

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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12  
13 DEPOSITION OF BRUCE J. KELMAN  
14 Volume II (Pages 202 - 359)  
15 Los Angeles, California  
16 July 22, 2008  
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23 Reported by:  
24  
25 DENISE HERFT  
CSR No. 12983

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 A 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.