

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF SAN DIEGO - NORTH DISTRICT
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5 BRUCE J. KELMAN, GLOBALTOX, INC.,)
6 Plaintiff,)
7 vs.) Case No. GIN044539
8 SHARON KRAMER, and DOES 1 through)
9 20, inclusive,)
10 Defendants.)

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1 for the defense in mold litigation; correct?

2 A On occasion, yes.

3 Q And he's done that since 1999; correct?

4 A I don't know.

10 :57:28 5 Q And Dr. Saxon was listed as the third
6 author of the ACOEM paper; correct?

7 A Correct.

8 Q Okay. And was he also a co-author of the
9 Manhattan Institute paper?

10 :57:56 10 A Yes.

11 Q Was he compensated for his involvement in
12 the Manhattan Institute paper?

13 A He was not.

14 Q Why not?

10 :58:08 15 A We contacted Dr. Saxon about the
16 immunology parts that were being written for the
17 Manhattan Institute; he had substantial suggestions
18 and suggested wording changes and different
19 examples that we were using, and we felt that that
10 :58:32 20 was a substantive contribution to the paper, and he
21 should be listed as an author.

22 Q But his -- any interactions with him or
23 any services by him, none of that appears on any of
24 the invoices that were sent to the Manhattan
10 :58:48 25 Institute report; correct?

1 A I think the invoices are the invoices.

2 He's not on those invoices nor would he be because
3 he's not a member of Veritox and he never has been.

4 Q But was there a conscious choice not to
10 :59:06 5 reference him in any of the invoices that were
6 submitted to the Manhattan Institute report?

7 A We only put individuals from -- at that
8 time I think it was GlobalTox -- who were charging.
9 There wouldn't be any reason otherwise, unless
10 :59:24 10 efforts put in by GlobalTox individuals and direct
11 support for that publication that were -- we chose
12 not to bill for it.

13 Q But you were listing -- you were providing
14 a description of your services in connection with
10 :59:44 15 preparing the Manhattan Institute report; correct?

16 A No, that's not correct. I provided an
17 invoice.

18 Q And so what was your intention when you
19 were completing the description category for the
10 :59:56 20 invoice?

21 A It's part of the invoice.

22 Q Okay. Why didn't you provide in the
23 description of your invoice a reference that said
24 teleconference with Dr. Saxon regarding draft or
11 :00:10 25 something of that nature?

1 A It didn't occur to us.

2 Q Did you get Dr. Saxon's permission to list
3 him as a co-author in the Manhattan Institute
4 paper?

11 :00:42 5 A We did.

6 Q You asked for it and he said yes?

7 A He said he had no objection.

8 Q So when Dr. Saxon testified in a separate
9 matter that he did not know his name was on it, do
11 :01:00 10 you believe he was not testifying truthfully?

11 MR. SCHEUER: Objection; assumes a fact
12 not in evidence. There's no evidence at all that
13 Dr. Saxon said that.

14 MS. KRAMER: This is testimony from
11 :01:36 15 Mr. Saxon saying he didn't know his name was on it.
16 BY MR. BANDLOW:

17 Q I'm looking at trial testimony from the
18 case, looks like it was in Nevada, involving
19 Dr. Saxon. He was -- and I will represent for the
11 :01:52 20 record, based on this transcript, he was asked a
21 question, quote, "When the lay version of the ACOEM
22 paper was printed by the Institute for Legal
23 Reform, the ACOEM again did not have any conflict
24 of interest waiver on your part, did it?"

11 :02:08 25 And he answered, quote, "I have no idea.

1 I've never seen that version. I'll call it the
2 nonscientific piece that has my name on it."

3 He was then asked, From your view, did you
4 make any efforts despite anyone calling you or
11 :02:26 5 anything else to make sure a conflict of interest
6 waiver was included with the lay version put out by
7 the Institute for Legal Reform, and he answered,
8 quote, "No, because I didn't even know my name was
9 on it."

11 :02:40 10 Assuming that that is accurate -- that is
11 an accurate reading of his testimony in a case, do
12 you believe that he was testifying truthfully when
13 he said he didn't know his name was on it?

14 MR. SCHEUER: Objection; that is -- we're
11 :02:56 15 not even permitted to see the transcript; there's
16 no foundation here at all.

17 This is a typed --

18 MS. KRAMER: First part.

19 MR. SCHEUER: This is unsigned.
11 :03:14 20 There's -- this is a typed page that could have
21 been fabricated by Ms. Kramer yesterday.

22 I'll instruct the witness not to answer.

23 BY MR. BANDLOW:

24 Q Well, let's disregard your pejorative
11 :03:26 25 comment about Ms. Kramer -- that was uncalled

1 for -- and simply say I'm asking you as an attorney
2 and officer of the court to assume what I read is
3 testimony from an under oath testimony provided by
4 Dr. Saxon; assuming that was the case and it was,
11 :03:40 5 do you believe he was testifying truthfully when he
6 said he didn't know his name was on it?

7 MR. SCHEUER: Give me a moment here.
8 You're representing that you have read that
9 transcript?

11 :04:00 10 MR. BANDLOW: Uh-huh.

11 MR. SCHEUER: Yes?

12 MR. BANDLOW: Yes, I've read this
13 transcript.

14 MR. SCHEUER: Not just the type written
11 :04:06 15 part there, but you have read the transcript, and
16 was it signed by Dr. Saxon?

17 MR. BANDLOW: I don't recall if the
18 testimony had been reviewed and signed by
19 Dr. Saxon.

11 :04:16 20 MR. SCHEUER: So Dr. Saxon may have
21 changed his testimony?

22 MR. BANDLOW: I'm not sure. I believe
23 this entire deposition transcript was produced to
24 you in this case.

11 :04:26 25 MR. SCHEUER: I promise you it was not.