

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

California Rules of the Court 10.603(i)(5) states, "If the presiding judge terminates the investigation and closes action on the complaint, the presiding judge must:(A) Notify the complainant in writing of the decision to close the investigation on the complaint. The notice must include the information required under (1)" which states: "When the court has completed its action on a complaint, the presiding judge must promptly notify the complainant and the subordinate judicial officer of the final court action.(2) The notice to the complainant of the final court action must:(A) Provide a general description of the action taken by the court consistent with any law limiting the disclosure of confidential employee information; and (B) Include the following statement: If you are dissatisfied with the court's action on your complaint, you have the right to request the Commission on Judicial Performance to review this matter under its discretionary jurisdiction to oversee the discipline of subordinate judicial officers. No further action will be taken on your complaint unless the commission receives your written request within 30 days after the date this notice was mailed. The commission's address is: Commission on Judicial Performance 455 Golden Gate Avenue, Suite 14400 San Francisco, California 94102"

Sincerely,



Mrs. Sharon Noonan Kramer

Attachment (1)

CC: California Commission On Judicial Performance

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

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

IX.

THE SIX KEY FACTS OF THIS STRATEGIC LITIGATION

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

After five years of litigation:

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

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

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

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

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

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

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

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

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

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

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

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

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

American College of Occupational and Environmental Medicine (ACOEM):

A Professional Association in Service to Industry

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

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

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

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

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

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

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

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

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

STATEMENT ON MOLD

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REFORM

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

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

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

BACK TO THE FUTURE

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

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

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

Indoor Environment Connections December, 2006 The Latest News...

Industry Views: The Best and Worst of IAQ in 2006

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

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

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

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

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

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

Governor Schwarzenegger Picks Tani Cantil-Sakauye As Ca Chief Justice ~ Will She Mold Justice For The People of California?

Posted on [July 22, 2010](#) by [katy](#)

[Congratulations To Justice Cantil-Sakauye On Her Nomination](#) ~ SFGate 7-22-10 ~ “The governor plucked appellate court judge Tani Cantil-Sakauye from near obscurity Wednesday when he named her to succeed Chief Justice Ronald George, who retires Jan. 2...The governor formally introduced Cantil-Sakauye during a packed news conference under the Capitol dome. The short, trim Cantil-Sakauye, 50, said she was humbled by the nomination and spoke briefly in generalities about her judicial philosophy. **‘Courts right the wrong and vanquish the indignities,’** she said....Cantil-Sakauye would be the first Filipina-American to become chief justice and just the second woman to serve in the post after Rose Bird, who voters ousted from the Supreme Court in 1986. Cantil-Sakauye has served on the 3rd District Court of Appeal since Schwarzenegger appointed her to the Sacramento-based court in 2005....George called Cantil-Sakauye the **ideal person to lead the nation’s largest court system**. He particularly noted her two years of administrative service on the 28-member Judicial Council, which **controls the court system’s \$4 billion annual budget and sets policy for the state’s 1,700 judges**. ‘This will go down as one of the most exceptional decisions of Gov. Schwarzenegger’s administration,’ said **George, who told the governor the nomination was one of his ‘finest legacies’**...Legal analysts said Cantil-Sakauye’s legal opinions reflect a moderate Republican philosophy in the same mold as George..”

[Another influential court post could be open soon](#) ~ LA Times Blog 7-22-10 ~ Gov. Arnold Schwarzenegger was able to name Tani Gorre Cantil-Sakauye as California’s next chief justice so quickly — it has been only a week since Chief Justice Ronald George announced his retirement — **because the administration was already vetting her for a promotion**. Arthur Scotland, presiding justice of the state’s 3rd District Court of Appeal, said he told the Schwarzenegger administration about three weeks ago that, though he had not yet filed any retirement paperwork, he was considering stepping down this year. And Scotland said he, along with **“every justice on this court, ‘had endorsed Cantil-Sakauye “to be the presiding justice when I retire.”**”

[Gov. Schwarzenegger, President of the Regents of the University of California, at CA Chamber of Commerce Event](#) ~ News Blaze **5-18-10** ~ “Well, I think it is – you know, Workers’ Compensation was a perfect example, because we did the reforms that **gave back to the private sector \$50 billion-plus in these last few years since we have had Workers’ Comp reform....** I have experts in my office that are – you know, like they have in rescue, they have those sniffing dogs?”

Well, I have sniffing dogs over there that sniff out job killers. (laughter) And they sniff from the time they start passing bills upstairs, or to debate the bills upstairs, they're already sniffing. And then they come to me and they tell me about all of those job killers. And then I sit down and I look at them and I say, 'Hasta la vista, baby.' (laughter)

The Money That Fueled California's Election Revolt ~ Businessweek 6-16-10 ~ "How Governor Arnold Schwarzenegger and state business leaders bankrolled Proposition 14 to toss out party primaries...Arnold Schwarzenegger ends his seven-year run as California's governor with a 23 percent approval rating and a **\$19.1 billion budget deficit**...Schwarzenegger's political action committee, plus and some prominent California executives, raised \$4.6 million to promote the referendum... "It makes me sick, this state is so dysfunctional," says Los Angeles real estate developer Brian Harvey, who contributed \$100,000 to support the measure (says), "I think this will attract more moderate candidates." Other backers such as.. the California Chamber of Commerce (\$720,000) hope that the new system, in which the top two candidates chosen by all registered voters would face off in general elections, will bring more moderation to California politics...Proposition 14 had been denounced by labor groups and the state's six recognized political parties, some of which may mount a legal challenge. **'The whole purpose of this is so the Chamber of Commerce can try to get business-friendly Democrats elected, who don't support global warming, environmental legislation, or labor protection bills,'** says John Burton, head of the state's Democratic Party. **'This isn't going to change anything.'**

Agnotology is "the study of culturally-induced ignorance or doubt, particularly **the publication of inaccurate or misleading scientific data**. Ignorance is often not merely the absence of knowledge but **an outcome of cultural and political struggle**." It is time to say "Hasta la vista, Baby" to the fraud in health marketing that aids to increase profits of the industry affiliates of the US Chamber of Commerce, primarily insurers, and under the marketing spin in terminology of Workers' Comp "Reform".

Agnotology, the adverse impact it has had on California workers, US society and its threat to Democracy as a whole is demonstrated by using the mold issue. In 2003 the US Chamber published and mass disseminated a medico-legal off white paper that professed it was scientifically proven all claims of illness and death from exposure to the toxic components of mold were only being made because of **"trial lawyers, media, and Junk Science"**. This fraud in health marketing by the US Chamber that is used to save workers comp and property casualty insurers money, is one in the collection of a series of publications used to instill bias in the courts favorable to industry. Two key others are the position statements of two US medical associations: American College of

Occupational and Environmental Medicine (ACOEM) and American Academy of Allergy, Asthma and Immunology (AAAAI). These three papers all claim they are scientifically grounded and are substantiated by the National Academy of Sciences, Institute of Medicine (IOM) when purportedly scientifically establishing lack of causation of illness from mold. They ARE NOT. They are frauds in health marketing used to stave off financial liability for the money crowd and are adverse to the health and safety of the American public and American worker. All three of these papers, ACOEM, AAAAI and US Chamber of Commerce, carry the name "University of California" to lend credibility to the fallacy of their words.

On April 28, 2010 a Letter was sent to UC Regent Schwarzenegger re: conflicts of interest within University of California medical teaching facilities used to teach the "environmental science" of the **US Chamber. This fraud in health marketing that is used to bias the courts against the environmentally ill** and against their legal and medical proponents; not only increases private sector insurer profits—the University of California (UC) profits from UC physician's expert witness fees on behalf of the insurance industry. These fees can be as much as \$900 per hour with the Regents keeping over half. The Chair of the California Commission on Judicial Performance, Justice Judith McConnell, also received a copy of the April 28th letter sent to the Regents of the UC and other decision makers in California and nationwide. (see 4-28-10 "Truth Out" below).

The US Chamber medico-legal fraud in health marketing that carries the University of California name used to bias the courts:

1. Was a paid for hire endeavor.
2. The contract for its authorship was only between the Corp of GlobalTox (now VeriTox) and the Manhattan Institute think-tank (**self professed "gurus of tort reform"**)
3. Nowhere is UC name or the UC physician, Andrew Saxon MD, who purportedly co-authored, found anywhere within the paper – except as being listed as an author.
4. No hours were billed in the creation of the Chamber paper, for anyone conferring with Saxon, the UC physician.
5. Saxon claims under oath he had no knowledge he was named as authoring the US Chamber publication and had not even read it as late as 3 years after its publication.

6. One Veritox owner, Kelman, has stated under oath that they were hired by the Manhattan Institute to write something for judges.
7. Another Veritox owner, Hardin, has stated under oath that the Chamber paper he co-authored with Kelman was a lobbying piece.
8. UC listed author, Saxon, was not paid, like Hardin and Kelman to author this fraud in health marketing.
9. No one claims authorship of the US Chamber publication on their CVs.
10. Saxon is the only physician and only non-Veritox owner listed as a purported co- author of the US Chamber paper– that falsely carries his and thus the UC name and bias the courts by lending false credibility to the US Chamber’s “environmental science”.
11. The Regents of the UC will take no action to have the UC name removed from the Chamber paper that is used to instill bias in the courts.
12. Neither will Saxon. He can’t without exposing his ACOEM mold statement co-authors, Hardin and Kelman, for putting his and the UC name of the US Chamber marketing piece, without his knowledge.
13. The University of California has generated much income via expert defense witness fees paid to the Regents when Saxon and other UC physicians use the Chamber et al’s, fraud in health marketing to bias the courts against injured workers and others.
14. ACOEM writes the workers comp guidelines that physicians in the State of California must follow under the guise of “Workers Comp “Reform”.

“We are cleaning up the system,” “We will terminate the fraud and abuse that was going on in the system.” “No longer will workers’ compensation be the poison of our economy.” “Those who were gaming the system, we’re saying, ‘Hasta la vista,’ because the game is over.” “California is open for business.” Governor Schwarzenegger, President of the Regents of the University of California before the California Chamber of Commerce. 2005

VIDEO: Watchdog On Science Blog – Corrupt Doctors: The Untold Mold Story ~ Worker’s Memorial Day, Los Angeles 8-09 ~ This is **HOW the elaborate SCAM works** that enables commerce & industry to deny liability for causation of worker illness and injury – while elected leaders from both parties turn a blind eye. (Note: the video link above regarding the systematic insurer fraud in Ca Workers Comp may be slow. It may also be viewed at: <http://www.blip.tv/file/2520407>)

Health complaints linked to former NASA site in Downey ~ LA Times 8-2-09 ~ “..carpenters, welders, electricians and other film production workers say they developed severe respiratory and other problems while working there and have never recovered. Film workers have given the name “Downey flu” to one particular cluster of symptoms — chronic congestion, headaches and rashes. Some have even refused to work there, a rare phenomenon in the tough, blue-collar world of set construction. At least 34 people have filed workers’ compensation claims over illnesses they trace to the studio complex. The Times obtained detailed records on 18 of the cases. In 11 — including Izumi’s — independent physicians found that some or all of the symptoms were caused or aggravated by working at Downey Studios. In three other cases, independent physicians — specialists certified by the state to offer neutral opinions in workers’ compensation cases — said the ailments appeared to be work-related but further tests were needed to make a determination. **The tests were never performed because insurance companies contested the doctors’ findings and refused to pay for the tests...**In their workers’ compensation claims, in injury complaints reported to Cal/OSHA and in a civil lawsuit, film-production workers cited a variety of potential causes, including mold, dust churned up during renovations at Downey Studios and toxic chemicals detected in the soil....Stuart Lichter, whose Industrial Realty Group operates Downey Studios, rejected the idea that conditions at the site made anyone sick....David White, a lawyer for the company, said there was no evidence linking the workers’ health problems to Downey.”

State of California retaliates against injured Social Service worker for asking mold questions ~ Ukiah Daily Journal 7-20-10 ~ “A county employee who spoke up about a mold problem in the Mendocino County Social Services building on South State Street in Ukiah was put on administrative leave the day after a meeting held to inform employees about the problem...said he was escorted out of his office at 8 a.m. the day after the meeting. ‘I asked how long they knew about (the mold problem),’ Marmon said of his participation in the meeting...State health inspectors started inspecting the county building Monday after a county employee complained about the mold problem in late June, according to Krissann Chasarik, spokeswoman for the state Division of Occupational Safety and Health, known as Cal/OSHA....the same employee recently reported the steps the county took to correct the problem weren’t adequate...**he asked whether the county**

had looked behind the sheet rock in the areas concerned...the building leaked before he started working there in 2007, and has poor ventilation. The floor mat under his desk and some of his colleagues' floor mats had red Xs on them for weeks before the county told them why, he said. **The county didn't tell Marmon why he was placed on paid administrative leave, according to a retaliation complaint Marmon filed** with the state Department of Industrial Relations' Division of Labor Standards Enforcement. Marmon wrote he was "only told that I was under investigation.' He continued, 'It is a means of intimidation to stop me from testifying and leading others to testify.'..but letters he received concerning that complaint imply Marmon isn't under investigation. Marmon said he had been experiencing extreme fatigue in recent weeks, and knew of several other employees who had experienced health problems. **'It's like the walking wounded in there,'** he said. **'The employees are disgusted.'** Marmon said when he brought up prior complaints about the ventilation and mold during the July 14 meeting, he was told there had been no other complaints. Jacqueline Carvallo of SEIU Local 1021 said the union is aware of the mold problem, and confirmed several county employees in the building have filed workers' compensation claims. "There have been respiratory concerns, and one employee complained of nose bleeds," Carvallo said. **'Until someone takes a stand you sometimes don't realize how severe the problem is.'**..If mold colonies proliferate indoors, they can cause symptoms including allergic reactions, breathing problems, lung infections and possibly kidney and liver damage in cases of toxic molds...**No one** at the county Social Services Department or the county Human Resources Department **returned phone calls** on this issue."

Would a Kennedy be treated like this? ~ Westchester Magazine 5-3-10 ~ "What They're Not Saying (But We Will) ..but here's another no-so awe-inspiring tale that you won't find between the two covers of that recently released controversial book....No one is talking, and the more we ask, the more they clam up....Kennedy tells of returning home with his wife Mary from a Cape Cod vacation in 1996 to find that their sprawling clapboard 1920 structure with 1950s aluminum siding had flooded while they were away. They were greeted with a black mold bloom that made everyone sick....'When visitors with hacking coughs fled our home for fresh air, I taunted them...'...after unsuccessfully attempting a gut renovation, the family finally reached the conclusion that the only solution was to rebuild from the ground up.RFK Jr., an **environmental advocate extraordinaire**, said he figured it was about time he started **'walking the walk in my own home.'**"

U.S. Chamber of Commerce & Insurer Deceit in Mold Litigation ~ Katy's Exposure 7-7-10 ~ "Changes in construction methods have caused US buildings to become perfect petri dishes for mold and bacteria to flourish when water is added. Instead of warning the public and teaching physicians that the buildings were causing illness; in 2003 the **US Chamber of Commerce**

Institute for Legal Reform, a think-tank, and a workers comp physician trade organization, ACOEM, mass marketed an unscientific nonsequitor to the courts to disclaim the adverse health effects to stave off liability for financial stakeholders of moldy buildings. Although publicly exposed many times over the years, the deceit lingers in US courts and public health policy while insurers continue to profit from the politically sanctioned perversity, to this very day.”

National Apartment Association Tells Members Mold Causes Death; Tells Courts It Doesn't With The Help of US Chamber and University of California ~ Katy's Exposure 5-19-10 ~ National Apartment Association Blog – Mold: Your Silent Enemy (5-19-2010) **“Remember, mold can cause major health problems and even death.** Don't let it get out of control and affect your company or your residents.” National Apartment Association Amicus Curiae Brief (8-31-2009), in a litigation involving infant mortality, a \$25M insurance policy of the property mgmt company: '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)". [Listed & purported co-author, Andrew Saxon, **UCLA**].

TRUTH OUT Letter To CA Regents, Judicaries, Legislators ~ Katy's Exposure 4.28/10 ~ (Written as a first person epic letter to UC's Saxon. Evidenced in links by legal documents from several cases, medical journal publishings and investigative journalist publications, etc.) “Much like the USA went to war based on the frenzied hype and false marketing to decision makers that Iraq had weapons of mass destruction; all three of these closely related medico-legal policy setters, ACOEM's, AAAAI's & US Chamber's, all naming Andrew Saxon as co-authoring and thus all carrying the University of California's imprimatur, are used in marketing the false scientific concept to the courts and into US health policy that Hardin and Kelman could legitimately apply math extrapolations to data they took from a single intraracially instilled mechanistic study by Dr. Carol Rao; mix several hypotheticals into the equation; and then **mass market via medical associations, teaching hospitals and the US Chamber; what is a nonsequitor of science** that flies in the face of the basic tenets of toxicology and common sense. Ie, Based on this one set of calculations, Hardin and Kelman professed to prove the toxic components of mold that are found in water damaged buildings are purportedly scientifically established to pose no threat to human health. Thus, sick little children in the USA, who claim moldy (and insured) buildings are making them seriously ill with chronic immune system inflammations brought on by microbial toxins, are **Evil Doers out to scam insurers – and so are their weeping mothers**. Best summed up by a Sacramento, California judge, Huge Leap of purported science. According to the National Academy

of Sciences, Institute of Medicine, Damp Indoor Spaces and Health Report (2004), Chapter Four Toxicity Summary, this is not a method of risk assessment that can legitimately be used to scientifically conclude causation of human illness -or lack there of – from exposure to microbial toxins that are found in water damaged buildings....**US public health policy over the mold issue has been legitimized by flawed hypotheses & flawed extrapolations much like drunken men use lamp-posts for support rather than illumination**.... Hardin, retired high level CDC/NIOSH employee, was never disclosed to be an owner of VeriTox or a party to the Kelman Case on the Certificate of Interested Parties submitted to the Appellate Court in 2006. When denying the anti-SLAPP motion, the current Chair of the California Commission on Judicial Performance, Justice Judith McConnell, wrote the anti-SLAPP opinion being informed and evidenced, via Hardin/Kelman testimony from other cases yet ignoring this fact. The courts were also informed via irrefutable evidence, that undisclosed party, Hardin's business partner, Kelman, committed perjury to establish a fictional reason for malice for him, personally – in a libel litigation where his sole claim of the case is that he was maliciously accused of committing perjury by the use of the phrase “altered his under oath statements”. **This phrase just happened to be in the same writing that was the first to publicly write of the deceit of the US Chamber paper, how it was connected to ACOEM's** and how a jury was able to see through the deceit when the papers' author, Kelman, was forced to discuss them together. It was a unanimous, unpublished Appellate opinion issued on November 16, 2006 with Justices Cynthia Aaron and Alex McDonald concurring – and **no one addressing the evidence that NIOSH Hardin's name was oddly missing from the Certificate of Interested Parties or that his US Chamber co-author and business partner, Kelman, was committing criminal perjury to establish a libel law needed reason for personal malice.** When also provided with unrefuted evidence, four San Diego lower court judges failed to understand this – just like the anti-SLAPP Appellate panel did in 2006. The San Diego courts have been provided uncontroverted and irrefutable evidence of Kelman's perjury to establish a needed libel law reason for malice for him personally, no less than fifteen times since September of 2005.

Judicial Campaigns May Put Democracy at Risk, CJP Chair McConnell Says ~ Metropolitan News-Enterprise 5-24-10 ~ **“American democracy ‘may well be at risk’ as judicial campaigns turn into special-interest funded political contests** in which candidates are pressured into taking political stances, Fourth District Court of Appeal Presiding Justice Judith McConnell told a community forum. McConnell, who in addition to presiding over Div. One is the chair of the Commission on Judicial Performance and a member of the Statewide Commission for Impartial Courts, made the remarks Thursday night at Southwestern Law School....’Judicial independence does not mean judges are unaccountable or allowed to follow their whims, it means they are independent of the other branches of government,’ she explained. To maintain that independence,

she opined, candidates for election to the bench need to avoid the types of ‘nasty’ campaigning often associated with those seeking executive and legislative posts. **Judges, she said, ‘should not be accountable to politicians...or the clamor of the moment...’** The CJP chair also voiced frustration at the fact that while the commission has disciplined judges for election-related ethics violations—the State Bar has never disciplined an attorney for misconduct in the capacity of a judicial candidate, even though the Rules of Professional Conduct authorize it to do so.”

California IS Open For Business ~ IJOEH 10-07 ~ “The American College of Occupational and Environmental Medicine (ACOEM) is a professional **association that represents the interests of its company employed physician members**. Fifty years ago the ACOEM began to assert itself in the legislative arena as an advocate of limited regulation and enforcement of occupational health and safety standards and laws, and environmental protection. Today the ACOEM provides a legitimizing professional association for company doctors, and **continues to provide a vehicle to advance the agendas of their corporate sponsors**. Company doctors in ACOEM recently blocked attempts to have the organization take a stand on global warming. Company doctors employed by the petrochemical industry even blocked the ACOEM from taking a position on particulate air pollution. Industry money and influence pervade every aspect of occupational and environmental medicine. **The controlling influence of industry over the ACOEM physicians should cease.**”

Moldy UC Davis Dorm Gives UC Regents Financial Pony In the Race ~ Katy’s Exposure 7.01.01~ “Dear Ms. MacDonald (General Counsel, Regents UC) and Ms. Griffiths (Chief of Staff), Does the above **UC Davis dorm situation have anything to do with the Regents of the UC’s failure to act to remove the influential UC name from the US Chamber’s mold publication** that, as I have evidenced for you, is used in litigation to deny liability for claims of illness in workers and occupants caused by moldy buildings? Thank you in advance for your reply.”

UCWATCH.ORG – Accountable UC ~ Ongoing Research ~ “UC’s Regents are a far cry from reflecting California’s socio-economic diversity. **Regents are mostly wealthy lawyers, politicians and businesspeople**. Political money, political allegiances and business relationships rule where appointments to the Board of Regents are concerned, and **several regents have very close personal and financial ties to the Governor**. An appointment to the Board of Regents is yet another coveted resume builder for the state’s elite class of high-achieving investment bankers, corporate lawyers, and power brokers – never mind the ordinary Californians who the University is supposed to be here to serve. Finally, by virtue of their extremely deep reach into California’s corporate and political world, **many Regents fill their roles on the Board while coming**

dangerously close to what amount to potential conflicts of interest. Is this really the best UC can do to meet the needs of all Californians?” (“The University is governed by The Regents, which under Article IX, Section 9 of the California Constitution has ‘full powers of organization and governance’ subject only to very specific areas of legislative control. The article states that **“the university shall be entirely independent of all political and sectarian influence and kept free therefrom in the appointment of its Regents and in the administration of its affairs.”**)

NIH Closing Loophole in University \$\$\$ Conflict-of-Interest Rule ~National Institute of Health 7-21-10 ~ “Responding to **yet another flap about the influence** of drug companies on biomedical research, the National Institutes of Health (NIH) has decided it needs more time to revise its **rules for policing conflicts of interest**....In May, the agency proposed new regulations....would require NIH-funded investigators to **report more financial interests to their universities**.... But, a month later, news emerged that Charles Nemeroff, who was **banned by Emory University in 2008 from seeking NIH grants after he failed to report drug-company income, escaped that punishment simply by moving to the University of Miami**.... (PHS stands for Public Health Service, which is part of the Department of Health and Human Services, NIH’s parent agency.) NIH had received more than 70 comments (see docket here) on the rule so far from **universities, patient-advocacy groups, bioethicists, and others.**”

BP Oil Trolls Universities for Red Herrings & White Coated Bottom Feeders... ~ Sound Familiar???? ~ Press-Register 7-16-10 “For the last few weeks, BP has been offering **signing bonuses and lucrative pay to prominent scientists from public universities** around the Gulf Coast to aid its defense against spill litigation. BP PLC attempted to hire the entire marine sciences department at one Alabama university, according to scientists involved in discussions with the company’s lawyers.”

Numerous lobbyists do BP’s bidding Influence extends to both political parties ~ The Washington Times 6-13-10 ~ “Weeks after the massive oil spill in the Gulf of Mexico began, the fundraising arm for Senate **Democrats circulated a petition to hold BP “accountable” while accusing Republicans of making excuses for ‘bad environmental actors.’** The petition noted that the Democratic Senatorial Campaign Committee (DSCC) paid for the message, but didn’t mention that the DSCC’s own source of cash includes tens of thousands of dollars in political contributions raised earlier this year by a BP-hired lobbyist....underscores the significant political muscle BP still has on Capitol Hill with both political parties, despite the outcries from lawmakers and the White House for a full investigation of the oil company’s role in the spill and its response. ‘BP is one of the strongest lobbying and political forces in Washington, D.C..... ‘They’ve consistently spent millions

of dollars every year on federal lobbying and, in the most recent years, they've increased the output to new heights.'The firm **hosted a fundraiser for California U.S. Senate candidate Carly Fiorina (R) in April, ...BP spent a 'massive' \$16 million on lobbyists to influence federal legislation last year**, ranking it second behind Conoco Phillips among oil and gas companies....spent a half-million dollars in campaign donations to federal candidates during the 2008 election cycle, with about 40 percent going to Democrats and \$71,000 to President Obama, according to the center....**BP-tied contributions ran by a 3-to-1 ratio in favor of Republicans about a decade ago but that Republicans have received 56 percent compared with 43 percent to Democrats this election cycle."**

BPEPA Lack of Transparency is Transparent ~ Mother Jones 7-20-10 ~ "Environmental Protection Agency staff member is accusing his employer of being coy...EPA officials know that the chemicals present a threat to public health and the Gulf ecosystem and should be banned; they just don't want to say so.....Kaufman, a senior policy analyst in the EPA's Office of Solid Waste and Emergency Response, alleges that agency administrator Lisa Jackson sidestepped the issue last week in her answers to questions about whether the agency has the authority to call off use of dispersants in the Gulf. **The agency is deliberately downplaying the threat—and its own role in regulating the chemicals—to protect itself from liability and keep the public from getting too alarmed....at least 10 other EPA staffers, including several toxicologists...raise concerns about dispersants and other health problems in the Gulf, claiming that their superiors at the agency are not doing due diligence** when it comes to dispersants. 'What's going on in the Gulf is the same cover up that was going with the 9/11 environmental issue,' said Kaufman. **The Bush White House ordered EPA to lie** about the environmental and public health situation at the World Trade Center because of economic ramifications. **So they did.**'...'I've been through this before,' he continued. **'It was the same kind of crap.'** ..."I'm not partisan," he says. **'I just want an honest EPA...'**

Chamber Of Commerce Says Taxpayers Should Help Pay For BP Spill Cleanup ~Huffington Post 6-10-10~ **"Hey there, Americans!** I'm sure, by now, many of you have had some time to reflect on the massive, unfolding Deepwater Horizon oil disaster and thought to yourselves, "My, that really is a terrible, apocalyptic cock-up!" But have you gone so far as to think to yourself, "My, that really is a terrible, apocalyptic cock-up, the costs of which I should logically be burdened with, because I am responsible for everything that happened?" No? Well, you should maybe start thinking that way, because the U.S. Chamber of Commerce thinks you should! **You know, the U.S. Chamber of Commerce typically doesn't put itself out there as a big fan of socialism. But that all changes when we're talking about risk and liability."**

Injured Biotech Worker Gets Day In Court ~ Open Salon 1-23-10 ~ “This again is not the exception. In the case of biotech worker David Bell at Agraquest in **Davis, California [as in biotech - UC Davis]**, the company also worked to prevent seriously ill Bell from finding out what he was working with even though he needed it for his medical care. After years of struggle he eventually discovered from the Mayo clinic that he had 19 substances in his body likely from the company. These included histo yeast, a mold that is found in soil. It was in his blood serum and according to the Centers for Disease Control and Prevention affects the lungs and organs and other organs and can be fatal if not treated. Yet the **company and their insurer Liberty Mutual still denied liability for his workers compensation claim**. The drive of these biotech and other companies of course is to limit their liability and their costs. If they can prevent injured workers from finding out what has injured them, they are no longer liable for the cost and in many cases; **the public is stuck with the bill**. In the case of David Bell, **over \$333,000 was spent by Social Security** to keep him alive and he is still fighting for his life. **Bell never believed that this company would put in him and others in deadly danger in order to get their product on the market** quickly without any holdups.”

Buck the insurance industry, go to jail ~ Alliance for Natural Health 7-20-10 ~ Keep in mind also that it is not just doctors that defraud the government’s medical programs. Drug companies have also been found guilty of this. Although they have paid some fines, **we haven’t yet seen any Pharma executive go to jail**, and no one expects that ever to happen. In 1996, Senator Ted Kennedy added to the Health Insurance Portability and Accountability Act new anti-fraud provisions providing for jail terms of up to ten years. If a patient dies while being given the “medically unnecessary” treatment and the government decides that the treatment caused the death, the doctor can go to jail for life. This legislation also extended the anti-fraud provisions to cover bills submitted to any “health care benefit program.” Under federal law, **health care benefit programs include private insurance as well as federal programs. So now a doctor can go to jail for getting on the wrong side of a private insurance company.**

Addressing conflicts of interests at university medical centers ~ ROCNow Democrat & Cronicle 7-18-10 ~ “Am I concerned that we have disabling conflicts of interest **where we have lost our soul?**...Critics say that public disclosure is essential for accountability.“Money has an enormous influence on people even though they don’t admit it does....’Public disclosure’, Wolfe added, ‘is an important step in holding the medical profession accountable’. **The stakes are high.**”

“...And then they come to me and they tell me about all of those job killers. And then I sit down and I look at them and I say, ‘Hasta la vista, baby.’ **(laughter)**” Arnold Schwarzenegger, **President of**

the Regents of the University of California, Governor of the State of California, Nominator of the Highest Judge in the Land when addressing the **California Chamber of Commerce**, May 18, 2010.

“Whenever I see job killers...or newborn infant apartment dwelling killers — caused by corruption, greed, political favors, and silence of those who know but don’t speak out to save the lives of others or those who remain silent because of complicity or for fear of retaliation, I say ‘Hasta la vista, baby’ (no laughing matter)” Sharon Noonan Kramer, **Advocate for integrity in health marketing of causation and accountability** of environmental illnesses. July 20, 2010.

Again, Agnotology is “**the study of culturally-induced ignorance or doubt**, particularly the publication of **inaccurate or misleading scientific data**. Ignorance is often not merely the absence of knowledge but an outcome of cultural and **political** struggle.”



Deceptive Mantra: “Trial Lawyers, Media Hype & Junk Science”

The stakes are high! The stakes are high! The stakes are high!

Gov. Arnold Schwarzenegger has nominated a new chief justice, who will then face a retention vote on the November ballot. We hope she is able to curtail the undue influences of commerce on our courts that harm Californians and the US as a whole. “**This will be one of the most important legacies that Gov. Schwarzenegger has to leave..**” California Chief Justice Ronald George

[Links to NAA Property Mgmt, Co Riverstone Residential, Mold and Illegal Business Practice Complaints and More!](#)

Exposing Environmental Health Threats & Those Responsible for Them...I'll be back...with more!

Katy

Ads by Google

72 Hour Survival Kit

Prepare Now For Any Disaster With a 72 Hour Survival Kit.

www.QuakeKare.com

This entry was posted in [Toxic Mold](#), [Riverstone Residential](#), [Mold Litigation](#), [Environmental Health Threats](#), [Health - Medical - Science](#), [Politics](#), [Mold and Politics](#), [US Chamber of Commerce](#) and tagged [IAQ](#), [Insurance Industry](#), [Mold](#), [Mycotoxins](#), [notorious landlords](#), [Property Management](#), [Public Health](#), [Sick Building](#), [Sharon Kramer](#), [Veritox](#), [acoem](#), [NAA](#), [Lisa Jackson](#), [EPA](#), [ACHEMMIC](#), [Judicial Campaigns](#), [Manhattan Institute](#), [Regents of University of California](#), [Agraquest](#), [David Bell](#), [BP](#), [Oil Spill](#), [Stuart Lichter](#), [University of California](#), [Gulf of Mexico Oil Spill](#), [Biotech](#), [Workers Compensation](#), [Corexit](#), [UC Davis Dorm](#), [Gulf Oil Disaster](#), [Governor Schwarzenegger](#), [Judith McConnell](#), [California Supreme Court](#), [Nalco](#), [RFK Jr](#), [AAAAI](#), [NASA](#), [Downey Studios](#), [NIH](#), [Tani Cantil-Sakauye](#). Bookmark the [permalink](#).

← [Shocking pictures of man almost drowning in oil slick on the Yellow Sea off Dalian, China](#)

[Dangerous Fungus – Cryptococcus gattii – Now Endemic in Pacific Northwest: CDC – The emerging fungal infection can be deadly, but many mild cases may go unnoticed, expert says](#) →

One Response to Governor Schwarzenegger Picks Tani Cantil-Sakauye As Ca Chief Justice ~ Will She Mold Justice For The People of California?

1. [Rose M. Garland](#) says:

[July 30, 2010 at 10:17 am](#)

Thank you for quoting us. We will be publishing your Letter to the Editor today. There is lots of good and interesting information here – wish you the best!

Rose – Editor at NewsBlaze

ATTACHMENT

6

LETTERS WRITTEN FROM CA INSURANCE
COMMISSIONER CANDIDATE DINA PADILLA TO SAN
DIEGO DISTRICT ATTORNEY BONNIE DUMANIS, CA
INSURANCE COMMISSIONER STEVE POIZNER AND CA
ATTORNEY GENERAL JERRY BROWN; REQUESTING
INVESTIGATION INTO WORKERS COMP INSURER FRAUD
FROM THE MASS PROMOTION OF SCIENTIFIC
MISINFORMATION OVER THE MOLD ISSUE

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

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

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

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

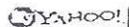
26 12. In addition, as a further proximate result of the
27 above-described publication, Plaintiffs have suffered special
28

June 23, 2005

- CUSTOM PRESS RELEASE FEED FOR JOURNALISTS
Customize your free daily PRWEB news feed.
- FREE PRESS RELEASE SYNDICATION
Add these headlines to your web site

- MEMBER LOGIN (SUBMIT YOUR PR)
Register Here to Send Your Press Release
- EASIEST > PR WEB™ SERVICE BU
PR Web™ Help Desk

News Releases by Category > News by Country > News by MSA > All News for Today > Browse News by Day

  All Press Releases for March 9, 2005

Jury Finds "Toxic Mold" Harmed Oregon Family, Builder's Arbitration Clause Not Binding

 Download this press release as an Adobe PDF document.

The case (Haynes vs. Adair Homes Inc.) is a first in the Northwest to award personal injury damages to a family exposed to toxic mold in a newly built home. "This verdict is significant because it holds construction companies responsible when they negligently build sick buildings," said Kelly Vance, the family's attorney.

(PRWEB) March 9, 2005 – A Clackamas County jury on Friday (March 4, 2005) held Adair Homes Inc. responsible for faulty construction practices that caused toxic mold to thrive inside Paul and Renee Haynes' new home in Sandy, Oregon. The jury also found Adair's negligence caused illness in Mrs. Haynes and the couple's two small children – Michael, 6, and Liam, 4. The family experienced severe respiratory, digestive and cognitive impairment. One half of a million dollars was awarded to the injured family.

The case is a first in the Northwest to award damages for personal injury to a family exposed to mold in a newly built home. "This verdict is significant because it holds construction companies responsible when they negligently build sick buildings," said Kelly Vance, the family's attorney.

Adair Homes, Inc. which builds hundreds of residences each year in Oregon, Washington and Idaho, built the house on the Haynes' five acres in early 2002. Four months after moving in and becoming ill, the family discovered rampant mold growth inside the walls of their new home. Dry wall and insulation were installed while the frame was wet from recent heavy rains. Evidence presented during the trial proved there was standing water in the wall cavities and the crawl space long after the construction was completed. This led to the growth of the toxigenic fungi. "You couldn't have made the framing in that house more wet if you had sprayed it with a firehose," stated Vance.

By the time the Haynes discovered the mold, it was too late. Mrs. Haynes and the children were exhibiting neurologic and immune system damage. Paul Haynes reported the problem to Adair Homes, but the company refused to take responsibility. The family was forced to flee their new house in an effort to save the health of the mother and young sons.

Two separate medical evaluations substantiated that both Renee Haynes and her son, Michael, had mold antibodies in their blood, indicative of dangerous exposure levels to mold. Numerous experts, including a fungal immunologist, an occupational therapist and a neuropsychologist testified concerning the Haynes children's developmental and sensory integration disorders that began shortly after moving into the Adair built home. The

> Email this story to a colleague

> Printer Friendly Version

CONTACT INFORMATION

Sharon Kramer
MYCOTIC DISEASE
AWARENESS
Visit Our Site
760-822-8026
Email us Here

ATTACHED FILES

There are no multimedia files attached to this release. If this is your release you may add images or other multimedia files through your login.

ABOUT PR WEB™ & these News Releases

If you have any questions regarding information in these press releases please contact the company listed in the press release. Please do not contact PRWeb. We will be unable to assist you with your inquiry. PRWeb disclaims any content contained in these release. Our complete disclaimer appears here.

Court's Ex. 1
Case # _____
Rec'd _____
Dept _____ CLK _____

...for several
...he was placed in a special
...at least junior
...she expects him to suffer the same fate.

Amazingly, the Haynes family almost did not even get to tell their story to a jury. Adair, like many other commercial entities, utilizes an arbitration clause in its contract. That clause designates a specific preferred arbitration service. Adair uses Construction Arbitration Services, Inc., a company based far away from Adair's market, in Dallas, Texas. After the case was filed, Adair moved to stay the case pending arbitration and submitted an affidavit from the owner of the arbitration service, Marshall Lippman. The judge allowed the case to go to trial when the family's attorney showed that Lippman had submitted a false affidavit concealing the fact that he had been disbarred by the State of New York and Washington D.C. The disbarments occurred because Lippman had been found to have stolen funds from his clients.

Dr. Bruce Kelman of GlobalTox, Inc, a Washington based environmental risk management company, testified as an expert witness for the defense, as he does in mold cases throughout the country. Upon viewing documents presented by the Hayne's attorney of Kelman's prior testimony from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand. He admitted the Manhattan Institute, a national political think-tank, paid GlobalTox \$40,000 to write a position paper regarding the potential health risks of toxic mold exposure. Although much medical research finds otherwise, the controversial piece claims that it is not plausible the types of illnesses experienced by the Haynes family and reported by thousands from across the US, could be caused by "toxic mold" exposure in homes, schools or office buildings.

In 2003, with the involvement of the US Chamber of Commerce and ex-developer, US Congressman Gary Miller (R-CA), the GlobalTox paper was disseminated to the real estate, mortgage and building industries' associations. A version of the Manhattan Institute commissioned piece may also be found as a position statement on the website of a United States medical policy-writing body, the American College of Occupational and Environmental Medicine.

Contact:
Sharon Kramer
Mycotic Disease Awareness
760-822-8026

###

Disclaimer: If you have any questions regarding information in these press releases please contact the company listed in the press release. Please do not contact PR Web™. We will be unable to assist you with your inquiry. PR Web™ disclaims any content contained in these releases. Our complete disclaimer appears here.

© Copyright 1997-2004, PR Web™. All Rights Reserved

<http://www.prweb.com/releases/2005/3/prweb216604.htm>

6/23/2005

00000080

ATTACHMENT

7

LETTERS TO THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, INCLUDING GOVERNOR ARNOLD SCHWARZENEGGER, DETAILING HOW THE UNIVERSITY OF CALIFORNIA NAME IS BEING MISUSED TO LEND FALSE CREDIBILITY TO THE PSEUDOSCIENCE OF THE US CHAMBER OF COMMERCE; IE, THAT IT IS SCIENTIFICALLY PROVEN ALL CLAIMS OF ILLNESS FROM MOLD ARE A RESULT OF “TRIAL LAWYERS, MEDIA AND JUNK SCIENCE”.

while their other author does not disclose he is a party to the strategic litigation.

The entire point of using criminal perjury in this strategic litigation was so the fraud of the US Chamber et al, could continue by the discrediting of the truthful words of a Whistleblower by deeming her to be a malicious liar for the mere word “altered”. Thus far, errors of the San Diego courts have inadvertently aided and abetted the US Chamber of Commerce et al,’s scientific fraud to continue on its merry way in US courts by deeming the wrong party in this strategic litigation to be the “malicious liar”; and causing this wronged party to be unable to make a living as a reputable, real estate agent.

As this Reviewing Court has been informed and evidenced; on August 31, 2009, an Amicus Curiae Brief by the National Apartment Association political action committee (“NAA Amicus”) was submitted into a legal proceeding in Arizona (“*Abad*”) involving two new born infant deaths, an apartment building documented to have an atypical amount of mold, and Bruce Kelman serving as an expert witness for the defense; with the NAA Amicus submitted in fraudulent validation of Kelman’s self professed expert mold opinion. (Kelman comes to the mold issue from Big Tobacco, circa 2000) NAA Amicus pg. 9:

*“In a report entitled, ‘A Scientific View of the Health Effects of Mold’, a pane of l[sic, two] 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)”*

California Code of Judicial Ethics, Canon 3.D.(2) 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.”* Two mothers of

sinker no matter how much contradictory evidence the courts were provided.

Kramer is legally entitled to a reversal of all of her motions that were defeated by Kelman's, VeriTox's and Scheuer's fraud on the courts, (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 733, pp. 762-763.); which makes Kramer the properly recognized prevailing party of the C.C.P. 425.16 anti-SLAPP motion. As the prevailing party in an anti-SLAPP motion, Kramer is legally entitled to her costs and fees incurred from errors of improper courts rulings while ignoring her evidence since September of 2005 of Kelman's criminal perjury to establish false reason for Kramer's malice when strategically litigating through the efforts of Scheuer.

“Paterno asks for her attorney fees in preparing this writ petition. Under subdivision (c) of the anti-SLAPP statute, successful litigants who prevail on a special motion to strike are entitled to attorney fees as a matter of right “to compensate . . . for the expense of responding to a SLAPP suit.” (Wanland v. Law Offices of Mastagni, Holstedt & Chiurazzi (2006) _____, 22 [_____].) The trial court should consider Paterno's request for attorney fees in connection with Paterno's special motion to strike....Paterno is awarded her costs in this proceeding. Paterno v. Superior Court (2008) 163 Cal.App.4th 1342, 1357-1358.

When this Reviewing Court acknowledges what legally cannot be denied: Kramer's overwhelming, uncontroverted and irrefutable evidence that seven judges and justices ignored Kramer's overwhelming, uncontroverted and **irrefutable evidence of Kelman's perjury** on the issue of malice and ignored Kramer's **vast evidence of Scheuer's willful suborning** of Kelman's criminal perjury; **then seven years worth of scientific fraud perpetrated on US Courts over the mold issue by the US Chamber of Commerce et al, will immediately cease** by the acknowledgment that their author of their scientific fraud has no qualms about lying under oath to the courts and strategically litigating; and

EXHIBIT

8

THE EVIDENCE THAT KELMAN HAS BEEN COMMITTING
CRIMINAL PERJURY ON THE ISSUE OF MALICE, THE
FACT THAT THE COURTS HAVE DEEMED HIS SCIENCE A
“HUGE LEAP”, AND THAT BRYAN HARDIN HAS BEEN A
PARTY TO THIS LITIGATION ALL ALONG –

WITH THE EVIDENCE THAT BOTH APPELLATE PANELS
HAVE IGNORED THIS EVIDENCE, ACTED LIKE IT DOES
NOT EXIST IN BOTH RULINGS OF 2006 & 2010

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

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

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

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

24 **IT IS INSURANCE FRAUD**

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

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

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

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

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

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

1.

Deposition of Bruce J.

Kelman, July 22, 2008, in
which he states he cannot
remember the testimony he
gave in the Mercury case.

Pages 321 to 327

00000538

1 summary motion in this case, it was a declaration
2 filed around March of this year?

3 MR. SCHEUER: No, it's not.

4 MR. BANDLOW: Is that not that one?

12 :24:40 5 MR. SCHEUER: This is pages 1, 5 and 6 of
6 the declaration.

7 MR. BANDLOW: I can go get the whole
8 thing. I'll have to go get the whole thing. I
9 thought that was the full copy.

12 :24:52 10 MS. KRAMER: Want to go to lunch and do
11 that?

12 MR. BANDLOW: I'm going to get a full
13 copy. What time is it now?

14 I'm going to back up, because there's
12 :25:20 15 something in that declaration that I don't
16 understand.

17 BY MR. BANDLOW:

18 Q You recall that you filed a declaration
19 very early on in this case in which you stated that
12 :25:46 20 you quote "testified that the type and amount of
21 mold in the Kramer house could not have caused the
22 life threatening illnesses that she claimed;" do
23 you recall saying that in a declaration?

24 A This case has been going on for three
12 :26:00 25 years, no. I'm not saying I didn't, but I need it

00000000

1 in front of me.

2 Q Do you recall that that is what you
3 testified to when you testified in the case
4 involving Ms. Kramer's claim with her insurance
12 :26:14 5 provider?

6 A I would have to see what was on the
7 declaration, and at this point, now we're talking
8 about a case that was a lot of years ago. I don't
9 remember that specific case hardly at all.

12 :26:28 10 Q Well, don't you recall that I took your
11 deposition in December of 2007, and in that
12 deposition you said you couldn't remember what
13 testimony you gave in Ms. Kramer's action against
14 her insurance carrier; correct?

12 :26:44 15 MR. SCHEUER: That's exactly the same
16 testimony he just gave, and you are now admittedly
17 going over stuff you already asked the witness
18 about.

19 BY MR. BANDLOW:

12 :26:52 20 Q Here's why I'm asking, because in
21 December of 2007 I asked you these questions and
22 you answered just like you did, you didn't remember
23 anything about it because it was so long ago, and
24 then in March of 2008 I get a signed declaration
12 :27:04 25 from you in which you say quote "I testified that

00000999

1 the type and amount of mold in the Kramer house
2 could not have caused the life-threatening
3 illnesses that she claimed."

4 MR. SCHEUER: Why don't you show us that
12 :27:18 5 declaration that you're talking about.

6 MR. BANDLOW: Well, it's there. If you
7 want me to go get the signature page, that's one of
8 the things he says there, that's the page that was
9 copied. Starts out, "I first learned of Defendant
12 :27:28 10 Sharon Kramer --

11 MR. SCHEUER: What paragraph?

12 MR. BANDLOW: I don't -- says, "I first
13 learned of Defendant Sharon Kramer in mid
14 December 2003."

12 :28:14 15 BY MR. BANDLOW:

16 Q So what I'm asking is: Was there
17 something that caused you to remember your
18 testimony in Ms. Kramer's action against her
19 insurance carrier better between December and March
12 :28:24 20 of 2008?

21 A At this point, it would have -- I don't
22 remember specifically. I think we have produced --
23 if we haven't, we should have -- what little case
24 material we've got left from that situation. If we
12 :28:58 25 haven't produced that, that was an oversight, but

1 I'm quite certain that we did produce that.

2 Q As you sit here today, do you recall if
3 you testified in Ms. Kramer's action against her
4 insurance carrier that the type and amount of mold
12 :29:32 5 in the Kramer house could not have caused the
6 life-threatening illnesses that she claimed?

7 A I have to go back and look at the record
8 that would -- that would certainly be consistent.
9 Since I don't have the material in front of me, I
12 :29:58 10 don't know how much I can say about it.

11 Q Weren't you made aware of documents -- at
12 the time that the lawsuit with Ms. Kramer's
13 insurance carrier was going on, weren't you shown
14 documents that showed that, in fact, she did not
12 :30:16 15 make that claim that the mold was causing
16 life-threatening diseases?

17 MR. SCHEUER: Could I have that read back,
18 please.

19 (Record read as follows:

12 :30:04 20 "QUESTION: Weren't you made aware
21 of documents -- at the time that the lawsuit
22 with Ms. Kramer's insurance carrier was going
23 on, weren't you shown documents that showed
24 that, in fact, she did not make that claim that
12 :30:18 25 the mold was causing life-threatening

0000093

1 diseases?")

2 MR. SCHEUER: Object as having been asked
3 and answered at the prior session of Dr. Kelman's
4 deposition and goes beyond the scope of today's
12 :31:02 5 deposition, but I'll permit the witness to answer.

6 BY MR. BANDLOW:

7 Q Weren't you provided with documents at the
8 time you were acting as an expert in the case
9 involving Ms. Kramer against her insurance carrier,
12 :31:20 10 weren't you provided with documents that showed
11 that she was not, in fact, claiming a
12 life-threatening illness on the basis of mold in
13 her house?

14 MR. SCHEUER: Same objection.

12 :31:28 15 You can answer.

16 THE WITNESS: That's absolutely not true.
17 I might have been showed -- I think Ms. Kramer has
18 revised the history of her suit. So I may have
19 been shown documents to that effect, but there were
12 :31:48 20 other documents claiming extensive injury.

21 BY MR. BANDLOW:

22 Q Don't you recall that Ms. Kramer's
23 daughter had cystic fibrosis?

24 A Yes.

12 :32:04 25 Q And that the claim was that mold could

1 exacerbate that particular condition?

2 MR. SCHEUER: Objection; irrelevant. That
3 has nothing at all to do with this lawsuit, but if
4 the witness has a recollection, he can testify.

2 :32:20 5 THE WITNESS: To the best of my
6 recollection, the levels of mold spores indoors
7 were equivalent to the levels outdoors, and what I
8 said was that there was no elevated risk indoors
9 compared to outdoors.

2 :32:44 10 BY MR. BANDLOW:

11 Q You said in your declaration "the
12 life-threatening illnesses that she claimed" so
13 wasn't it your statement that she was claiming life
14 threatening illnesses because of her home?

12 :32:58 15 A Yes.

16 Q But weren't you shown documents at the
17 time you were acting as an expert in that case
18 that, in fact, she was not making such claims?

19 A There was a set of documents to that
12 :33:10 20 effect and a set of documents with all sorts of
21 strange claims that did relate to life-threatening
22 illnesses.

23 Q But you remember seeing a document in
24 which you believe it indicated that Ms. Kramer was
12 :33:24 25 asserting the house could cause life-threatening

00000994

2.

Plaintiff Counsel's Opposition To The
Motion For Summary Judgment filed
with the Court on March 26, 2008
Page 6 and attached Declaration of
Bruce J. Kelman Page 6 stating, "She
apparently felt that the remediation
work had been inadequately done, and
that she and her daughter had suffered
life-threatening disease 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.

00000995

1 scientific community. Dr. Kelman declined, because the amount
2 of work that would be involved would be substantial and
3 unjustified unless they were to be compensated. Subsequently,
4 The Manhattan Institute offered to pay GlobalTox if it would
5 prepare a lay manuscript that contained the same concepts as
6 the ACOEM position statement. GlobalTox agreed, and the lay
7 report - much less academic, and more accessible - was
8 published by The Manhattan Institute in July, 2003. (Kelman
9 declaration, Paragraph 8. A copy is included in Defendant's
10 Exhibits as Exhibit F.)

11
12 Dr. Kelman first learned of Defendant Sharon Kramer in
13 mid-2003, when he was retained as an expert in a lawsuit
14 between her, her homeowner's insurer and other parties
15 regarding alleged mold contamination in her house. (Kelman
16 declaration, Paragraph 11.)

17
18 Kramer subsequently launched a campaign attacking
19 GlobalTox and Dr. Kelman through various media, including the
20 Internet.

21
22 As is set forth below, her vicious animosity toward
23 Plaintiffs is well-documented. She says that Dr. Kelman,
24 Veritox and the thousands of scientists and physicians who
25 concur with their research are killing innocent human beings.

00000996

1 of the report we prepared for The Manhattan Institute may be
2 found as a position statement on ACOEM's website.

3
4 11. I first learned of Defendant Sharon Kramer in mid-
5 2003, when I was retained as an expert in a lawsuit between
6 her, her homeowner's insurer and other parties regarding
7 alleged mold contamination in her house. She apparently felt
8 that the remediation work had been inadequately done, and
9 that she and her daughter had suffered life-threatening
10 diseases as a result. I testified that the type and amount of
11 mold in the Kramer house could not have caused the life-
12 threatening illnesses that she claimed.

13
14 12. Subsequently, I became aware that she had launched
15 a campaign attacking GlobalTox and me through various media,
16 including the Internet. As one example, she sent outraged
17 emails to the American Industrial Hygiene Association
18 ("AIHA") after they had invited GlobalTox to participate in a
19 teleweb conference. In one such email, she wrote, "May your
20 children rot in hell, along with all the other children you
21 are hurting." (A copy of those emails is included in
22 "Plaintiffs' Exhibits in Opposition to Summary Judgment"
23 (hereafter "Plaintiffs' Exhibits") as Exhibit 201.)

24
25 13. Furthermore, she blames me, my colleagues at
26 Veritox and thousands of other doctors and physicians who
27 concur with our research for killing innocent human beings;
28

00000997

4.

Declaration of Dr. Harriet Ammann,
Senior Toxicologist, Washington
State Department of Health (retired)
dated October 21, 2008. Dr. Ammann
was going to testify before the Court
that Dr. Kelman could not have given
any such testimony as claimed
regarding the acquiring of life
threatening illness since he is only a
Toxicologist with a PhD who cannot
testify about immunological illness
from mold...only mold toxins. The
Kramers never claimed acquired
illness from mold toxins.

00000998

STATE OF WASHINGTON}

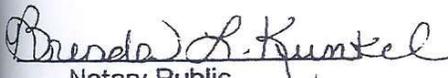
COUNTY OF THURSTON} SS.:

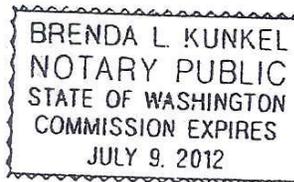
Harriet M. Ammann, Ph.D., D.A.B.T., being duly sworn, declares and says:

1. My name is Harriet M. Ammann, Ph.D., D.A.B.T. I am certified in toxicology by the American Board of Toxicology and have worked a senior public health toxicologist for sixteen years for the State of Washington Departments of Health (12 years) and Ecology (4 years). I have also worked as the principal of Ammann Toxicology Consulting LLC, and have testified on toxic exposure and health in a number of legal cases. I have testified on issues of mold and dampness exposure and health effects as well. A copy of my Curriculum Vitae, which sets forth my education, training, qualifications and experience, publications, etc. in more detail, is annexed. As senior toxicologist for two agencies of the State of Washington, I have been required to act to protect the health of Washington citizens through analyses of environmental exposures and real and potential health effects associated with such exposures. Potential health effects as determined from animal and human studies can be used to predict risk and prevent exposures of communities, while health effects that occur in individuals or communities can be analyzed and related to measured environmental exposures to serve in treatment of illness, and prevention of future harmful exposures. I was a member of National Academy of Sciences, Institute of Medicine, Committee on Damp Indoor Spaces and Health, which produced the report "Damp Indoor Spaces and Health" (NAS 2004). I authored the chapter on Toxic Effects of Fungi and Bacteria, and contributed to the chapter Damp Buildings, and the chapter on Human Health Effects Associated with Damp Indoor Environments, as well as the consensus findings and conclusions of the Committee. I am a section editor for Section 1, Underlying Principles and Background for Evaluation and Control in the 2008 American Industrial Hygiene Association book Recognition, Evaluation and Control of Indoor Mold, and a contributing author to chapter 1, Indoor Mold: Basis for Health Concerns, and to Section 4, Remediation and Control.
2. I traveled to Vista California on August 19, 2008 (and returned to Washington on August 21, 2008) at the invitation of Sharon Noonan Kramer, specifically in order to testify, if called, in her trial (Kelman and Veritox v. Kramer, Case No. GIN044539), on issues related to scientific knowledge regarding exposure to dampness and mold and related health effects. I was prepared to testify regarding issues of mold and health that had been raised in testimony by Dr. Kelman in this case as it related to his prior testimony in October of 2003, in the case of Mercury Insurance vs. Kramer, which was, in part, used to establish grounds for the finding of personal malice in the trial of Kelman and Veritox v. Kramer. I was not called on testify since issues of science were not permitted to be discussed in the trial of Kelman and Veritox v. Kramer.


Harriet M. Ammann

Sworn to before me this
21st day of October, 2008.


Notary Public



Commission expires: 7-9-2012

00000999

5.

Letter from Bruce J. Kelman

dated June 22, 2002 in which

he states a physician with

detailed knowledge of the

child must be consulted.

00001000



Sampling Results:

Air sampling results (attached) show that the total levels and types of airborne mold in the occupied areas of the home were generally similar to that found outdoors. One culturable air sample, taken from the kitchen when the HVAC system was not turned on, shows that the level of total mold was similar to outside air but that the specific mold, *Penicillium*, was higher than outside air. Comparatively, when the HVAC system was later turned on, and air sampling repeated in the kitchen area, the results show that the kitchen had mold levels, including *Penicillium*, similar to the outside. The non-viable air sample results also indicate that the kitchen had similar mold types and levels to outside air. The non-viable air sample results collected near the book case between the living room and sitting area have similar proportions to the outside but show slightly higher levels. This increase is not significant, given the inherent variation in air sample results.

Conclusions:

The air sampling results suggest a potential low level source of *Penicillium* mold in the kitchen area. However, the sample that showed *Penicillium* levels higher than outside air was the first sample taken in the home (based on the numbering scheme) and, at the time of sampling, substantial dust and debris was observed, the walls and floors were not replaced, and the unit was unoccupied. Further, the second viable air sample and the two non-viable air samples that were collected in the kitchen show mold levels similar to outside and do not confirm that *Penicillium* was elevated in the kitchen. Therefore, the additional testing did not confirm elevated levels of *Penicillium*.

Mr. Cohen's measurements indicate that there does not appear to be a greatly increased level of risk over outside air for occupants of this building. A physician, with detailed knowledge of the clinical condition of the child involved, must be consulted for specific determination of the safety of this environment for this patient.

Sincerely,
GlobalTox, Inc.

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

362

2042

00001001

6.

Deposition of Bruce J. Kelman,
October 1, 2003, Page 46 and 92 in
which he states as a toxicologist, he is
not qualified to testify about the
safety of the home for one with
ABPA and Cystic Fibrosis and that a
physician with detailed knowledge
must be consulted to determine the
safety of the home.

00001002

1 pulmonologist, but I need to go back to confirm that.
 2 MR. RICHARDS: I'm going to hand you what
 3 I'm going to mark as Exhibit A to the deposition.
 4 (Exhibit A marked)
 5 BY MR. RICHARDS:
 6 Q It's a July 15th letter. Would you take an
 7 opportunity to just review that.
 8 A (Complies) Yes. That's the one I
 9 received -- the letter part is. I don't think I
 10 received the attached material.
 11 Q Did you consider that letter when you formed
 12 your opinions with respect to this case?
 13 A From the standpoint of the toxicology?
 14 A Yes.
 15 Q Yes.
 16 A This doesn't address the toxicology.
 17 Q Did this letter affect your opinions in any
 18 way in this case?
 19 A Not with regards to the toxicology.
 20 Q You were asked to form an opinion from the
 21 letter we looked at initially about whether or not the
 22 home was habitable for the Kramers and/or Erin Kramer
 23 is that accurate?
 24 A The initial letter asked about the safety,
 25 if I remember correctly.

1 Q Did you consider that letter with respect to
 2 making any opinions about safety issues in this case?
 3 A My opinions would have been with regard --
 4 in two areas: one is the potential for mycotoxicosis.
 5 The other would be relative exposure. In other words,
 6 was I looking at numbers which could introduce a risk
 7 that exceeded what would be found in a -- any other
 8 places that she was likely to be? But specifically
 9 with regard to ABPA, that would not be a consideration
 10 I would give as a toxicologist.
 11 Q You wouldn't feel qualified to give that?
 12 A That's correct.
 13 Q Can I see this letter?
 14 Were you aware that Dr. Hicks is a doctor
 15 who was retained to give expert opinion for the defense
 16 in this matter?
 17 A Actually, I don't -- no. I was not. I
 18 didn't know what his purpose was.
 19 Q He goes on to state that, "Even though the
 20 remediation seems to have -- may have lessened the
 21 fungi levels in her house, it is entirely
 22 possible/plausible that small amounts of fungi could
 23 have so affected her to cause an exacerbation of her
 24 underlying ABPA."
 25 Did you read that?

1 A Um, I don't remember if it's in the letter.
 2 I did.
 3 Q Did you ever form the opinion that Erin
 4 Kramer suffered an exacerbation of her ABPA after the
 5 October, 2001, water loss was discovered?
 6 A I would not have addressed ABPA directly
 7 other than whether her exposure would have put her at
 8 more risk than other areas. So, again, that's an
 9 allergic reaction.
 10 Q So in addressing the safety issues, you
 11 didn't consider or weren't qualified to consider her
 12 allergic response to ABPA?
 13 A Not beyond what she would be exposed to in
 14 any other environment.
 15 Q Is that house currently safe for Erin Kramer
 16 to go back into?
 17 A From the standpoint of potential
 18 mycotoxicosis, yes.
 19 Q What about from the standpoint of her
 20 allergy to the species and the genus aspergillus?
 21 A I'm not an immunologist so -- again, other
 22 than saying that her relative exposure there compared
 23 to outdoors in that area, compared to other activities
 24 going on in the area, compared to what she might
 25 encounter in the school -- the numbers that I see

1 certainly are not very high, but that's as far as I can
 2 go as a toxicologist.
 3 Q And you have no opinion about her
 4 immunological or allergic response to that particular
 5 house?
 6 A Well, we have the allergy reports. And I
 7 can -- as an immuno -- with a background in
 8 immunotoxicology, I can read the allergy reports, but
 9 in terms of the mechanism and clinical sequelae of
 10 ABPA, that's not an area of my expertise.
 11 Q You were asked to go to that residence and
 12 determine whether from a mycotoxin standpoint it was
 13 safe for the Kramer family to go back in the house.
 14 Would that be accurate?
 15 A No.
 16 Q All right.
 17 What were you asked to do with respect to
 18 determining the safety of the house if not from a
 19 mycotoxin perspective?
 20 A I was not asked to go to the house. I was
 21 asked to evaluate data that had been produced from
 22 measurements at the house.
 23 Q You've never been at the house?
 24 A That's correct.
 25 Q You were asked to review data, to determine

00001003

1 can look, but I don't remember.
2 Q Why don't you take a look for me in the
3 January 7th Pitt analysis versus the Cohen analysis and
4 tell me how they're different and how they're similar.

5 A The first most obvious thing is that the
6 Cohen sampling is much more extensive. It includes
7 both cultured samples and noncultured samples. The
8 information I had about how the samples were taken and
9 the conditions under which they were taken is much more
10 extensive.

11 The analyses in Cohen's case were done by an
12 accredited laboratory. And I do not believe that's
13 true for the Pitt laboratory samples. If we are to say
14 that somehow they're equivalent, in general, the Cohen
15 measurements tend to be significantly less.

16 It's clear that there's some minor
17 differences in percentages, but they aren't enormous in
18 terms of looking at the percentage for each of the
19 major genuses that are present.

20 Q You stated that the Cohen records tend to be
21 significantly less than what it appears to be in the
22 Pitt report of January 7th, 2002; is that accurate?

23 MR. SCHAFFER: Results, not records.
24 BY MR. RICHARDS:
25 Q Results.

1 A Yeah. They tend to be.

2 Q Do you know what work, if any, was done
3 between the time of January 7th, 2002, and the June
4 Cohen testing to reduce airborne spore counts in the
5 Kramer residence?

6 A I don't remember at the moment.

7 Q I'll represent to you for the purposes of
8 the question that no work had been done between January
9 and the time of the Cohen testing.

10 And given that, can you explain to me how
11 the spore count in the Kramer residence could be
12 significantly lower than it was in January?

13 A Um, sure.

14 First of all, we've got only two samples.
15 So there's no way of determining the amount of
16 variation that was going on as a result of the sampling
17 itself. Also, I have no idea how Pitt took the
18 samples. So he may have introduced some energy into
19 the house just by the number of people that were
20 present or how they walked through the house that was
21 different than the measurements taken by the Cohen
22 Group.

23 The other thing is that if the water sources
24 had -- were no longer as active and the mold growth had
25 gone down, you'd expect to see lower measurements.

1 So it's a little bit of a -- I can't tell if
2 they used equivalent techniques. They certainly didn't
3 use the same laboratories to do the analyses. The use
4 of an accredited laboratory is very important because,
5 one, you get documented consistency. And the other is
6 you don't have a potential conflict between the person
7 taking the measurements and the person reading the
8 measurements.

9 Q Do you feel, then, an explanation is the
10 Pitt Labs are just inaccurate?

11 A I can't tell. It's either that the Pitt
12 Labs used a different technique -- it could be that the
13 people doing the analyses count differently since the
14 Pitt lab is not accredited, I'm not sure who's looking
15 at it and how they arrive at their conclusion.

16 And it's entirely possible that the spore
17 counts were significantly lower -- it's a different
18 time of year, different level of moisture, indoors and
19 outdoors. I don't -- in August -- this August, I
20 believe it was dry. In January, 2002, I don't remember
21 whether it was wet or not.

22 All of those things would -- could influence
23 the indoor measurements.

24 Q You go on to state in your report that
25 Mr. Cohen's measurements indicate that, "There does not

1 appear to be a greatly increased level of risk over
2 outside air for the occupants of this building."

3 Do you remember writing that?

4 A I don't remember writing it, but if it's in
5 the report, I wrote it.

6 Q What do you mean "does not appear to be
7 greatly increased level of risk"? Are you stating that
8 there's potential for some risk?

9 A Well, there's always a potential for some
10 risk whether you're indoors or outdoors. The
11 comparison here is that you don't have significantly
12 increased levels in the house compared to outdoors.

13 Q A physician with detailed knowledge of the
14 clinical condition of the child must be consulted for a
15 specific determination of the safety of this
16 environment.

17 Do you still agree with that?

18 A Yes.

19 Q Have you ever seen any report from any
20 physician in this case regarding health risks
21 associated with Erin Kramer and exposure in that house?

22 A I saw a report eventually from
23 Dr. Marinkovich. And I recently -- a few -- yesterday
24 or the day before -- got a deposition from Dr. Conrad.

25 Q In fact, in that volume you're looking at

00001004

7.

Defense order neurospych exam of
Kramer, report issued on
September 25, 2003. Pages 2 and 6 in
which Kramer is discussing that she
and her daughter were not claiming to
have acquire life threatening disease
from the home. Therefore, Kelman
could have never given the testimony
he repeatedly claimed in this case
while under penalty of perjury.

00001005

Ms. Kramer stated that all of these symptoms which she explained as being "fairly resolved" or "now back to normal" have the qualification that they could become worse again when she is exposed to excessive mold levels. So, any of these symptoms, even though she is not experiencing them under normal conditions, may recur when she is exposed to higher than normal levels of mold. This happens in her life frequently because she is a real estate agent and is going into new houses routinely.

Dr. Marinkowich, Her physician, told her that it may be 2-5 years before she is completely back to normal.

MEDICAL HISTORY:

Ms. Kramer stated that she has no history of significant medical illness or disease, no major surgeries, and no other significant injury, trauma, or medical insult in her life. When she was a child in kindergarten she tended to be somewhat sickly and missed a lot of school. However, she was okay after her year of kindergarten. She feels that was probably due to the fact that she did not go to preschool and then had to encounter all of the typical childhood illnesses when she was in kindergarten. She states that in 8th grade she was found to be anemic and received vitamin B12 shots for about a year. That condition seemed to resolve, and ever since then, she has been in good health.

Ms. Kramer has never needed to use prescription medications on an ongoing basis prior to her exposure to mold. Since the exposure to mold, she is now using prescription medications regularly. Her medications currently include the following:

1. Itraconazole, generic for Sporanox, an antifungal, 400 mg daily.
2. Nizoral nasal spray, 2-4 times daily.
3. Creon, a pancreatic enzyme, 1-2 with meals.
4. Atarax, an antihistamine, when she feels that her symptoms are acting up.

She also uses also Benadryl tablets, which is an over-the-counter medication. She has no history of using substances such as marijuana, amphetamines, cocaine, heroin, hallucinogens, etc. She has used alcohol socially during her adult life and estimates that she consumes probably about 12 ounces of alcohol per month.

She began smoking cigarettes at age 15 and has continued to the present time. She states that she quit during her pregnancies and also quit for a couple of years during her late 30s or early 40s. Typically she smokes about a half-pack of cigarettes daily, but sometimes, especially when she is under stress, she smokes up to a pack per day.

She states that she has no history of treatment or consultation with mental health professionals or no history of psychological or emotional conflicts, with one exception. In 1988, she had one meeting with a psychiatrist when her daughter Erin was diagnosed with cystic fibrosis. She

CONFIDENTIAL PATIENT INFORMATION

00001006

BACKGROUND INFORMATION:

Ms. Kramer reported that in October, 2001, a leak was discovered behind the refrigerator in her home. Mold was found to be at the site of her leak, and she hired a company to remove the mold and fix the leak. She stated that it was not fixed according to proper procedures, and the mold became aerosolized or spread throughout the breathing environment of everyone in the home. She stated that later she learned that when mold is not removed properly that it can actually make the problem worse rather than solving it.

Ms. Kramer stated that she began having symptoms such as coughing, feeling disoriented, and anxious. Her daughter, Erin, who has cystic fibrosis, began also experiencing exacerbation of her condition. She developed ABPA, which is an acronym for allergic bronchopulmonary aspergillosis, and she stated that aspergillus was found in the mold. (Ms. Kramer clarified that her daughter already had ABPA before the mold developed in October 2001.) Her 17-year-old daughter Megan developed sinus infections and had never previously had sinus infections. She stated her husband had irritable sinus symptoms. Additionally, they have 2 cats, and one of the cats developed a lump on its neck which is now resolved. They also have 2 dogs, and one dog had tremors around the time they moved out of the house.

Ms. Kramer and her family decided to move out of the house during the time that the remediation company was fixing the mold problem, which was the early part of December, 2001. The company did not fix the problem in a timely way, and consequently, the family had to move back into the house even before the problem was fully repaired. They moved back into the house during the latter part of December. She stated it was a pretty horrible situation because the mold was still present in the air and they were still being all exposed to it. Finally, they moved permanently out of the house on or around January 06, 2002. After they had moved back into the house in late December, their daughter with cystic fibrosis did not move back into the home; rather she stayed in the motor home outside the house. When they moved back into the home in later December, she and her family were not aware that they were still being exposed to the mold because there was plastic protection, which they believed was protecting them from mold exposure.

Ms. Kramer stated that she feels very regretful she ever called this remediation company to remove the mold. She said the bottom line is that they used many procedures which were not technically and professionally correct; and that resulted in her and her family's being exposed to mold at much greater levels than would have ever happened if she had never called the company in the first place. She stated that she is not regretful that she wanted to do something about the mold, but remains regretful that she was told that this company was the one to call.

CONFIDENTIAL PATIENT INFORMATION

Received Oct-06-2003 05:05pm
Page 2

From-Thomas Weeman, Ph.D.
EXH 0073

To-Gordon & Root LLP Date 000

00001007

8.

Declaration of John Richards,
October 28, 2008, the attorney who took
Kelman's deposition in 2003, stating that
Kramer never claimed to have acquired
life-threatening illness and that he is not
aware she has ever "launched into an
obsessive campaign to destroy the
reputation" of any of the other seven
defense experts in the case as was
claimed she did to Kelman by Plaintiff
Counsel's briefs while repeating false
testimony of Kelman under penalty of
perjury.

00001008

SHARON NOONAN KRAMER, PRO PER

2031 Arborwood Place
Escondido, CA 92029
(760) 746-8026
(760) 746-7540 Fax

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

BRUCE J. KELMAN,

Plaintiff

v.

SHARON KRAMER,

Defendant.

CASE NO. GIN044539

**Declaration Of John Richards In
Support of Defendant**

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

**Motion Hearing Date: December
12, 2008**

1. My name is John T Richards. I am an attorney licensed to practice law in the State of California.
2. In 2003, I represented the Kramer family as co-counsel in the case of Mercury vs. Kramer, GIN)24147, San Diego Superior Court, North County Division, Honorable Judge Michael P. Orfield presiding.
3. On October 3, 2003, I took the deposition of Bruce J. Kelman of GlobalTox, Inc. Dr. Kelman is a toxicology who holds a PhD but not a medical degree. He had been retained as an expert witness for Mercury Insurance. This was the only time Dr. Kelman was deposed in the case.

1.

Declaration of John T. Richards, Esq., In Support of Defendant

00001009

4. The evidence in this case was that Sharon Kramer suffered from hypersensitivity pneumonitis. Mrs. Kramer claimed that this caused her significant medical problems. However, Mrs. Kramer did not contend that this condition was terminal or life threatening to her.

5. There were approximately seven other expert witnesses for the defense in the case of Mercury vs. Kramer. I am not aware that any of these other experts have ever claimed Mrs. Kramer has exhibited personal malice for them or has ever "launched into an obsessive campaign to destroy their reputations" because of their testimony as experts for the defense in the case of Mercury vs. Kramer.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct and that this Declaration was executed by me on this 20th day of October, 2008 in San Diego, California



John T. Richards, Esq

00001010

9.

Plaintiff Counsel's Opposition to the anti-SLAPP motion, September 16, 2005 and attached Declaration of Bruce J. Kelman, September 13, 2005. Page 5, Plaintiff Counsel writes, "Dr. Kelman testified in a deposition that the types 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 dearms of a remodeled house, Kramer launched into an obsessive campaign to destroy the reputation of Dr. Kelman and GlobalTox."

00001011

1 water line to an icemaker in Kramer's home sprung a small
2 leak. Her homeowner's insurer paid to fix the leak and
3 remediate the localized mold contamination. Kramer contended
4 that the remediation had been incompetently performed, that
5 she and her daughter had contracted life-threatening diseases
6 as a result, and that her insurance company consequently
7 should pay to rebuild her home. Mercury Insurance v. Kramer,
8 etc., et al., San Diego Superior Court case no. GINC24147.
9

10 Dr. Kelman testified in a deposition that the type and
11 amount of mold in the Kramer house could not have caused the
12 life-threatening illnesses that Kramer claimed.

13 Apparently furious that the science conflicted with her
14 dreams of a remodeled house, Kramer launched an obsessive
15 campaign to destroy the reputation of Dr. Kelman and
16 GlobalTox.
17

18 The internet provided an ideal outlet for her obsession.
19 She has posted numerous invectives, diatribes and pseudo-
20 scientific harangues in which she attacked Dr. Kelman and
21 GlobalTox by name, as well as many other respected
22 physicians, researchers, government leaders and scientific
23 organizations that dare to disagree with her. Matters came to
24 a head in March, 2005, when she posted press releases on
25 ToxLaw.com and ArriveNet.com (and perhaps other message
26 boards and websites; to the effect that Dr. Kelman was
27
28

05000343

00001012

1 to those of the ACOEM study, but it was presented in a much
2 less academic, more accessible manner.

3 8. I first learned of Defendant Sharon Kramer in mid-
4 2003, when I was retained as an expert in a lawsuit between
5 her, her homeowner's insurer and other parties regarding
6 alleged mold contamination in her house. She apparently felt
7 that the remediation work had been inadequately done, and
8 that she and her daughter had suffered life-threatening
9 diseases as a result. I testified that the type and amount of
10 mold in the Kramer house could not have caused the life-
11 threatening illnesses that she claimed. I never met Ms.
12 Kramer.
13

14 9. Subsequently, I became aware that she had launched
15 a campaign attacking GlobalTox and me through the internet.
16 As one example, she sent outraged emails to the American
17 Industrial Hygiene Association ("AIHA") after they had
18 invited GlobalTox to participate in a teleweb conference. In
19 one such email, she wrote, "May your children rot in hell,
20 along with all the other children you are hurting." A copy of
21 those emails is attached hereto as Exhibit 4.
22

23 10. In or about March, 2005, I learned that she had
24 posted false press releases on ToxLaw.com and ArriveNet.com
25 that stated that I had "altered [my] under oath statements"
26 while I testified as a witness in an Oregon lawsuit; i.e.,
27
28

DECLARATION OF BRUCE J. KELMAN IN OPPOSITION TO DEFENDANT'S
MOTION TO STRIKE

HP LASERJET FAX 00001013

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14. My professional and personal reputation, as well as the business of GlobalTox, were built with many years of hard work. They will be substantially harmed unless Kramer is held accountable for her false and malicious accusations.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 13, 2005 at McAllen, Texas.

Bruce J. Kelman
Bruce J. Kelman

DECLARATION OF BRUCE J. KELMAN IN OPPOSITION TO DEFENDANT'S MOTION TO STRIKE

Sep 14 2005 10:46AM VERITOX AND GT ENGINEERIN 4255555555

Apr 12 2006 7:27AM HP LASERJET FAX

00001016

10.

Declaration of Kramer,

September 21, 2005 Page 8, "Although very sick, I never claimed I had a life threatening illness. My daughter has always had the life threatening illness of CF. We ultimately received a fairly sizable settlement from all three defendants in the case." Page 9, "He had sent a letter in 2002, before litigation even began, stating that he could not say whether our house was safe or not for our daughter and we should consult our physician. Kelman is a toxicologist.

He is self described as not an expert in immunology. We never made a claim of toxicity. What Kelman's involvement was in our personal case, was minimal." "For Shurer to maliciously and falsely portray me as being one obsessed to get revenge as my motivation for bringing to light the deceptive manner in which the mold issue is being handled, is a ludicrous claim. Particularly when he does not even have the facts straight that support this fairy tale."

00001015

24. Kelman was hired for the insurance company in our case as an environmental risk consultant long before litigation began. He had sent a letter in 2002, before litigation even began, stating that he could not say whether our house was safe or not for our daughter and we should consult our physician. Kelman is a toxicologist. He is self described as not an expert in immunology. We never made a claim of toxicity. What Kelman's involvement was in our personal case, was minimal. We did not go to trial. But had we, I am not even certain Kelman would have been allowed to testify since his specialty of toxicity was not an aspect of our case. Attached hereto as Exhibit 6 is the July 23, 2002 letter from GlobalTox to Stone & Hiles, LLP.

25. For Shurer to maliciously and falsely portray me as being one obsessed to get revenge as my motivation for bringing to light the deceptive manner in which the mold issue is being handled, is a ludicrous claim. Particularly when he does not even have the facts straight that support this fairy tale. It further substantiates how much they do not want the documents that are in my declaration to come to light.

26. Shurer stated that I "attack respected physicians and researchers." I, along with many others, have warned mold victims that some of the most prolific defense expert witnesses have been investigated by Dateline for insurance claim denials, been the center of a SAIF worker's comp investigation and had their neuropsych exams determined as unscientifically skewed toward a finding of malingers by their peers. Telling the public the documented truth about some who serve as experts for the defense is not an attack on "reputable physicians." It is however, an issue that needs to be addressed regarding some of those who work within this field. Attached hereto collectively as Exhibit 7 are true and correct copies of the article entitled "Mold Medicine & Mold Science" by the Atlantic Legal Foundation; the article "Dealing With SAIF- Sick and feeling like a criminal" dealing with Dr. Bardana; Dr. Lees-Haley's Fake Bad Scale. See also

00007016

1 children in schools and apartments are knowingly being left in unhealthy amounts of moldy
2 environments because a code of ethics says the hygienists can not tell and the ACOEM says
3 people cannot be that sick from mold exposure.

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

9 22. I am surprised at Mr Shurer's lack of verification of facts before making these false and
10 malicious statements, which are oddly not backed up with any support documentation attached.
11 We were not even in litigation in December of 2003. But given the obvious lack of fact
12 checking, I am not surprised at this answer. This would be a boilerplate scenario for Kelman to
13 step into. Many people have life threatening illnesses after excessive exposure to mold and
14 mycotoxins. It is a complaint that is quite common. In regard to these illnesses, it would be also
15 be a boilerplate response for Kelman to say the science does not support this, based on the
16 ACOEM Statement.

17 23. However, the boilerplate family Shurer and Kelman describe is not our family. I do not
18 know how Kelman could have testified in our case in December of 2003. We settled in October
19 of 2003. Although very sick, I never claimed I had a life threatening illness. My daughter has
20 always had the life threatening illness of CF. We ultimately received a fairly sizable settlement
21 from all three defendants in the case. If we had chosen to correct the cross contamination that
22 occurred during the remediation process, we received enough money to do so. Attached hereto
23 collectively as Exhibit 5 are true and correct copies of the mutual release of Case #GIN024147;
24 documentation of Erin Kramer's condition of Cystic Fibrosis.

00001017

11.

The Court's Tentative Ruling,
October 4, 2005, ignoring (or not
understanding or not caring) that false
testimony was being given by
Plaintiff and Plaintiff Counsel as a
reason for malice and the future
impact it would have on the case.

00001018

The following is a TENTATIVE ruling for 10/5/2005,
Department 28, the Honorable Michael B. Orfield presiding.

Case Number GIN044539

The Motion of Defendant SHARON KRAMER to Strike the Complaint of Plaintiffs BRUCE KELMAN and GLOBALTOX, INC. under CCP 425.16 (anti-SLAPP legislation), is denied. The court finds:

1. This libel action is generally one to which the SLAPP legislation applies;
2. Defendant has sustained her burden of proof to show that this cause of action arises out of constitutionally protected speech within the meaning of CCP 425.16(e)(2), (e)(3), and (e)(4). Evidence: Declaration of Kramer, authenticating Exhibits 1 and 5; Opposition Declaration of Kelman, authenticating Exhibits 5, 6, and 7).
3. However, Plaintiffs have sustained their burden of proof to establish a "probability" that they will prevail on their sole cause of action for Libel (per Se), as follows:
 1. There is admissible evidence that Kramer made a statement to persons other than Kelman in a press release on 2 internet sites (Declaration of Kelman, Exhs. 5 and 6);
 2. There is admissible evidence that those reading the internet press releases reasonably understood that the statement was about Kelman as he is mentioned by name (Id.);
 3. There is admissible evidence that those reading the internet press releases reasonably understood the statement to mean that Kelman had committed perjury or lied about a subject to which he was testifying as an expert. (Decl. of Kelman, Exhs, 5, and 6 as compared to Exhibit 7). The court finds that the gist of the statement was that Kelman either committed perjury in his 2/18/05 testimony in the case of Haynes v. Adair; that he was lying about a subject related to his profession; or that he accepted a bribe from a political organization to falsify a peer-reviewed scientific research position

statement;

- 4. There is admissible evidence that the statement was false. (Declaration of Kelman, ¶s 4-7, and Exhibit 7). The court finds that there is sufficient evidence for a jury to determine that Kelman was clarifying his testimony under oath, not altering it;
- 5. There is admissible evidence from which a jury could find that Defendant Kramer was acting out of malice:
 - a. The transcript (Exhibit 7 to the opposition) as compared to the press release (Id, Exh. 5 & 6);
 - b. The use of the phrase "altered his under oath testimony" (Exhibits 5 and 6), an arguably suspect turn of phrase;
 - c. The dates of the papers involved and Kramer's admitted knowledge of same (Exhibits 5, 6 and the Declaration of Kramer in Reply, ¶19);
 - d. Kelman's explanation of the series of events in his 2/18/05 testimony;
 - e. The statements in Exhibit 4 of the opposition, in which Kramer states "...May your children rot in hell..." directed at an organization whom she accused of "affiliating" with "the ilks [sic] of GlobalTox;
 - f. The general tone of Kramer's declarations in support and reply as related to Kelman and GlobalTox;

The above could constitute sufficient circumstantial evidence to lead a jury to a determination of malice.

Based on the foregoing, the court denies the Defendant's Motion to Strike pursuant to CCP 425.16.

10/4/2005

00000520
00001020

As to the Evidentiary Objections the court rules as follows:

- o The Plaintiff's Evidentiary Objections to the Declaration of Sharon Kramer are sustained on each of the grounds stated except "relevancy" as to Objections 2-6 and 8-12.
- o The Plaintiff's Evidentiary Objection No. 1 to the Declaration of Sharon Kramer is overruled.
- o The Plaintiff's Evidentiary Objection No. 7 to the Declaration of Sharon Kramer is sustained with the exception of the testimony at p. 12:1 – 13:2, and at p.14:10-14.

Defendant's request for attorney's fees and costs is denied at this time.

Defendant shall answer the complaint within 20 days of the date of this ruling.

Oral Argument Policy

If there is no appearance by any party at the scheduled motion hearing on Wednesday, the tentative ruling will become the final ruling. If parties wish to appear and argue against all or any portion of the tentative ruling, no pre-hearing notice is required to opposing parties or to the court. However, if the tentative ruling is against you, but you have decided not to appear at the Friday hearing, the court would appreciate your informing all other parties and the court, so as to eliminate needless appearances. At the Wednesday hearing, if you are arguing against any portion of the tentative ruling, please fill out the check-in sheet informing the court of the issues you wish to argue and your time estimate.

*This ruling file posted to web server: 10/4/2005 4:11:57 PM
This ruling file retrieved by browser: 10/4/2005 4:28:59 PM*

<http://www.sandiego.courts.ca.gov/portal/online/ViewRuling.Asp>

10/4/2005
0000051
00001021

Appellate Brief, Plaintiff Counsel
dated May 8, 2006 in which he writes
on Page 4,

“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. (Appendix, page
358.) Apparently furious that science
conflicted with her dreams of a
remodeled house, Kramer launched an
obsessive campaign to destroy the
reputation of Dr. Kelman and
GlobalTox.”

00001021

a report that presented the same conclusions as the ACOEM study but in less academic, more accessible language. (Among many other changes, it omitted most of the 83 footnotes of the ACOEM study). That lay report was published by The Manhattan Institute in July, 2003. (Appendix, pages 357-358, 385 - 411.)

Dr. Kelman first learned of Kramer when he was retained as an expert in a lawsuit between Kramer, her homeowner's insurance company and other parties that had provided services to Kramer. To summarize briefly, in 2001 a water line to an icemaker in Kramer's home sprung a small leak. Her homeowner's insurer paid to fix the leak and remediate the localized mold contamination. Kramer contended that the remediation had been incompetently performed, that she and her daughter had contracted life-threatening diseases as a result, and that her insurance company consequently should pay to rebuild her home. Mercury Insurance v. Kramer, etc., et al., San Diego Superior Court case no. GIN024147.

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. (Appendix, page 358.)

Apparently furious that science conflicted with her dreams of a remodeled house, Kramer launched an obsessive campaign to destroy the reputation of Dr. Kelman and GlobalTox.

00001025

13.

William J. Brown's application for the Appellate Court to take judicial notice that false testimony was being presented to them on the issue of malice, dated June 29, 2006.

"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. 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."

00001024

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

00001025

14.

The Appellate Court refused to take judicial notice of the false testimony being presented before them on the issue of malice. Appellate Court ruling dated November 16, 2006 stating on Page 7, "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."

00001028