

1 SHARON NOONAN KRAMER, APPELLANT
2 2031 Arborwood Place
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4 (760) 746-8026

4 FOURTH DISTRICT DIVISION ONE COURT OF APPEAL

6 BRUCE J. KELMAN (and concealed
7 parties Bryan Hardin – U.S. Assistant
8 Surgeon General & Deputy Director
9 CDC/NIOSH (retired); Coreen Robbins,
10 Loni Swenson, Robert Schreibe and Robert
11 Clark, owners of Veritox, Inc. and possibly
12 other unknown)

11 Respondent(s?)

12 v.

14 SHARON KRAMER,

16 Appellant

Appellate Case No. D054496

NOTICE & MOTION TO RECALL
AND RESCIND REMITTITUR &
VACATE VOID JUDGMENT;
MEMORANDUM OF POINTS &
AUTHORITIES; & DECLARATION OF
APPELLANT SHARON KRAMER

Opinion Issued September 14, 2010

Remittitur Issued December 20, 2010

Superior Court Case No. GIN044539
Judgment Date Indeterminable

18 **MOTION TO RECALL AND RESCIND REMITTITUR & VACATE VOID**
19 **JUDGMENT**

20 In lawful accordance with C.C.P.1209(b) this Motion and Memorandum of Points
21 & Authorities may be read on line at the blog, "ContemptOfCourtFor.Me" Short link:
22 <http://wp.me/p20mAH-n1> It is under the blog title, "Will somebody PLEASE STOP
23 California licensed attorney Keith Scheuer from BULLYING Sharon Kramer?"... for writing
24 (2005) of how it became a scientific fraud in policy & courts at the hand of his clients (2002-
25 03) that moldy buildings don't maim & kill? They want her silenced of the courts framing
26 her for libel then jailing her for refusing to sign a false confession. Too many lives at stake to
27 let this continue!" It is filed in lawful accordance with California Rules of the Court 8.54(a).

28 January 25, 2013

Sharon Kramer, Appellant Pro Per

1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I.**

3 **Remittitur Conceals Entities/Parties & Void Judgment As Foundation For Second Case**

4 1. On December 20, 2010 the Clerk of the Fourth District Division One (Appellate
5 Court) issued a Remittitur which awards costs against Sharon (KRAMER) to undisclosed
6 entities and parties, “Respondents”, on appeal. (Attached here to as Exhibit A 1-12,
7 KRAMER’s January 23, 2013 “REPLY TO UNLAWFUL & UNTIMELY SERVED
8 PURSUENT TO C.C.P 1005(b) PLAINTIFF’S ‘NOTICE OF MOTION AND MOTION TO
9 DESIGNATE SHARON KRAMER AS A VEXATIOUS LITIGANT AND FOR A
10 PREFILING ORDER PURSUANT TO C.C.P. 391,7; MEMORANDUM OF POINTS AND
11 AUTHORITIES AND [PERJURIOUS] DECLARATION OF KEITH SCHEUER’; AND
12 DECLARATION UNDER DURESS OF SHARON KRAMER” in the matter of (KELMAN
13 v. Kramer) Case No. Case No. 37-2010-00061530-CU-DF-NC¹²³⁴) (SEE Exhibit A2, the
14 Remittitur awards costs against KRAMER to “Respondents”).

15 2. There was only one “Respondent” disclosed on the September 14, 2009 Certificate
16 of Interested Entities & Persons submitted to the Appellate Court by Respondent Counsel,
17 Keith (Scheuer). That one disclosed party on appeal was Bruce (KELMAN). (SEE Exhibit
18 A1, only one “Respondent” was disclosed as a party on appeal.)

19 3. Upon being made aware of this discrepancy by Motion of Kramer on January 19,
20 2011; Justice Patricia Benke refused to recall and rescind the fraudulent December 20, 2010
21 Remittitur on January 20, 2011. No explanation was provided for the denial. (SEE Exhibit
22 A3 Justice Benke refused to recall and rescind the fraudulent Remittitur).

23 4. The judgment from the case of *Kelman & GlobalTox v. Kramer* Case No.
24 GIN044539 is fraudulent and void to be used for any purpose, yet it is the foundational
25

26 ¹ Exhibit A: 01.23.13 Kramer REPLY To Vexatious Motion <http://freepdfhosting.com/c008080cdb.pdf>

27 ² Exhibt A 01.23.13 Kramer DECLARATION <http://freepdfhosting.com/268badcc58.pdf>

28 ³ Exhibit A 1-6: 01.23.13 Exhibits 1-6 of REPLY <http://freepdfhosting.com/09d3e7cb8f.pdf>

⁴ Exhibit A 7-12: 01.23.13 Exhibit 7-12 of REPLY <http://freepdfhosting.com/a1c8a5fba9.pdf>

1 document for *KELMAN v. Kramer*. The December 20, 2010 Remittitur concealed this fact.

2 Exhibit A states in relevant part, 18:7-26, 19:1 -9.

3
4 The Judgment was ante-dated, is a fraudulent legal document and is
5 Void to be used for any purpose. On September 24, 2008, the trial judge
6 signed the proposed judgment as submitted by Scheuer. Kramer was not
7 noticed. Upon receipt of Kelman's costs on October 16, 2008, which included
8 commingled costs incurred by GlobalTox, the Clerk of the Court filled in the
9 dollar amount of \$7,252.65 without dating or initialing the change, making it
10 appear cost were awarded on September 24, 2008. On December 22, 2008,
11 Scheuer submitted it back to the Court and a fraudulent Abstract was recorded
12 by the Court on December 31, 2008. Scheuer then took the fraudulent Abstract
13 and recorded a fraudulent Lien on Kramer's property on January 20, 2009.
14 Sometime on or after December 22, 2008 when Scheuer submitted for Abstract
15 and Kramer filed her Motion for Reconsideration, "MGarland 12/18/08" was
16 added next to the dollar by the same clerk, Michael Garland, who had filled in
17 a dollar amount w/o initialing and dating in October of 2008. The lower court
18 then claimed loss of jurisdiction based on the fraudulent "MGarland 12/18/08"
19 being added on or after December 22, 2008. The ROA establishes nothing
20 occurred in the case on December 18, 2008 as does the Abstract of Judgment
21 which was submitted on December 22, 2008 still appearing that September 24,
22 2008 was the date of entry of judgment. The appellate court falsely inferred in
23 their September 2010 opinion that the judgment stated Kramer was recognized
24 on the judgment document as a trial prevailing party awarded costs. But the
25 ROA was falsified in the lower court on December 23, 2010 to match the
26 actual Void Judgment on Record and making it appear that Kelman and
27 GlobalTox prevailed in trial – just like the Void Judgment. One year after this
28 case began on November 4, 2010 with the Void Judgment being the foundation
to the case and the appellate court releasing jurisdiction by a criminal
Remittitur, the judgment was amended on October 28, 2011 to state Kramer
was a prevailing party entitled to costs. Judge Thomas P. Nugent ignored all of
this evidence while feigning he had subject matter jurisdiction over the case to
try to harass Kramer into silence of the intrinsic fraud upon the court by
plaintiffs, clerks and officers of the court – aiding to defraud the public.

8. Because the sole foundation of this case is fraudulent and void, this
court has no subject matter jurisdiction and thus, no judicial immunity should it
choose to falsely deem Kramer to be a "Vexatious Litigant"; while knowingly
precluding Kramer from being able to file suit, including criminal charges
against clerks of the court, et.al., for falsification of court documents and
certificates. While Kramer has four years to file suit for a fraudulent lien upon
becoming aware of it in July of 2011, there is no statute of limitations on fraud

1 and conspiracy to defraud the public via collusive, malicious litigations. The
2 damage to Kramer and the public from the unlawful and criminal acts
committed in these cases has been colossal.

3 5. The judgment was changed without dating. It was later changed to add a date of
4 awarding costs by judgment not possible to have occurred or to have done on the date stated.
5 (SEE Exhibit A 16-19:1-9)(SEE Exhibits A5, A6 and A7 as proof a fraudulent Abstract of
6 Judgment was recorded in this case by the court that is inconsistent with the antedated
7 Judgment document on record as submitted as the foundation of *KELMAN v. Kramer*.

8 6. Exhibit A5, A6 and A7 also prove Scheuer and KELMAN recorded a fraudulent
9 Lien on Kramer's property based on the court issued fraudulent Abstract of Judgment and
10 inconsistent with the judgment document they submitted as the foundation to *KELMAN v.*
11 *Kramer* on November 4, 2010.

12 7. This matter is now back on appeal, Case No. D062764. This is caused by the trial
13 court judge, who has since lost his courtroom, consistently suppressing the evidence that the
14 judgment from this case, the foundational case, is known to be void to be used for any
15 purpose; and thus he oversaw the case for approximately two years with no subject matter
16 jurisdiction. (SEE Exhibit 12, page marked as 18:9-23)
17

18 8. The Presiding Justice of the Appellate Court is aware that Kramer cannot file an
19 opening brief without the Appellate Court first recalling and rescinding the fraudulent
20 December 20, 2010 Remittitur concealing that the judgment from *KELMAN &*
21 *GLOBALTOX v. KRAMER* is fraudulent and void to be used for any purpose; yet is the sole
22 foundation to this case now on appeal.

23 9. To quote from Exhibit A in relevant part, (9:21-26, 10, 11) (SEE Exhibit A4)

24 III
25 THE PRESIDING JUSTICE OF THE APPELLATE COURT HAS
26 MOTIVATION TO SEE KRAMER FALSELY DEEMED A VEXATIOUS
LITIGANT, SHE FRAMED KRAMER FOR LIBEL

27 1. This case is now on appeal, Case No. D062764. On January 15,
28 2013, and in the capacity as presiding justice, Justice Judith McConnell

1 accepted jurisdiction over the case by issuing a ruling that the time for Kramer
2 to file an opening brief could be extended to late February, 2013.⁵

3 2. In her ruling, Justice McConnell ignored the evidence that the
4 Remittitur from the prior case was fraudulent and criminal; and that Kramer
5 asked for an undetermined extension which would allow the appellate court
6 time to determine if it has subject matter jurisdiction without first recalling and
7 rescinding the fraudulent and criminal legal document. To quote from
8 Kramer's 2nd request for extension that was granted to be extended by
9 McConnell w/o addressing the evidence of the criminal Remittitur and the
10 result damage to Kramer from it. (SEE more in Kramer's Declaration).
11 (Attached hereto as Exhibit 4, is page 6-8 of Kramer's February 11, 2013
12 Second Request⁶.) In relevant part it states,

13 14. I cannot file an appellate brief until this court corrects past errors
14 and establishes if it has jurisdiction to hear the appeal. That is not in
15 opposing counsel's control, nor does he have the ability to stipulate to
16 this. Because of falsification of court documents by and concealed by
17 this court, it is this appellate court which is "the judicial machinery can
18 not perform in the usual manner its impartial task of adjudging cases
19 that are presented for adjudication

20 *****

21 "As the Presiding Judge of the Fourth District Division One Appellate
22 Court and author of the fraudulent November 2006 anti-SLAPP
23 opinion in which you framed me for libel with actual malice; it is your
24 legal responsibility to undo this tangled web that keeps growing and
25 entangling more people.

26 a.) You have left your clerk, Mr. Kelly, in a position that I could file
27 criminal charges against him for falsifying a remittitur under the seal of
28 the State of California. (Mr. Kelly knows I do not want to do it, but
may have to.)

b.) Your peers concealed in their 2010 appellate opinion that you
framed me and suppressed the evidence Kelman committed perjury to
establish malice. You have left them open for justified complaints of
judicial ethics violations in a matter involving billions of dollars
nationwide in litigations, claims handling practices and cost shifting
onto the taxpayer for the burden of cost of environmental injury.

⁵ 01.15.13 McConnell granted extension w/o jurisdiction <http://freepdfhosting.com/77f5a3975b.pdf>

⁶ EXH 4, 01.11.13 2nd Request For Undetermined Extension <http://freepdfhosting.com/7d11c5b3a8.pdf>

1 c.) Judge Nugent lost his courtroom of many years while trying to
2 unlawfully shield you for framing me for libel with actual malice and
3 shield that your peers concealed it and concealed a falsified judgment,
parties/entities to the litigation.

4 d.) I went to jail in March of 2012 for refusing to be coerced by Judge
5 Nugent, Scheuer and Kelman into sign a false confession of being
6 guilty of libel with actual malice which would have absolved their and
7 your unlawful, collusive misconduct defrauding the public of billions
of dollars by framing a whistle blower for libel in an anti-SLAPP
opinion.

8 e.) I have a permanent injunction against me by a court with no subject
9 matter jurisdiction for a sentence I never ever wrote, "Dr. Kelman
10 altered his under oath statements on the witness stand' when he
11 testified in an Oregon lawsuit." to conceal how you framed me for libel
12 for the sentence, "Upon viewing documents presented by the Hayne's
13 attorney of Kelman's prior testimony from a case in Arizona, Dr.
Kelman altered his under oath statements on the witness stand."

14 f.) Judge Nugent, whose court had no subject matter jurisdiction
15 because the sole foundation to case is the void judgment from the prior
16 case, falsified the Sheriff Department record and libeled me to conceal
17 he incarcerated me for refusing to sign a false confession "Retraction
18 of Sharon Kramer" – not for violating an (unlawful) contempt order
19 under C.C.P.1208(b) that he was provided evidence I could not comply
20 with under C.C.P.1219(a). This makes him vulnerable to having
criminal charges filed against him with no judicial immunity for the
unlawful incarceration, bodily harm, emotional distress, libeling and
falsification of public record to conceal it.

21 g.) I have a fraudulent lien on my property with costs accruing from
22 three weeks before costs were even submitted by Scheuer and Kelman
23 because the judgment from the prior case, foundation to this one, was
changed without the clerk of the court dating the change.

24 h.) I have been sanctioned \$3000 by a court with no subject matter
25 jurisdiction for refusing to publish a false confession of libel on the
26 internet for a sentence I never even wrote, with a threat of more
incarceration if I do not do it.

27 i.) Scheuer and Kelman are now trying to have me deemed a
28 "vexatious litigant" to stop me from filing suit for the collusive

1 misconduct and resultant damage. If I was vexatious, I would have
2 sued for all of this long ago. I have never filed a COMPLAINT in my
3 life.

4 j.) Your sister in the Lawyers' Club, the local District Attorney who
5 has made many political enemies, is just beginning to catch grief for
6 shielding corruption in your court giving her unfair advantage in this
7 county when prosecuting its citizens – and aiding the billions in fraud
8 to continue over the mold issue and in California workman's
9 compensation cases by shielding you and your cohorts.

10 k.) The longer you let this criminal situation go, the more people
11 become entangled in this web you have spun. Lives continue to be
12 devastated, nationwide, from the scientific fraud you aided Kelman,
13 the five additional owners of Veritox and affiliates of the U.S.
14 Chamber of Commerce to be able to continue to use to sell doubt of
15 causation in courtrooms, nationwide, by framing me for libel with
16 actual malice in a Strategic Litigation Against Public Participation over
17 how the scientific fraud became policy and what parties/entities were
18 involved in the deadly, deceptive mass marketing of scientific fraud for
19 profit.

20 l.) You do have the legal authority and ability, plus moral and legal
21 obligation to extend time for you to undo this massive mess you have
22 caused by framing me for libel in the November 2006 anti-SLAPP
23 opinion.”

24 10. The underlying cause of the problem is that the Appellate Court Presiding Justice
25 and Scheuer framed Kramer for libel with actual malice in the November 2006 anti-SLAPP
26 Opinion issued by this court and concurred with by two other justices. The direct evidence
27 of such along with various trial courts following suit, was suppressed by the other Appellate
28 Court justices when rendering the September 14, 2010 Appellate Opinion. (SEE Exhibit A
27:18-26) (SEE Exhibit A10, A11, & A12)

II
Argument

1
2 The Appellate Court must Recall and Rescind the fraudulent December 20, 2010
3 Remittitur and Vacate the antedated Void Judgment of indeterminable date of Entry of
4 Judgment. The January 20, 2011 denial by Justice Benke to recall and rescind has caused
5 “the judicial machinery to be unable to adjudicate in the usual manner”. It has left Clerks of
6 the Appellate Court and San Diego Superior Court vulnerable for being sued, personally, for
7 falsifying court documents and certificates. It has also left a judge, who unlawfully
8 incarcerated a U.S. citizen and ordered the falsification of a Sheriff Department Record to
9 conceal it, while overseeing a case without his court having subject matter jurisdiction, also
10 vulnerable for being sued, personally. (See Exhibit A 19:17-27, 20-22)(Also See Exhibits
11 A7 & A8)

12 “Fraud upon the court’ has been defined by the 7th Circuit Court of Appeals to
13 “embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud
14 perpetrated by officers of the court so that the judicial machinery can not perform in the usual
15 manner its impartial task of adjudging cases that are presented for adjudication.” *Kennerv.*
16 *C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, 60.23*

17 Government Code 6200 states, “Every officer having the custody of any record,
18 map, or book, or of any paper or proceeding of any court, filed or deposited in any public
19 office, or placed in his or her hands for any purpose, is punishable by imprisonment pursuant
20 to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years if, as to the
21 whole or any part of the record, map, book, paper, or proceeding, the officer willfully does or
22 permits any other person to do any of the following:(a) Steal, remove, or secrete...(c) Alter
23 or falsify.”

24 Government Code 6203 states. (a) Every officer authorized by law to make or give
25 any certificate or other writing is guilty of a misdemeanor if he or she makes and delivers as
26 true any certificate or writing containing statements which he or she knows to be false.(b)
27 Notwithstanding any other limitation of time described in Section 802 of the Penal Code, or
28 any other provision of law, prosecution for a violation of this offense shall be commenced

1 within four years after discovery of the commission of the offense, or within four years after
2 the completion of the offense, whichever is later.(c) The penalty provided by this section is
3 not an exclusive remedy, and does not affect any other relief or remedy provided by law.

4 Government Code 68150(d) states, “No additions, deletions, or changes shall be
5 made to the content of court records, except as authorized by statute or the California Rules
6 of Court.”

7 The judicial machinery cannot perform its impartial task of adjudicating the case of
8 *KELMAN v. Kramer* now on appeal when court documents are falsified from this case, the
9 foundational case. It is clear that the matter of *KELMAN v. Kramer* should never have gone
10 forward based on a falsified Judgment and a Remittitur from this case.

11 This second case, meant for the sole purpose to silence Kramer of what occurred in
12 this case that is aiding the continuance of defrauding the public while discriminating against
13 the environmentally disabled; has been an additional two years of horrendous harassment,
14 terrorizing, unlawfully incarcerating, bodily harm, emotional distress and libeling of Kramer.
15 This, for her daring to expose in a writing of March 2005 how it became a scientific fraud
16 mass marketed into policy and to courts over the mold issue involving Bruce J. Kelman and
17 other owners of GlobalTox – now known as Veritox - that toxins in moldy buildings do not
18 harm. (SEE Exhibit A 0:24-28, 1 -7, 8:1-19).

19 "If the remittitur issues by inadvertence or mistake or as a result of fraud or imposition
20 practiced on the appellate court, the court has inherent power to recall it and thereby reassert
21 its jurisdiction over the case. This remedy, though described in procedural terms, is actually
22 an exercise of an extraordinary substantive power...its significant function is to permit the
23 court to set aside an erroneous judgment on appeal obtained by improper means. In practical
24 effect, therefore, the motion or petition to recall the remittitur may operate as a belated
25 petition for rehearing on special grounds, without any time limitations." (9 *Witkin, Cal.*
26 *Procedure (4th ed.1997) Appeal, § 733, pp. 762-763.*)
27
28

1 “A remittitur can be recalled to permit the court to ‘clarify and make certain’ any
2 matters that are implicit in the court’s opinion and judgment. (*Ruth v. Lytton Sav. & Loan*
3 *Ass’n (1969) 272 Ca 2d 24, 25, 76 CR 926, 927*” *Witkins Rule of Law 14:41*

4 “A recall may also be ordered on the ground of the court’s inadvertence or
5 misapprehension as to the true facts, or if the judgment was improvidently rendered without
6 due consideration of the facts” *McGee (1951) 37 C2d 6,9, 229 P2d, 780, 782*” *Witkins 14:38*

7
8 **III**
9 **Conclusion**

10 Officers of this court have a duty to protect litigants that come before them from the
11 judicial process being abused. They have a duty to protect their court clerks from being sued,
12 personally, for criminally falsifying court documents. They have a duty to protect fellow
13 judiciaries from being placed in a position of having to choose whether to Speak With One
14 Voice or to uphold the Constitution they are sworn to uphold. Officers of this court have a
15 duty to protect the public, including those less fortunate in our society who are
16 environmentally disabled by biocontaminants found in water damaged buildings.

17 The December 20, 2010 Remittitur is undeniably fraudulent. Judgment from the case
18 is undeniably fraudulent and void. The fraudulent Remittitur must be recalled and rescinded.
19 The Void Judgment must be vacated.

20 The “judicial machinery can not perform in the usual manner its impartial task of
21 adjudging cases that are presented for adjudication” in the matter of *KELMAN v. Kramer*
22 without this occurring. This court has the inherent power to correct this.

23 January 25, 2013

24 _____
25 Sharon Kramer, Appellant Pro Per
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27
28

1 **DECLARATION OF APPELLANT SHARON KRAMER**

2 On January 25, 2013 I caused a notice of this motion to be mailed to Keith Scheuer,
3 attorney for Bruce Kelman and known undisclosed entities/parties to this case on appeal.
4 Because this matter, now on appeal, is also an Unruh matter, the Solicitor General of the
5 California Attorney General’s Office is also being served.

6 Please stop allowing the courts to be unlawfully used to harass me. Everyday that
7 this matter continues, someone’s life somewhere is being devastated by Bruce Kelman’s and
8 Bryan (Hardin)’s false testimonies that they scientifically proven no one can be injured by
9 the toxins of mold in water damaged buildings. Toxic torts which should be settled early are
10 being delayed and denied proper adjudication because of their scientific fraud upon the
11 courts. Citizens are being further harmed by this nonsense remaining is some private sector
12 policies. Taxpayers are footing the bill when the injured are forced onto social service
13 programs instead of insurers, including workers comp insurers, assuming rightful liability for
14 the injuries and disabilities.

15 It is torturous to me that this continues throughout the United States because of what
16 has occurred and continues to occur in the San Diego courts over this simple libel matter. I
17 could not be silent even if I wanted to while knowing this is what is happening to people
18 because of these cases.

19 Please adhere to the law. Recall and Rescind the fraudulent Remittitur. Vacate the
20 Void Judgment.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct and executed by me this 25th day of January 2013 in Escondido,
23 California.
24

25 _____
26 Sharon Kramer, Appellant Pro Per
27
28