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1 change tone and would start at the first paragraph, which reads like a defense report for
2 litigation.”

3 44. Members of the ACOEM voiced objections to the scenario, questioned conflicts of
4 interest and called the review process undemocratic; as noted in the above referenced Exhibit of
5 a speech given in Boston by Dr Johanning, Those who raised objections were ultimately
6 overruled by the Board Members of the ACOEM.

7 45. Within the ACOEM Statement's background information is another email authored by
8 Borak, a true and correct copy of which is attached hereto as Exhibit 29. The email was sent
9 September 6, 2002. The recipients were Dean Grove, Past President of the ACOEM, Barry
10 Eisenberg, Executive Director, ACOEM; Tim Key, Current President of the ACOEM and
11 Edward Bernacki, Past President of the ACOEM. Marianne Dreger is the Communications
12 Director of the ACOEM.
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14 46. In the above referenced email, Borak stated, “I have received several sets of comments
15 that find the current version, much revised, to still be a defense argument. On the other hand,
16 Bryan Hardin and his colleagues are not willing to further dilute the paper.” He goes on to say “I
17 do not want this to go to the BOD and then be rejected. That would be an important violation of
18 Bryan –I have assured him that if we do not use it he can freely make whatever other use he
19 might want to make.” Borak wrote, “If we ‘officially’ reject it, then we turn his efforts into
20 garbage.”

21 47. This email demonstrates that it was understood by those in the inner circle of decision
22 makers of the ACOEM that the conclusion to “not officially reject” an admittedly biased defense
23 paper would have future value to the principals of GlobalTox by providing legitimacy to their
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1 defense argument. Borak's above referenced sentences illustrates this future value for the
2 principals of GlobalTox was given consideration in the purported "unbiased" decision to accept
3 the document as the ACOEM Statement.

4 48. By referencing the ACOEM Statement as a "defense argument", with biased
5 consideration being given to it's known expert defense witness authors, indicates that the inner
6 circle of ACOEM was well aware that the future value of the legitimizing this work would be it's
7 use in the Court to win lawsuits against families, office workers, teachers and children who have
8 been made sick after an excessive exposure to mold.

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10 49. In the Kilian case, Kelman defines critical review by saying "A critical review looks at
11 the experimental design, whether the conclusions are supported by the data, whether the data has
12 been collected in the way that allows extrapolation of people, because we're primarily interested
13 in people." Attached collectively hereto as Exhibit 30 are true and correct copies of Kelman's
14 transcript from the Kilian case, P.859: 1-4; P.879: 1-22. He describes the peer review process of
15 the ACOEM Statement by saying "For the American College of Occupational and
16 Environmental Medicine, I've been told that more than 100 physicians looked at this, and most
17 of them critically reviewed it. Then at that point it goes back to the Council on Scientific Affairs,
18 and I believe the process then is that the council recommends to college council that – or the
19 directors of the college of medicine that the statement be accepted. So at that point it's been
20 extensively reviewed and although it has been written by someone, it's then the position of the
21 College of Medicine." "...In fact, this is probably the most extensive reviewed peer review
22 publication I've ever done." (Exhibit 30, P.879: 19-20)
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1 after the Board's acceptance of the Rough Draft ACOEM Statement, and well after the
2 completion of the supposedly unbiased and extensive peer review process. What these emails
3 indicate is that, not the ACOEM Board or Directors , not one-hundred-one critical peer
4 reviewers, but the known defense expert authors of the original paper themselves: Hardin,
5 Kelman and Saxon, were the ones who had final edit over ACOEM Statement. In Hardin's
6 November 5th email he stated "I've proofed the draft on the web page and have the following
7 edits:" This statement was then followed by twelve edits made by Hardin on November 5, 2002.
8 Saxon's November 5th email stated, "I have proofed the paper and I have one alteration."
9 Kelman's November 5th, 2002 email stated, "I have no further edits beyond those of my co-
10 authors. In light of current developments, I urge you to post the corrected version tomorrow
11 (Wed.) if you possibly can. The level of noise and misquotation is reaching a deafening level out
12 here on the West Coast!"

14 57. An email was sent from GlobalTox principal, Hardin to Borak, dated April 22, 2003, (a
15 true and correct copy is attached hereto as Exhibit 38) six months after the ACOEM Statement
16 was officially placed on the ACOEM website. Kelman's coauthor and coworker asked Borak,
17 Chair of the Committee on Scientific Affairs for the ACOEM, "Can you give an idea how many
18 people were involved in the various stages of reviews?" Borak's response to Hardin was "I do
19 not know how many because I do not know how many reviewed the MS" (mold statement) "and
20 agreed, but did not respond. Also, I have not maintained any of the files or emails. It was
21 certainly more than a dozen: there are more than that on the Board alone." **This is a quite**
22 **different scenario than the unbiased, critical review by one-hundred that Kelman testifies**
23 **to under oath.**