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

8 BRUCE J. KELMAN

9 Plaintiff,

10 v.

11 SHARON KRAMER, and DOES 1 through 20,
12 inclusive,

13 Defendant.

Case No. 37-2010-00061530-CU-DF-NC

**DEFENDANT'S RESPONSE TO PLAINTIFF'S
EXPARTE MOTION OF HOLDING DEFENDANT
IN CONTEMPT FOR REFUSING TO CONSPIRE
WITH COURTS TO DEFRAUD PUBLIC BY
SUPPRESSING EVIDENCE OF PLAINTIFF'S
CRIMINAL PERJURY AND HIS ATTORNEY'S
SUBORNING OF IT, IN SLAPP CASE NO.
GIN044539/DO54496/D047758 &
DECLARATION OF SHARON KRAMER**

The Honorable Thomas Nugent Presiding
Department 30

Motion Hearing Date: October 14, 2011, 1:30
PM

Complaint Filed on November 4, 2010

There is no Trial Date Scheduled for this Case

17 1. The undisputed evidence in ("THIS CASE") KELMAN V KRAMER, is that in March of 2005,
18 Defendant Sharon ("KRAMER") was the first to publicly write of how it became a fraud in US public
19 health policy that it was scientifically proven moldy buildings do not harm as she named the names of
20 those involved in legitimizing and mass marketing the fraud: Bruce ("KELMAN"), ("GLOBALTOX")Inc,
21 the ("MANHATTAN INSTITUTE") think-tank, US Congressman Gary (R-Ca) ("MILLER"), the ("US
22 CHAMBER") of Commerce and the American College of Occupational and Environmental Medicine,
23 ("ACOEM").

24 2. The uncontroverted evidence in THIS CASE is that in May of 2005, Plaintiff KELMAN filed a
25 ("COMPLAINT") that Defendant KRAMER use of the phrase "**altered his under oath statements**"
26 within the writing was a maliciously false accusation of perjury by KRAMER that KELMAN committed
27 perjury. ("KELMAN & GLOBALTOX v. KRAMER") Case No. GIN044539 San Diego Superior Court
28

1 3. The uncontroverted evidence in THIS CASE, is that KELMAN then committed perjury to establish
2 needed reason for KRAMER's malice. His attorney, Keith ("SCHEUER") repeatedly suborned it; and the
3 courts, particularly, the Fourth District Division One ("APPELLATE COURT") suppressed KRAMER'S
4 evidence of KELMAN'S perjury.

5 4. The uncontroverted evidence of THIS CASE is that the following is criminal perjury by KELMAN to
6 establish needed reason for KRAMER's malice:

7 **"I testified the types and amounts of mold in the Kramer house could not have
8 caused the life threatening illnesses she claimed."**

9 5. The uncontroverted evidence in THIS CASE is that the following is suborning of criminal perjury by
10 SCHEUER when establishing a false theme for malice and casting doubt of KRAMER'S motivation to write of
11 the fraud in policy.

12 **"Dr. Kelman testified the types and amounts of mold in the Kramer house could not
13 have caused the life threatening illnesses she claimed. Apparently furious that the
14 science conflicted with her dreams of a remodeled house, Kramer launched into an
15 obsessive campaign to destroy the reputations of Dr. Kelman and GlobalTox."**

16 6. In their ("2006 anti-SLAPP OPINION") of November 2006, the Appellate Panel of Justice Judith
17 McConnell, Cynthia Aaron and Alex McDonald, declined to read KRAMER's exhibits/brief. Submitted by an
18 attorney who has held a license in California for over thirty years, there was nothing wrong with their form.
19 They suppressed KRAMER's evidence of KELMAN's perjury when establishing a false theme for malice. From
20 the 2006 anti-SLAPP OPINION:

21 As appellant, Kramer has the burden of showing error. (See *Howard v. Thrifty*
22 *Drug & Discount Stores* (1995) 10 Cal.4th 424, 443.) "The reviewing court is not
23 required to make an independent, unassisted study of the record in search of error or
24 grounds to support the judgment. It is entitled to the assistance of counsel." (9 Witkin,
25 Cal. Procedure (4th ed. 1997) Appeal, § 594, p. 627.) We may ignore points that are not
26 argued or supported by citations to authorities or the record. (*Kim v. Sumitomo Bank*
27 (1993) 17 Cal.App.4th 974, 979.)

28 Initially, we note this lawsuit is not about a conspiracy. This lawsuit was filed by
Kelman and GlobalTox alleging one statement in a press release was libelous. Thus,
conspiracy issues are not relevant.

1 Additionally, there was other evidence presented which could support a finding
2 Kramer had a certain animosity against Kelman. Kelman gave an expert opinion in
3 Kramer's lawsuit against her insurance company seeking damages caused by the presence
4 of mold in her home. Kelman stated there did not appear to be a greatly increased level
5 of risk of mold inside the home compared to the levels in the air outside the home. While
6 the Kramer family eventually settled and recovered damages from the insurance
7 company, a reasonable jury could infer that Kramer harbored some animosity toward
8 Kelman for providing expert services to the insurance company and not supporting her
9 position.

10 *****

11 ³ Kramer asked us to take judicial notice of additional documents, including the
12 complaint and an excerpt from Kelman's deposition in her lawsuit against her insurance
13 company. We decline to do so as it does not appear these items were presented to the
14 trial court.

15 **DECLARATION OF WILLIAM J. BROWN III, (June 29, 2006)**

16 I, William J. Brown III, hereby declare that I am the attorney of record for the Defendant/
17 Appellant in the within action. As such, if called as a witness, I could and would of my own
18 personal knowledge testify to the following:

19 1. The deposition testimony of Bruce Kelman in the *Mercury v. Kramer* case
20 reveals that he could not testify about health effects of mold exposure regarding Erin
21 Kramer, Defendant's daughter.

22 2. The settlement documents in the same case show that there was a substantial
23 settlement which occurred on October 0f 2003, *thus impeaching Plaintiffs' thesis of a bitter*
24 *sour-grapes litigant, and impeaching Bruce Kelman's declaration in opposition to the 425.16*
25 *motion.*

26 6. As is on record of undisputed evidence in THIS CASE. There was nothing presented that KRAMER did
27 or had reason to harbor malice for KELMAN stemming from her underlying case with her homeowner insurer -
28 other than the never corroborated, repeated perjury in KELMAN's declarations and the repeated suborning of
it in SCHEUER's briefs.

7. In September of 2010, the Appellate Panel of Justices Richard Huffman, Patricia Benke and
Joann Irrion wrote an opinion, ("2010 APPELLATE OPINION")

1 8. As is on record of undisputed evidence in THIS CASE, they were fully evidenced by uncontroverted
2 evidence that all lower courts followed their appellate peers' lead and suppressed the evidence of KELMAN's
3 perjury to establish malice; in the Motion for Summary Judgment (July 2008) the trial (August 2008) and in
4 post trial rulings (December 2008 to April 2009). They were fully evidenced that if they suppressed the
5 evidence of KELMAN's perjury in their 2010 APPELLATE OPINION, they were aiding fraud to continue in
6 policy and before the courts. (THIS COURT was evidence of this with the Case in Arizona, ("ABAD") of what
the Appellate Court knowingly caused to aid insurer fraud by suppressing evidence of KELMAN's perjury)

7 9. Being fully aware of the ramifications of their actions, in the 2010 APPELLATE OPINION, the reviewing
8 Appellate Court did not do an independent review on the issue of malice, stating as reason that it had been
9 done in the 2006 anti-SLAPP OPINION. From the 2010 APPELLATE OPINION:

10 "We recognize that with respect to malice 'courts are required to independently examine the record
11 to determine whether it provides clear and convincing proof thereof.'" (McCoy v. Hearst Corp. (1991)
12 227 Cal.App.3d 1657, 1664.) However, in Kelman v. Kramer [2006 anti-SLAPP APPELLATE
13 OPINION] I we expressly rejected Kramer's argument that such independent review entitled her to
14 judgment. Rather, we found that such review had taken place in the trial court and, following our
15 own detailed analysis of the evidence of Kramer's hostility towards Kelman, we left the trial court's
16 determination undisturbed. **Given that disposition, we can only conclude that panel which**
17 **decided Kelman v. Kramer I conducted the required independent review of the record** and
18 agreed with the trial court that, as the record stood at that point, there was clear and convincing
19 evidence of malice. Because, as we have indicated the record of malice presented at trial was just
20 as fulsome as the one considered in Kelman v. Kramer I, we cannot depart from our prior decision
21 without also departing from the doctrine of law of the case."

22 10. Being fully evidence of what the Appellate Justices did to suppress the evidence of KELMAN's criminal
23 perjury as they framed KRAMER for libel, on May 2, 2011, THIS COURT placed a Temporary Injunctive Relief
24 Order ("GAG ORDER") on Defendant Sharon ("KRAMER") that she not "republish" the following sentence that
25 is not even in her purportedly libelous writing of March 2005:

26 **"Dr. Kelman altered his under oath statements on the witness stand' while he**
27 **testified as a witness in an Oregon lawsuit."**

28 11. The uncontroverted evidence of THIS CASE is that KRAMER has never republished the phrase,
"altered his under oath statements", without disclosing it was the subject of a lawsuit.

12 Evidenced that if KRAMER cannot rewrite the phrase, "*altered his under oath statements*", the sole
claim of the underlying case, she cannot not explain and evidence what the Appellate Court did to suppress
the evidence of criminal perjury in a strategic litigation adversely impacting public health and aiding the

1 continuance of insurer fraud in litigations/claims handling practices throughout the US – THIS COURT, never
2 the less, issued the GAG ORDER that aids to suppress and conceal what the Appellate Justices did.

3 13. On July 15, 2011, THIS COURT stated in oral argument that it was frivolous that KRAMER wanted
4 KELMAN to corroborate his reason given for malice in the prior case. THIS COURT then proceeded to
5 threaten to sanction KRAMER for her “frivolous” motion.

6 14. On record in THIS CASE; on October 5, 2011, KRAMER received a call from Stephen Kelly, Clerk of
7 the Appellate Court, with a polite yet thinly veiled threat, that if she pursued legal action for the Court Clerks
8 Government Code 6200 violations which have aided to conceal the Courts’ suppression of evidence of
9 KELMAN’s perjury, etc, – that the Appellate Court would just deem her a vexatious litigant.

10 15. By the issuance of the GAG ORDER, May 2, 2011, THIS COURT left KRAMER in contempt of the law,
11 if she republished the phrase “altered his under oath statements” or if she did not republish it.

12 16. If she did not republish it to evidence corruption in the courts suppressing evidence of criminal perjury,
13 then she was an accessory to the crime of aiding to conceal all courts suppressed evidence of a plaintiff’s
14 criminal perjury in a litigation over public health policy. KRAMER would be aiding to conceal interstate insurer
15 fraud written into policy and adverse to public health.

16 17. If she did republish it, then KRAMER was violating THIS COURT’S GAG ORDER (founded solely on
17 the prior case and trying to force KRAMER to conlude with the courts to suppress evidence of the courts
18 aiding malicious litigation carried out by criminal means and adversely impacting public health).

19 18. KRAMER is not going to be a victim of the compromised courts, and then victimized again by being
20 forced to become an accomplice to their corruption so others may continue to be victimized.

21 20. On record in THIS CASE, is the evidence that Dr. David Michaels, Director of OSHA, has deemed
22 perjury committing KELMAN’s business partner (and undisclosed party to this litigation for six years), Bryan
23 (“HARDIN”) to be a product defender, seller of doubt, unfit to influence public health policy.

24 21. By the end of the day, October 13, 2011, this reply and supporting evidence will be able to be read
25 online at: <http://wp.me/plYPz-36h>

1 22. What the above link is, is online reference No. 15, in the Federal OSHA publication, Spring 2011 ~ US
2 Dept of Labor, Occupational Safety & Health Administration (OSHA) "INDOOR AIR QUALITY IN
3 COMMERCIAL AND INSTITUTIONAL BUILDINGS".

4 23. In other words, the evidence of the courts and their clerks colluding to defraud the public about IAQ
5 matters by bullying, threatening and suppressing evidence of criminal perjury of product defenders; as they
6 framed a whistleblower of fraud in policy over the mold issue for libel; will then become part of a Federal
7 OSHA website, online, health advisory at: www.osha.gov/Publications/3430indoor-air-quality-sm.pdf. And if
8 removed from the US Department of Labor website of the evidence of the California courts collusion to
9 defraud, it may still be read on Katy's Exposure Blog.

10 24. If this court find that is Contempt of Court – breaking the law - for KRAMER to refuse to be an
11 accomplice of remaining silent of the compromised courts, particularly the Fourth District Division One
12 Appellate Court, suppressing evidence of KELMAN's criminal perjury, SCHEUER's suborning of criminal
13 perjury, HARDIN's non-disclosure as being party of the case; and the framing of KRAMER for libel while
14 knowing their actions were aiding with the continuance interstate insurer fraud adverse to the public's best
15 interest – then so be it. I cannot control collusion to defraud the public by the courts. After six years of it, I am
16 refusing to be their victim anymore or to allow anyone else to be their victims.

17 _____
18 DATE

17 _____
18 Sharon Kramer, Pro Per

19 **DECLARATION OF SHARON KRAMER**

20 1. Keith SCHEUER's Declaration submitted under oath to this court on October 12, 2011, in support of his
21 Exparte Motion contains perjury. Specifically,

22 **"The preliminary injunction [GAG ORDER] prohibits Kramer from republishing a statement**
23 **that was determined to be libelous at the trial of the prior action (San Diego Superior Court**
24 **case no. GIN044539)."**

25 2. This is because the GAG ORDER issued by this court, gags KRAMER from writing the
26 following sentence,

27 **"Dr. Kelman altered his under oath statements on the witness stand' while he testified as a**
28 **witness in an Oregon lawsuit"**

1 3. That is not even a sentence in KRAMER's purportedly libelous writing and so the jury did not determine
2 what is in the GAG ORDER to be libelous. The sentence in KRAMER's (my) writing is:

3
4 **"Upon viewing documents presented by the Hayne's attorney of Kelman's prior testimony
5 from a case in Arizona, Dr. Kelman altered his under oath statements on the witness stand."**

6 4. Contrary to the parentheses in the GAG ORDER around words for which KRAMER was never even
7 sued, the COMPLAINT (on record in this case) evidences KRAMER was only sued for five words,
8 **"altered his under oath statements"**.

9 5. As such, I can honestly state I have never republished the phrase that the preliminary injunction prohibits
10 me from republishing ("Dr. Kelman altered his under oath statements on the witness stand' while he testified as
11 a witness in an Oregon lawsuit") that was determined to be libelous at the trial of the prior action, [after false
12 hearsay documents got into the jury room, and the jury instructions, definition of malice, stated my writing was
13 incorrect]. This is because the GAG phrase is not the same thing as was before the jury. SCHEUER's
14 Declaration is perjury to state that they are.

15 6. My apologies for the directness, but I would accurately equate this situation with a citizen who blew a
16 whistle on fraud in public health policy adverse to the interests of the affiliates of the US CHAMBER OF
17 COMMERCE, being gang raped by a bunch of corrupt judiciaries for five years and then threatened with
18 sanctions, contempt (and jail time) by another one if the citizen refuses to break the law and conspire with
19 them to remain silent of the gang rape (gag rape) - as she is forced to watch thousands of others be raped as
20 a result the corrupt actions of the California Courts, particularly the Fourth District Division One Appellate
21 Court, and now, most likely, **THIS COURT on Friday October 14, 2011.**

22 7 I am not going to be forced to become an accessory to crime of the courts suppressing evidence of
23 KELMAN's perjury and SCHEUER's suborning of it (and his own perjury) while knowing the courts' actions
24 were and continue to aid with interstate insurer fraud adverse to the public's best interest.

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

27 Executed on October 13, 2011 at Escondido, California

Sharon Kramer, Pro Per