a whole if left unaddressed by the Regents.

For your convenience, we have attached our membership roster and documents of specific concern. Should ACHEMMIC be of further assistance to the Regents of the U.C. over this matter, please do not hesitate to ask.

Respectfully yours,

Mary Mulvey Jacobson
ACHEMMIC Public Relations
Email: MLMJ75@AOL.COM

cc: Cheryl Vacca Vice President Ethics & Compliance, Regents of the U.C.
Charles Robinson Vice President General Counsel, Regents of the U.C.
U.S. Congressman Henry Waxman, California 30th District and encompassing UCLA

Enclosures: 3

EXHIBIT

1

**(2010) Membership roster for ACHEMMIC
Please see <http://achemmic.com>**

ACHEMMIC Members

Cheryl Albert Public Health Advocate	Mayleen Laguna Public Health Advocate
Frank Albert Public Health Advocate	Jennifer Lake Public Health Advocate
Scott Armour, M.S. Armour Applied Science	Holly LeGros Public Health Advocate
Jennifer Armstrong, M.D. Treating Physician CEO, Ottawa Environmental Health Clinic	Haley Mack Public Health Advocate
Jodi Ashcraft Public Health Advocate	Valerie Madeska, BS Healthcare Management Public Health Advocate
Jennifer Aspelund Public Health Advocate Participant in Washington State School Rule Revision Process School Environmental Health and Safety Revisions	Kathleen Manganaro Public Health Advocate
Clark Baker, Director Office of Medical & Scientific Justice, Inc.	Laura Mark, M.D. Psychiatrist/Educator
Wane A. Baker, P.E., CIH Division Manager, Senior Consultant Michaels Engineering	John McBride Public Health Policy Activist/Consultant New Jersey Legislative Initiative Against Toxic Mold
Melinda Ballard President, Policyholders of America	Theresa McCormick Public Health Advocate
Sue Bell Public Health Advocate	Marcie D. McGovern Injured Worker Activist and Public Health Advocate
Darlene Berube Public Health Advocate	Lisa Nagy, M.D. Treating Physician President, Preventive and Environmental Health Alliance
Valerie Bonds Boston Public School Teacher Public Health Advocate	Liza Naylor Public Health Advocate
Kevin Carstens Owner, Yahoo Sickbuildings Group	Dina Padilla Injured Worker Advocate Candidate for California Insurance Commissioner
Vina Colley President of Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS) Co-founder of National Nuclear Workers for Justice (NNWJ)	Marilyn Parney Public Health Advocate, Canada
Byrl Robert Crago, Ph.D. Psychologist Neurobehavioral Health Services	Russell Paterson, Ph.D. Director MycoTec Lda (International Development) Centre of Biological Engineering, Portugal
Jim Davis President, Veterans-for-Change	Diane Perlman, PhD Visiting Scholar, Institute of Conflict Analysis and Resolution George Mason University

ACHEMMIC Members

Lee Daniels Public Health Advocate	William J. Rea, M.D., F.A.C.S., F.A.A.E.M. Treating Physician Environmental Health Center – Dallas Member AAEM
Jo Robin Davis Attorney	Chuck Reaney Environmental Consultant/Industrial Hygienist Certified Indoor Environmental Consultant (CIEC) Certified Indoor Air Quality Professional (CIAQP)
Deborah Davitt Public Health Advocate	Andrea Rogoff Teacher and Public Health Advocate
Angel DeFazio, BSAT Public Health Advocate President, National Toxic Encephalopathy Foundation	Monona Rossol, M.S., M.F.A. Chemist/Industrial Hygienist
Linda Delp Health Advocate for ACHEMMIC	Joseph Salowitz Public Health Advocate
Paul De Paul Public Health Advocate	Gail Shephard Public Health Advocate
Andrea Fabry Public Health Advocate	Ritchie Shoemaker, M.D. Researcher and Treating Physician
Joanne White Ferdinando Public Health Advocate	Raymond Singer, Ph.D. Neuropsychologist and Neurotoxicologist
Dodd Fisher Attorney and Professor	Alex Stadtner Building Biology Environmental Consultant Healthy Building Inspections
Victoria Frohna Public Health Advocate	Crystal M. Stuckey Public Health Advocate
Joseph Glickman Public Health Advocate	Nancy Swan, BA Member - Strategic Planning and Management Board, National Board Member - National Forum On Judicial Accountability (NFOJA) Advisory Board, POPULAR, Inc.
Judith Goldstein Teacher and Public Health Advocate Jerusalem, Israel	Paul Taylor, III
Michael Gray, M.D. Treating Physician	Steve Temes Industrial Hygienist Certified Microbial Consultant AirWays Environmental Services
Carl Grimes President, Healthy Habitats LLC	Jack Thrasher, Ph.D. Toxicologist/Immunotoxicologist
Doug Haney, BA Psychology Bio-Health Research Psychologist Educator, InterCoast Colleges, California	Kristina Townsend Public Health Advocate

ACHEMMIC Members

HW Holder Mold Assessment Consultant SWK LLC	Sandra Trend Injured Worker Advocate
Janette Hope, M.D. Treating Physician	Alan R. Vinitzky, M.D. Treating Physician Board-certified in Internal Medicine and Pediatrics Member AAEM
H. Kenneth Hudnell, Ph.D. Adjunct Research Assistant Professor, Institute for the Environment, UNC-Chapel Hill	Lori Ward Public Health Advocate
Professor Matthew Hudson	Greg Weatherman Owner, Certified Microbial Consultant Aerobiological Solutions, Inc.
Mary Mulvey Jacobson Public Health Advocate Retired Chief of Staff, Boston City Council	Barbara B. Weisman Public Health Advocate
Erik Johnson Public Health Advocate 1985 Incline Village Survivor and Prototype for CFS	Jim H. White Retired Building Scientist System Science Consulting, Canada
Sharon Kramer, BBA Marketing Integrity in Health Marketing Advocate Key Proponent of GAO Report on Indoor Mold	Michael Roland Williams Executive Producer Looking Glass Entertainment Company
Cassidy Kuchenbecker, MS Microbiology/Immunology Indoor Environmental and Water Damage Consultant	Cheryl Wisecup Public Health Advocate

EXHIBIT

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**(2003) U.S. Chamber ILR "A Scientific View of the Health Effects of Mold"
in relevant part.**

***Please see**

http://www.uschamber.com/publications/reports/030717_ilr_mold.htm

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




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."



A Scientific View Of The Health Effects Of Mold

By Bryan D. Hardin, Ph.D., Andrew Saxon, M.D.,
Coreen Robbins, Ph.D., CIH, and Bruce J. Kelman, Ph.D., DABT



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.

EXHIBIT

3

(2009) NAA Amicus Brief citing U.S. Chamber ILR “A Scientific View” with co-author Andrew Saxon, UCLA; in relevant part.

Please see

<http://katysexposure.files.wordpress.com/2009/10/naa1.pdf>

COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

TRICIA MASON, et al.,
Plaintiffs-Appellants,

v.

WASATCH PROP. MGMT., INC., et
al.

Defendants-Appellees

2 CA-CV No. 2008-0162
2 CA-CV No. 2008-0165

KAITLYN MORRIS, et al.,
Plaintiffs-Appellants,

v.

WASATCH PROP. MGMT., INC., et
al.

Defendants-Appellees

Cause Nos. C20035581
consolidated with
C20041766;
C20024299 consolidated
with
C20024542

APRIL ABAD, et al., ALICIA
STEWART, et al.

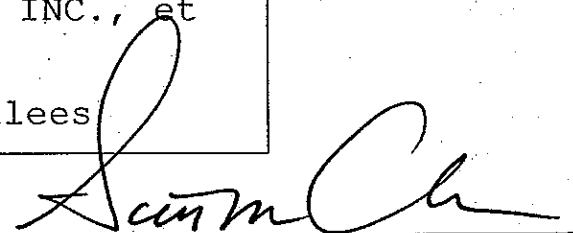
Plaintiffs-Appellants,

v.

WASATCH PROP. MGMT., INC., et
al.

Defendants-Appellees

BRIEF OF AMICUS CURIAE
NATIONAL APARTMENT
ASSOCIATION



Scott M. Clark, Esq.
Law Offices of Scott M. Clark, P.C.
3008 North 44th Street
Phoenix, Arizona 85018-7206
Telephone: 602-957-7877
Arizona Bar No. 6759
scott@scottclarklaw.com
Attorney for Amicus Curiae

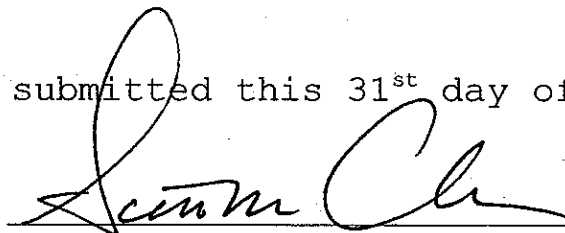
¹ Plaintiffs-Appellants alleged injuries include: a disabled, developmentally delayed child; permanent neurological deficiencies; headaches; memory loss; long term asthma; long term respiratory problems; gastrointestinal problems; a variety of other short term respiratory problems, and death of two infants.

In a report entitled, *A Scientific View of the Health Effects of Mold*, a panel of scientists, including toxicologists and industrial hygienists stated that years of intense study have failed to produce any causal connection between exposure to indoor mold and adverse health effects. U.S. Chamber of Commerce, *A Scientific View of the Health Effects of Mold* (2003) at p. 64 and p. 65. The report also concludes that in other than individuals with severely impaired immune systems, indoor mold is not a cause of 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." *Id.* at p. 65. In fact, when speaking of their report, the authors note that "science has confirmed common sense" since mold is not some rare, exotic material but is everywhere, making up twenty-five (25) percent of the earth's biomass. The

able to identify and retain witnesses with training in science to support their claims does not automatically result in the admissibility of that testimony. The trial court appropriately focused upon whether their theories had gained acceptance within the scientific, and not the legal communities. *State of Arizona v. Court of Appeals*, 197 Ariz. 79, 3 P.3d 999 (1999). In this case, they have not.

We urge the Court to affirm the trial court ruling below.

Respectfully submitted this 31st day of August 2009.



Scott M. Clark, Esq.
Law Offices of Scott M. Clark, P.C.
3008 North 44th Street
Phoenix, Arizona 85018-7206
Telephone: (602) 957-7877
State Bar No. 6759
Email: scott@scottclarklaw.com

John J. McDermott
W. Michael Semko
National Apartment Association
4300 Wilson Boulevard, Suite 400
Arlington, VA 22203
Telephone: (703) 797-0682

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF THE GENERAL COUNSEL



1111 Franklin Street, 8th Floor • Oakland, California 94607-5200 • (510) 987-9800 • FAX (510) 987-9757

Charles F. Robinson
VICE PRESIDENT AND GENERAL COUNSEL

Writer's direct line: (510) 987-9742
E-mail: mary.macdonald@ucop.edu

VIA EMAIL

Mary Mulvey Jacobson
ACHEMMIC Public Relations

Re: Inclusion of Name of UCLA Professor as a Co-Author of a 2003 U.S. Chamber of
Commerce Report

Dear Ms. Jacobson:

I have been asked to reply to your May 15, 2010, letter to University of California Regent Russell Gould and President Mark Yudof in which you express concern about the University's being an implied signatory to a 2003 U.S. Chamber of Commerce report about mold. You disagree with the findings of the report, which apparently have been used in a lawsuit. One of the authors is identified as a UCLA professor.

The University of California protects its name vigorously, and appreciates being informed of misuses of its name. California Education Code section 92000 prohibits the use of the University's name in a way that implies endorsement of goods or services or an affiliation that does not exist. The Code, however, specifically allows persons to identify their present or past relationship with the University when stating their qualifications and experience. The Code section provides in pertinent part:

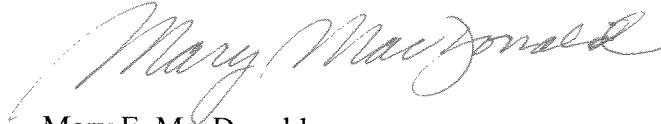
“(b) Nothing in this section shall interfere with or restrict the right of any person to make a true and accurate statement of his or her present or former relationship or connection with, his or her employment by, or his or her enrollment in, the University of California in the course of stating his or her experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional, or other employment whatsoever.”

Further, faculty at the University of California and other institutions routinely engage in research and writing that, when published, identify the institution with which they are affiliated. Faculty throughout the United States enjoy academic freedom to reach their own conclusions and publish in publications of their choice. Neither the University of California nor other U.S. higher education institutions engages in preapproval, monitoring, or censorship of such writings.

Mary Mulvey Jacobson
June 1, 2010
Page 2

Accordingly, the University would not ask the professor to remove his name from the Chamber of Commerce report, and there is nothing improper in his having listed his affiliation with UCLA in this specific manner.

Sincerely,

A handwritten signature in cursive script, reading "Mary E. MacDonald". The signature is written in dark ink and is positioned above the printed name and title.

Mary E. MacDonald
Senior Counsel

cc: R. Gould
M. Yudof
D. Griffiths

William J. Brown III (Bar No. 86002)
P.O. Box 231216
Encinitas, California 92023-1216
(760) 334-3800
(760) 334-3815 Fax

Attorneys for Defendant/ Appellant
SHARON KRAMER

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT- DIVISION ONE

BRUCE KELMAN, GLOBALTOX, INC.,)	Appellate Case No.: D047758
)	Superior Court Case No.: GIN044539
Plaintiffs and Respondents,)	
)	APPLICATION AND REQUEST FOR AN
v.)	ORDER THAT THE COURT OF APPEAL
)	TAKE JUDICIAL NOTICE;
SHARON KRAMER,)	DECLARATION OF WILLIAM J. BROWN
)	III; MEMORANDUM OF POINTS AND
Defendant and Appellant.)	AUTHORITIES; PROPOSED ORDER
)	
)	
)	

COMES NOW APPELLANT, through her attorney of record, who requests that the Court take judicial notice pursuant to Evidence Code section 452(d), 455, and 459 of the following documents:

1. The deposition transcript of Bruce Kelman from the Mercury v Kramer action, case number GIN024147 at pages 45:20-25, 46: 8-12, 102, 103 and 107.
2. Settlement documents from the Court file of the Mercury v Kramer action dated October, 2003 and indicating court recorded \$450,000 settlement to the Kramers. Honorable Judge Michael P. Orfield presiding.

3. Trial transcript of Bryan Hardin (additional Veritox principal, shareholder and party to this litigation undisclosed to this court) dated August 11, 2005 from the Oregon case entitled O'Hara v David Blain Construction, Inc., County of Lane Case number 160417923 at pages 136 and 154.
4. Trial transcript of Bruce J. Kelman dated April 14, 2006 from the Arizona case entitled ABAD v. Creekside Place Holdings, case number C-2002 4299, P. 31-32, P. 67-68, describing Kelman and five additional principals of Veritox.
5. Case entitled Harold v. California Casualty Insurance Company, et al., County of Sacramento Superior Court case number O2AS04291. Motion to exclude testimony regarding Veritox principal authored "Risk from inhaled mycotoxins in indoor office and residential environments." Robbins CA, Swenson LJ, Hardin BD. Included are parts of the deposition of Veritox principal, Robbins.
6. Excerpts from the Order re: Coreen Robbins, excluding testimony determining human health solely from extrapolated rodent study data under Kelly-Frye, in case number O2AS04291 dated 4/16/06.

DATED: June 29, 2006

William J. Brown III
Attorneys for Defendant/ Appellant

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DECLARATION OF WILLIAM J. BROWN III

I, William J. Brown III, hereby declare that I am the attorney of record for the Defendant/
Appellant in the within action. As such, if called as a witness, I could and would of my own
personal knowledge testify to the following:

1. The deposition testimony of Bruce Kelman in the Mercury v. Kramer case
reveals that he could not testify about health effects of mold exposure regarding Erin Kramer,
Defendant's daughter.

2. The settlement documents in the same case show that there was a substantial
settlement which occurred on October 0f 2003, thus impeaching Plaintiffs' thesis of a bitter sour-
grapes litigant, and impeaching Bruce Kelman's declaration in opposition to the 425.16 motion.

3. The testimony of Hardin in the O'Hara case shows that he is a principal and a
shareholder in GlobalTox/ Veritox.

4. The deposition of Bruce Kelman in the ABAD case shows that there are six
principals in Veritox.

5. The motion under Kelly-Frye in the Harold case shows that Coreen Robbins is yet
another principal in GlobalTox/ Veritox and that relying on one rat study to extrapolate a
conclusion regarding health risks in humans is not scientifically supportable.

6. The Court's ruling on the Kelly-Frye hearing regarding Coreen Robbins professed
testimony in the Harold matter concludes that:

THE COURT: I can. With regard to Dr. Robbins relying upon her
literature review and then jumping to animal studies and then
jumping to modeling conclusions, my ruling there is she will not be
allowed to present that. There is not a generally accepted view of
that particular approach in the scientific community and so therefore

it's inappropriate to present that to the jury.

This greatly impeaches Plaintiffs' assertions regarding their greater science and the flimsy façade of argument (not evidence) that defendant Kramer had actual malice towards Bruce Kelman.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge. This declaration is executed on June 29, 2006 at Encinitas, California.

William J. Brown III

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1 We take judicial notice of our prior unpublished opinion in this case, *Allegretti*
2 & Company v. County of Imperial (Apr. 19, 2000, D031154) [nonpub. Opn.]
(*Allegretti I*). (Evid. Code, §§ 452, subd. (d), 459, subd.(a).)

3 California Evidence Code § 455 states:

4 With respect to any matter specified in Section 452 or in subdivision (f) of Section 451
5 that is of substantial consequence to the determination of the action:

6 (a) If the trial court has been requested to take or has taken or proposes to take judicial
7 notice of such matter, the court shall afford each party reasonable opportunity, before the
8 jury is instructed or before the cause is submitted for decision by the court, to present to
the court information relevant to (1) the propriety of taking judicial notice of the matter
and (2) the tenor of the matter to be noticed.

9 (b) If the trial court resorts to any source of information not received in open court,
10 including the advice of persons learned in the subject matter, such information and its
11 source shall be made a part of the record in the action and the court shall afford each
party reasonable opportunity to meet such information before judicial notice of the matter
may be taken.

12 Therefore, the application for judicial notice is well-taken and it is requested that this
13 Court take judicial notice as prayed.

14
15 DATED: June 29, 2006

16 _____
17 William J. Brown III

18 Attorneys for Defendant/ Appellant
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