

Hmmm! This reporter never spoke to me, but perhaps the only truth in his story is the statement attributed to me. Yes, I admire Sharon Kramer and the personal sacrifices she and her family have made to fight for TRUTH regarding the harmful health effect of toxic mold in the indoor environment. All of us who advocate for ordinary citizens of this country are unpaid volunteers who understand the power of corporate America to keep the truth buried. The Chamber of Commerce, insurance industry, home builders, and others have millions to spend and we have no dollars -- just the TRUTH and total dedication to getting it out. I have worked with thousands of families across the nation whose new homes experienced water intrusion due to substandard construction and the lack of code enforcement. Many have been forced to foreclosure and bankruptcy because homebuilders have insulated themselves from accountability with worthless ten year warranties and predispute binding mandatory arbitration clauses that insulate them from civil court and keep their dirty work secret. Many citizens have been permanently disabled due to the health effects of living in these toxic homes. If you ever listen to CSPAN you may have heard former government scientists testify about the altering of their scientific papers by our government that appears to exist for the corporations rather than the government that I grew up believing was BY the PEOPLE and FOR the PEOPLE. We all know that Dr. Kellman is an expert witness for the insurance industry -- and you claim his research is not biased??

Give me a break!! I'm shocked that the editor of this rag would allow such biased nonsense to be published. In my humble opinion I feel it is slanderous of Sharon and the good work she has done. Shame on you -- it makes me question every story in your paper.

Posted on Thursday, July 24, at 1:30 pm by [Nancy Seats at LAWeekly.Com](#)

- Meghan Kramer 08/14/2008 1:18:41 PM

The comments that were attributed to me in this article are false. I want it to be known that I am not ashamed to discuss what my mother does with my college friends, like the article indicated. I have never said any such thing about my mother. I am very proud of what she is accomplishing. I love my mother very much.

LA Weekly: The Mold Rush and the case of Sharon Kramer and Bruce Kelman

by [Ted Frank](#) on July 24, 2008

Welcome LA Weekly readers; this website is mentioned and I am quoted in a [less-than-entirely-coherent story](#) about mold litigation in [this week's LA Weekly](#).

Also interesting to me is the story's quote of me. I gave an e-mail interview to the author, Daniel Heimpel in February. It's interesting what gets used and what doesn't get used, so I am going to attach the entire interview.....

Who has made the most money off the mold litigation blob?

Attorneys, though the "mold remediation" business may well have done pretty well for itself.

And here's how it was translated in the news story:

A lot of people are pulling for Kelman — to the great shock of Kramer, long accustomed to being the Brockovichesque heroine. Ted Frank, a lawyer and contributor at overlawyered.com, a Web site that tracks suspect litigation, says, "Entrepreneurial lawyers saw an opportunity to use junk science. ... We saw it with power lines, we saw it with Bendectine" — a discontinued drug used to lessen morning sickness in pregnant women. "Every once in a while, trial lawyers completely fool the legal system and make billions with one of these theories, as they did with silicone breast implants. 'Toxic mold' was just another stab at the litigation lottery."

I wasn't asked at all about Kelman and Kramer, but am portrayed as having an opinion about it. And my observations about Brockovich and vaccines were deleted. Note also that "Bendectin" was misspelled, though I spelled it correctly.

July 28, 2008

Ms. Laurie Ochoa
Editor in Chief
LA Weekly,
3861 Sepulveda Blvd
Culver City, CA 90230

Dear Ms. Ochoa:

Below you will find, in red, text taken directly from the article entitled: **THE TOXIC MOLD RUSH: CALIFORNIA MOM HELPS FUEL AN OBSESSION**

In 1999, Melinda Ballard, owner of a 22-room Texas mansion, sued over mold that had infested her home. Nationwide at the time, just 227 such claims were believed to exist — a number that has since exploded to tens of thousands. A Texas jury agreed that the Ballards had been made sick by mold, and in 2001 awarded the wealthy family \$32.1 million.

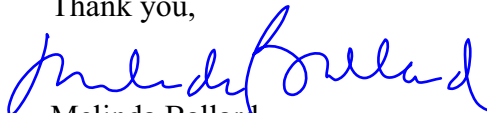
When the reporter, Daniel Heimpel, asked me about my case, I explained in great detail (via email on April 2, 2008, a true and correct copy of which is provided on page two through five of this letter) that my case was not about personal injury. I explained that the judge had gutted the case of any and all personal injury claims, leaving only the property damage. I even spelled out, specifically, the judgment, which was appealed and appealed again.

Later in my April 2nd email to Mr. Heimpel, I again stress that my case was NOT a “mold case”. It was a bad faith and fraud case.

Hence, Mr. Heimpel’s characterization of the case is completely false.

You owe it to your readers to clarify this fact.

Thank you,



Melinda Ballard
15 Orange Street
Charleston, SC 29401
(843) 723-0710

Subject: Re: Mold Story LA Weekly
Date: 4/2/2008
To: dheimpel@gmail.com

I will be happy to put thing into perspective:

In a message dated 4/2/2008 12:10:23 P.M. Pacific Daylight Time, dheimpel@gmail.com writes:
How did you come up with the damages you claimed?

Unlike CA, Texas has a higher burden of proof that was sent forth by the TX Supreme Court in the 1990s called "Havner". In the Havner opinion, the Texas Supreme Court set standards for toxic exposures that said that you must meet a higher bar than either the "Daubert" case or the "Frye" case. In fact, it's so strict that even an anthrax case could not meet the burden. (CA's litmus test is Frye.) Anyway, in Texas, for a jury to hear any testimony regarding personal injuries sustained, there would have to have been research conducted with thousands of patients whereby the subjects are split into two groups: one group of several hundred that were exposed to the same toxin, same quantity of toxin and same length of exposure (Group A). The other group (Group B) could not have been exposed to that toxin. If there is not a doubling of the SAME injuries by subjects from group A, the case gets tossed. Obviously, mold does not, and probably never will, meet this burden. Neither will anthrax but that doesn't mean it won't hurt you.

Given this, at the 11th hour, the judge in our case (John Dietz) decided that my husband's exposure and injuries would not meet the Texas Supreme Court's litmus test and toss his case.

That left the property case only which made it easy to determine the amount of damages:

Home:

* Given our neighborhood, experts (on both sides) said that the house had to be partially remediated, even if it was going to be torn down. Their reasoning behind this was that the house contained so much mold that it could impact neighboring properties and livestock. The cost of partially remediating BEFORE bulldozing was \$1.2 million; plus

* Bulldozing was \$100,000; plus

* To rebuild, we had 3 binding bids, all hovering around \$3 million; plus

* To replace contents (furniture, art, clothing, everything...) was about \$2 million.

TOTAL PERSONAL PROPERTY REPLACEMENT: \$8.3 million

Versus

Completely remediating the home and all contents of about \$10 million.

(Sometimes, it's cheaper to start from scratch rather than attempting to fix something.... Ask any antique car collector! We opted for the bulldozing and building from scratch option.)

Then consider additional living expenses that the insurer was supposed to pay but didn't -- all proved by receipt, rental leases, etc... of around \$350,000 over the course of four years. Now we are at \$8,650,000.

Add to that figure:

Interest of somewhere around 17% compounded annually from the time the insurer SHOULD have paid the money (which was December, 1998). That is around 4 years of interest or close to \$6 million.

Without anything more, that figure is \$14,650,000

Then add to that the attorney's fees of 40% or around \$5,860,000. And, my out of pocket expenses (I paid all costs relating to the suit excluding actual attorney fees) of around \$2 million. The total cost of litigation = \$7,860,000.

So, the actual economic damages in the case were close to \$22 million and all of it had to be substantiated.

The jury saw fit (appeals court disagreed) to award punitive damages and mental anguish, \$12 million and \$5 million, respectively.

Was your attorney pretty high powered?

Fred Hagans is very high powered. He is one of the most respected Texas attorneys and handles both plaintiff and defense cases.

How big was the case for mold litigation?

Our case wasn't a "mold" case, it was a bad faith and fraud case. But, it got a lot of attention because of the judgment of \$32,000,000 (which included punitive damages and mental anguish). It had both a positive and negative impact:

Positive: It caused many people (literally hundreds of thousands) to be mindful of mold and diligent about water damage. Most people knew nothing about the harmful health effects mold can have and the destruction of property that it can do. Because of that, people take better care of their homes now. It also was a wake up call to many people suffering from mold related symptoms.

Negative: As with anything like this, the nuts came out of the woodwork. A small percentage of people thought they could get rich off of mold and filed claims and lawsuits. This proved not to be an effective strategy because such cases get tossed long before trial. Most of the nutcases I heard from were people who were in the line of fire on liability: builders, insurers (adjusters, etc...), slumlords who don't spend a dime to repair rental properties, and those people who think all cases are frivolous. To this day, I get death threats and a few people still think I caused their insurance rates to skyrocket. (By law, rates must be set on a state-by-state basis. I left Texas in 2003 and since that time, coverage has been slashed by 60% and rates have gone up an average of 300% statewide and rates continue to climb.)

Why has the mold litigation ebbed in your opinion? How much is that due to the ACOEM paper?

The ACOEM paper only impacted the number of personal injury cases, which are large in number but not as large as the property damage cases. It most certainly impacted if a case gets tossed before a jury even is allowed to hear it.

The reason why property-damage mold litigation has "ebbed" is because appeals courts (state and federal appeals courts) have ruled in favor of the defense in so many cases. This is solely because many judges are advocates for the defense bar -- big insurance companies. Jurors (people who actually hear the cases) often rule in favor of the plaintiff but the appeals court judges (many of whom should affix State Farm, Allstate and other insurance company logos to their black robes) bend over backwards for these companies. (Many state appeals judges are elected and much of their campaign contributions come from this industry. Many were former defense attorneys and are buddy-buddy with insurance defense counsel. Many are just plain scared that if they rule against an insurer, the insurer will threaten to non-renew policies and leave the state (don't quote me on this but that is exactly what Farmers did in Texas just before the Third Court of Appeals heard the case). Nonrenewing policies or actually abandoning a state all together causes a serious shortage in the availability of insurance and rates skyrocket.

You should read our April newsletter article about such threats. See yellow highlighted article below:

Subj: **Am nervous**
Date: 3/6/2008 2:24:41 P.M. Pacific Standard Time
From: [SNK 1955](#)
To: dheimpel@gmail.com

Hey,

You really threw me for a loop today. Do you understand why Kelman was "altering his under oath statement^S" when forced to describe the relationship between the US Chamber (Manhattan Institute) Mold Statement and the ACOEM Mold Statement? And that he would not have been forced to describe their relationship, if the Kilian testimony had not been allowed in?

God, please tell me you understand this!

It's Tax Time! [Get tips, forms and advice on AOL Money & Finance.](#)

Subj: **Re: Am nervous**
Date: 3/6/2008 3:36:44 P.M. Pacific Standard Time
From: [SNK 1955](#)
To: dheimpel@gmail.com

In a message dated 3/6/2008 3:21:33 P.M. Pacific Standard Time, dheimpel@gmail.com writes:

| yes I understand that.

Thank God. What you got hung up on is exactly what happened to Bill, my prior attorney. He got caught up on just two sentences and that's all he argued. Ignored the fact that I specifically noted the money was for the MI, later on in the press release. And that "statements" was plural. Not just one altering. My declaration did not even fit with what he argued.

I kept telling him he was going to get me killed, but he didn't understand I was writing about Kelman, not only being forced to clarify the money, but altering to hide the relationship of the origin (ACOEM) and the marketing (Chamber) of the false concept that it has been scientifically proven mold toxins don't poison. The courts did not follow the connection of why this was a SLAPP as the result of that. They didn't understand what he was trying to shut me up about and why he was altering. It's racketeering involving multi-multi millions, if not billions. Amazing this is going on.

It's Tax Time! [Get tips, forms and advice on AOL Money & Finance.](#)

Subj: **See attached. Kelman, Tobacco RICO,confidntl studies RJReynlds, expert phillip m**
Date: 7/13/2008 6:41:36 P.M. Pacific Daylight Time
From: [SNK 1955](#)
To: dheimpel@gmail.com

Hey Daniel,

This just gets weirder and more deceptive all the time. Kelman was a director for a lab that did confidential inhalation studies for RJReynolds - Battelle Labs. They are mentioned several times in the USA vs Phillip Morris RICO documents.

Odd how he could apply math to so many rodent studies and still not know if cigarettes cause cancer (see his depo of 1999).

But he could apply math to one rodent study and conclude all claims of illness from "toxic mold" are just a "result of trial lawyers, media hype and Junk science".

This is not his first venture into racketeering. See attached.

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Subj: **Laurie, you have to do something. I am afraid for Erin's and my safety.**
 Date: 8/3/2008 7:34:19 A.M. Pacific Daylight Time
 From: SNK 1955
 To: LOchoa@laweekly.com, MLacey@VillageVoiceMedia.Com

Laurie,

HELP! Besides all the other harm this article has done, it has put my family in potential danger by falsely portraying we are responsible for all the mold litigation across the country. Someone has been calling the house and hanging up. I could not get ahold of Erin yesterday, all day. It scared me. As noted in Daniel's hit piece on me, Ms. Ballard has received death threats for being labeled the same way that Daniel just wrongfully labeled Erin and I. There *have* been killings and suicides over this issue. And it is not just those who have been made ill. I think Daniel's writing itself is indicative of the hatred and deep seeded emotions over this issue. There is good reason people -even professionals -are afraid to speak out over the deceit of this issue. See attached interview "Kramer vs Corruption".

I am going down thru in detail of all the lies within this article. Below are just a couple that are putting us at potential risk.

11. With Kramer as its Erin Brockovich and her daughter as a starring victim, a mold war exploded, with California at its center.

This is a maliciously false statement on several levels. I do not hold my daughter out as the "starring victim" when advocating for change. I primarily advocate for those who were not immunocompromised or ill before mold exposure. Our daughter is not a "starring victim" of anything or anyone besides Mr. Heimpel's egregiously false portrayal of who she is and what she does on the front page of LA Weekly. Out of all the false statements and misquotes of this article, the "starring victim" label put our daughter has put her in a position of risk over an issue where emotions run high and much money is involved. This is the most concerning false statement of all to us. As quoted in the article, Mr. Heimpel was made well aware that others have received death threats for being labeled responsible for the mold litigation. We are concerned for the safety of our daughter, who lives in LA. We are also concerned that the false portrayal of her as one who is used to promote frivolous litigation could impact her present and future employment. She is just starting a career in production editing within the movie industry of Los Angeles, where LA Weekly is printed and distributed. Our case settled with no trial, hardly making us the center of mold litigation. One of the primary reasons we settled was because we did not want to put our eldest daughter on trial where she would be made to discuss her cystic fibrosis in front of a jury and discuss the impact this has had on our family. Mr. Heimpel and LAWeekly just put our daughter on trial and falsely found her guilty of being an iatrical part of promoting frivolous lawsuits. We are concerned for our daughter's future safety from this egregiously libelous and dangerously false portrayal of our daughter, Erin. We are concerned for our entire family's future safety because of this article. There have been death threats, killings and suicides over this issue.

12. One of those demanding justice was Kramer, whose sickly teenage daughter was nearly killed by a household fungus that is innocuous to the healthy.

This is a maliciously false statement. I did not demand justice. We were forced to counter-sue our insurer to recoup the loses for their bad faith and the cross- contamination of our home. Erin was not a "sickly teenage daughter". This is a maliciously false portrayal of who my daughter really is and what she really does. She was sick her freshman year, but played sports such as soccer after that. Mr. Heimpel met our daughter at the beach for the interview. "Sickly" would not be an accurate description of our daughter in any way, shape or form. This maliciously false characterization could impact her future employment. Although she is more susceptible than most, the molds she was exposed to are not "innocuous to the healthy". This is a false scientific statement of which Mr. Heimpel was provided much scientific writings of others on this point.

13. A Realtor in exclusive Rancho Santa Fe, Kramer became an outraged gadfly and self-appointed mold researcher.

This is a maliciously false statement meant to portray me as one with little true knowledge of the complexities of the mold issue and conflicts of interest in medicine and science - one who just stirs up trouble and causes massive amounts of litigation. I did not become a "gadfly". I have moderated Senate Staff Briefing over the issue, my research into conflicts of interest is published in peer reviewed medical journals. My research was the foundation of a front

page Wall Street Journal article regarding this matter. I sit on a professional committee that is writing international standards for industrial hygienists regarding mold examinations. I have used my degree in marketing to understand how false scientific information flows when setting public policy and to assist in curtailing this flow of misinformation. I have been written about for my efforts over this matter in a trade newspaper, Indoor Environment Connections. The article was titled, "Kramer vs Corruption". A follow up article went into detail of how professionals over this issue agree and understand that I write the truth. But almost all do not speak out for fear of retribution. Mr. Heimpel was made aware of all of these facts while writing this article.

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Subj: **RE: From Sharon Kramer**
Date: 7/31/2008 6:25:06 P.M. Pacific Daylight Time
From: lbandlow@ssablaw.com
To: SNK1955@aol.com, LOchoa@laweekly.com

Ms. Ochoa,

I am Ms. Kramer's attorney in her underlying litigation with Bruce Kelman and Veritox. I provided substantial documentation to Daniel Heimpel that he either ignored, misquoted or fabricated something entirely contrary to it in his article. (I must admit, Mr. Heimpel was a former media law student of mine and I'm ashamed of that fact - he obviously learned nothing about defamation law from my course).

I am a defamation law specialist. With that said, let me say one thing: take Ms. Kramer's demands very seriously. It is in your best interest to do so. (I am a member of the Media Law Resource Center, a group of media defense lawyers, and thus I am precluded from bringing libel claims against members of the media. I can assure you that there are many lawyers without such a limitation who would be VERY interested in taking on a case against the L.A. Weekly on behalf of Ms. Kramer. Let me put it this way: If this matter came in to me as a defense lawyer, trust me.....I would be concerned).

Lincoln D. Bandlow

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From: SNK1955@aol.com [mailto:SNK1955@aol.com]
Sent: Thursday, July 31, 2008 6:13 PM
To: LOchoa@laweekly.com; SNK1955@aol.com; Lincoln Bandlow
Subject: From Sharon Kramer

Ms. Laurie Ochoa,
Editor LAWeekly

Dear Laurie,

I am requesting that you attach the corrections and my letter to Mr. Heimpel's writing for LAWeekly. This writing is entitled, "[The Toxic Mold Rush: California Mom Helps Fuel an Obsession](#)". I see where you have linked from my letter and the corrections to the article, however have not linked from the article to the corrections.

As a result, when one reads the article, they do not see my letter or the corrections. Is it your intent to let it be known there were corrections to this article? If so, the link needs to be made from the article to the corrections and my letter. Otherwise this false information about me, which I see is again on the front page of the LAWeekly website this week, will stand as the truth. We both know much of it is not. The gist or spin was completely inaccurate according to documentation I can prove was provided to Mr. Heimpel.

Why did LA Weekly not run Ms. Ballard's letter indicating that Mr. Heimpel got the facts of her case wrong?
Why did you not run Mr. Grimes letter indicating that Mr. Heimpel got his business description wrong?
Why did LA Weekly not run Ms. Seats letter saying she never even spoke to him?
What other letters did you receive regarding this article that were not run in your paper?

Why has LA Weekly not moved to correct the information about my case and the false quotes such as "toxic, dangerous, a killer" to be linked to from the article to the corrections?.

This article will remain on the internet for a long time to come. Is it LA Weekly's intent to have false information, not corrected, on their website when anyone should pull up this article in the future?

As it stands today, no one would know there were any corrections or that I had sent a letter calling out just a small amount of the information Mr. Heimpel was in error over this publication, if they simple clicked on this article, not the LAWeekly site first. If one should access this article from anywhere but the LAWeekly's front page, no record would be available to see there were errors corrected or that I wrote a letter indicating much of the deceit of the article.

LAWeekly has done a real hack job on my reputation, my family, the facts of my upcoming litigation, my advocacy work and the science over the mold issue. I have provided you with much documentation proving this fact. And proving Mr. Heimpel was made aware of this fact. If need be, I can provide you with a mountain of documentation showing just how egregiously libelous this article really is. I think I have been more than reasonable in my requests of corrections.

Will you please link from the article to the corrections and my letter so that in the future, readers of the article may be aware and see the corrections and my letter?

Thank you,
Sharon Kramer

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