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

BRUCE J. KELMAN, GLOBALTOX, INC., )  
 )  
Plaintiff, )  
 )  
vs. ) Case No. GIN044539  
 )  
SHARON KRAMER, and DOES 1 through )  
20, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

DEPOSITION OF BRUCE J. KELMAN  
Volume II (Pages 202 - 359)  
Los Angeles, California  
July 22, 2008

Reported by:  
DENISE HERFT  
CSR No. 12983

1 Q Have you ever testified that because of  
2 the levels of mold exposure in a particular  
3 environment, it was probable that the claimed  
4 health damages were caused by that mold exposure?

1 :22:19 5 A I can't remember specifically if the  
6 person, for example, has an allergy, has been shown  
7 to be allergic to a particular type of mold and  
8 that mold is present, I would never say that it  
9 couldn't have caused an allergic reaction.

1 :22:36 10 Q Have you ever been retained as an expert  
11 by someone who was claiming illness caused by mold?

12 A As an expert?

13 Q Yeah.

1 :22:53 14 A No, because the science on mycotoxicosis  
15 wouldn't support that, and the allergy and  
16 infections would be infectious disease person and  
17 an allergist.

1 :23:16 18 Q Okay. Do you have an opinion as to why  
19 there continues to be these claims asserted that  
20 the mold is causing severe health defects?

21 MR. SCHEUER: Objection: irrelevant; not  
22 calculated to lead to the discovery of admissible  
23 evidence; calls for speculation.

24 Instruct the witness not to answer.

1 :23:33 25 ///

1 BY MR. BANDLOW:

2 Q Will you follow that instruction?

3 A Yes.

4 Q Have you read a book called "Doubt is

1 :24:20 5 Their Product: How Industry's Assault on Science  
6 Threatens Your Health"?

7 A Not that I recall.

8 Q Okay. Do you list the Manhattan Institute  
9 paper on your CV?

1 :24:51 10 A I do.

11 Q Have you always done so?

12 A Oh, I'm sorry, let me correct that; I do  
13 not for the Manhattan Institute. I thought you  
14 were going to say ACOEM.

1 :25:01 15 Q Why don't you list the Manhattan Institute  
16 paper on your CV?

17 A I don't think I list any of the  
18 nonscientific publications that I've done,  
19 including one I've -- the one's that I've furnished  
1 :25:14 20 for legal journals.

21 Q Can you think of those specific ones that  
22 you've been paid for but you don't list on your CV  
23 besides Manhattan Institute?

24 A I can't think of another publication I've  
1 :25:35 25 been paid to do as a work-for-hire.

1 Q How about any other papers that you've  
2 done free that have been published somewhere but  
3 yet you don't list them on your CV, can you think  
4 of any of those?

1 :25:48 5 A Right now the only one that comes to mind  
6 is one that I did for a law journal on current  
7 status electric magnetic field regulations. I'm  
8 sure I've done others, but nothing else comes to  
9 mind.

1 :26:16 10 Q And you have served as an expert witness  
11 in tobacco litigation; correct?

12 A Yes.

13 Q How many times have you served as an  
14 expert witness for Phillip Morris?

1 :26:39 15 A I don't remember who I was retained by.

16 Q Do you know if you were ever retained by  
17 Phillip Morris?

18 A I don't remember.

1 :26:50 19 Q Do you know if you were ever retained by  
20 R.J. Reynolds as an expert witness?

21 A Again, the way they did their cases was  
22 really confusing, so I have no idea.

23 Q And in cases -- tobacco cases that you've  
24 been retained as an expert, has it been your expert  
1 :27:18 25 testimony that lung cancer death can't be caused by

1 cigarette smoking?

2 A Oh, I think the contrary.

3 Q You've testified that you believe that  
4 cigarette smoking can cause lung cancer?

1 :27:37 5 A Yes.

6 Q What is that testimony based on?

7 A Science.

8 Q Your review of -- would -- would it be  
9 safe to it's a similar process you undertook to  
1 :27:50 10 form that opinion as you did with the mold issue,  
11 you reviewed the science out there and compiled  
12 that together and formed your opinion?

13 A Yes. I've also been directly involved in  
14 inhalation studies on tobacco smoke.

1 :28:07 15 Q Have you ever testified in an individual's  
16 case that it could be proven that that individual  
17 got lung cancer from smoking?

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

1 :28:50 20 (Record read as follows:

21 "QUESTION: Have you ever testified  
22 in an individual's case that it could be  
23 proven that that individual got lung cancer  
24 from smoking?")

1 :28:52 25 MR. SCHEUER: I object to the question as

1 being vague and ambiguous.

2 I don't know what you mean "testified that  
3 it could be proven."

4 BY MR. BANDLOW:

1 :28:59 5 Q Well, meaning -- here's what I mean, sure  
6 you can testify in a case that, in general, you can  
7 conceive of the concept based on a number of  
8 factors that smoking cigarettes could cause cancer,  
9 but I'm talking about have you ever given expert  
1 :29:18 10 testimony in which you said, based on information  
11 you've looked at regarding this particular  
12 individual, I believe that there's a probability  
13 that cigarette smoking caused this cancer; have you  
14 ever given that kind of testimony?

1 :29:31 15 A I've never been asked to do that.

16 Q Do you list inhalation studies on your CV?

17 A I'd have to go back and look. I don't  
18 recall.

19 Q Do you recall providing comments on behalf  
1 :31:19 20 of Phillip Morris to the California EPA regarding  
21 environmental tobacco smoke and low birth weight?

22 MR. SCHEUER: Objection; irrelevant.

23 I'll allow the witness to answer.

24 THE WITNESS: Um, that was a long time  
1 :31:36 25 ago.

1 BY MR. BANDLOW:

2 Q 1999 while you were at Golder (phonetic).

3 A So that's nine years ago. What I recall  
4 is I was asked to critique a risk assessment that  
1 :31:48 5 had done by, I believe, EPA, but I'm not positive  
6 at this point on environmental tobacco smoke.

7 Q Was that listed on your CV?

8 A I don't list reports and critiques.

9 Q Have you ever been made aware that

1 :33:08 10 Dr. Hardin said that he thought the purpose of the  
11 Manhattan Institute report was for lobbying by the  
12 U.S. Chamber of Commerce?

13 A No.

14 Q Do you have any belief as to why

1 :34:00 15 Ms. Kramer is seeking to have a congressional  
16 investigation into the conflict of interest issues?

17 MR. SCHEUER: Objection: irrelevant;  
18 lacks any relevance to any issue in this case; not  
19 calculated to lead to the discovery of admissible  
1 :34:14 20 evidence.

21 I'll instruct the witness not to answer.

22 BY MR. BANDLOW:

23 Q Will you follow that instruction?

24 A Yes.

1 :34:21 25 Q Earlier in your testimony today you used

R.J.Reynolds Tobacco Company  
Winston-Salem, N.C. 27102  
(919) 777-6000



December 16, 1987

Dr. Bruce J. Kelman  
Manager, Biology and Chemistry Department  
Battelle Pacific Northwest Laboratories  
Battelle Boulevard  
Richland, Washington 99352

Dear Dr. Kelman:

I hope you, your family and your staff are well during this holiday season. Please accept the best wishes of all of us at R.J. Reynolds for a happy new year.

You have asked me several times in the past to notify you if there were some steps that Battelle-Northwest might take to improve the interactions of our two organizations. Until recently no such involvement seemed necessary.

During the past week however, we have been notified that two important deliverables will be delayed by a minimum of six weeks. These include manuscripts describing the conduct and results of two subchronic inhalation studies, and more significantly, the draft final report from our most recent subchronic inhalation study, BNW No. 2311212296. The report was due on 12/1/87, but I understand it will not be available prior to 1/15/88. I am disturbed by several facets of this news.

I am concerned because such information plays an integral role in our business decisions which often cannot accommodate milestone slippage of this magnitude.

I am also concerned because we were not notified until the due date that the report would be late and were not notified of the new anticipated delivery date until mid-December. An early notification of milestone slippage would have provided an opportunity to minimize the impact of the late report and to adjust our internal schedules whenever possible.

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R.J.Reynolds Tobacco Company  
Winston-Salem, N.C. 27102  
919 777-5000



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As you know, our decision to work with BNW was not predicated so much on cost as on superior performance and reputation in inhalation toxicology. A reputation which is maintained by excellent cost control, timely delivery and superior quality. I am sure you feel as I do about the importance of complete program performance in optimizing client satisfaction. Therefore, please initiate whatever steps, if any, you feel necessary to minimize any further delays of this report and any future difficulties that might be avoided by additional management control or more integrated scheduling. Because these recent events represent the first time any significant performance decrements have occurred on our 3 year toxicology program, I am optimistic that further problems can be avoided.

Thank you for the time to consider this issue and your effort in making our liaison as pleasant as possible on a program of great importance to our organization. If you wish to discuss this any further please call me at 919-773-5801.

Sincerely,

A handwritten signature in cursive script that reads 'Arnold T. Mosberg'.

Arnold T. Mosberg, Ph.D., D.A.B.T.  
Senior Staff R and D Toxicologist  
R.J.R.-Nabisco, Inc.

cc:A. W. Hayes  
G. T. Burger

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