

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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DEPOSITION OF BRUCE J. KELMAN

Volume II (Pages 202 - 359)

Los Angeles, California

July 22, 2008

Reported by:



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18 DEPOSITION OF BRUCE J. KELMAN taken on
19 behalf of the Defendant at SPILLANE SHAEFFER
20 ARONOFF BANDLOW LLP at 1880 Century Park East,

21 Suite 1004, Los Angeles, California, commencing at
22 9:04 a.m. on July 22, 2008, reported by DENISE
23 HERFT, CSR No. 12983, pursuant to Notice.

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1 APPEARANCES OF COUNSEL:

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Also Present:

15

Sharon Kramer

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Terry Weiss - Videographer

Hahn & Bowersock

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1 waived any claim of any damages whatsoever?

2 A Monetary damages.

3 Q Okay. So --

4 MR. SCHEUER: Excuse me, I assume you're

09:06:56 5 excluding nominal damages?

6 BY MR. BANDLOW:

7 Q Yes. Nominal amount, say, a dollar that

8 you would be entitled to by a jury if they

9 concluded in your favor; I'm not counting that.

09:07:08 10 I'm counting any actual damages you claim to have

11 suffered in this case, you're waiving any claim to

12 those; correct?

13 A Yes, I think that's correct.

14 Q And you're waiving any claim to any

09:07:22 15 out-of-pocket losses you may have suffered in

16 connection with the facts alleged in this lawsuit;

17 correct?

18 A Um, yes.

19 Q You're waiving any claim to any punitive

09:07:34 20 damages in this claim; correct?

21 THE WITNESS: Actually, is that correct?

22 MR. SCHEUER: Yes.

23 THE WITNESS: Yes.

24 BY MR. BANDLOW:

09:07:52 25

Q Then what is it you seek to get out of

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1 this lawsuit?

2 A Same thing that I've asked for all along,
3 a retraction and an apology for the lies that have
4 been told.

09:08:06 5 Q What specifically would you like that
6 retraction to say?

7 A Exactly what you've already got in your
8 possession.

9 Q The letter drafted by your counsel that
09:08:22 10 was proposed as a retraction that would be
11 acceptable to you in this case?

12 A I think we've made it pretty clear, but
13 I'd have to see what you're referring to because
14 there's been several exchanges.

09:08:42 15 Q Do you believe -- are you seeking a
16 retraction by which Ms. Kramer endorses your
17 science?

18 A I think the wording that we've got on the
19 retraction is pretty clear. I really don't care
09:09:12 20 what Ms. Kramer believes.

21 Q Now, you said a second ago in your

22 testimony you want an apology. What do you want an
23 apology for?

24 A Ms. Kramer has in her press release
09:09:40 25 indicated that I lied on the stand, and she's also

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1 tried to use wording that would intimate that
2 somehow I was paid to write the ACOEM paper, this
3 is the ACOEM position statement on mold; and
4 that's -- those are the principle issues that I'm
09:10:10 5 referring to.

6 Q Didn't her press release, in fact, state
7 clearly that the payment was for the Manhattan
8 Institute report and not for the ACOEM paper?

9 A No, it wasn't clear.

09:10:26 10 Q Isn't it correct that what you want from
11 Ms. Kramer for her to sign a written statement in
12 which she says quote: "To my knowledge their
13 testimony and advice are based on their expertise
14 and objective understanding of the underlying
09:10:50 15 scientific data," end quote.

16 MR. SCHEUER: Could I have that read back,
17 please.

18 (Record read as follows:

19 "QUESTION: Isn't it correct that

09:10:34 20 what you want from Ms. Kramer for her to
21 sign a written statement in which she says
22 quote: "To my knowledge their testimony
23 and advice are based on their expertise
24 and objective understanding of the
09:10:50 25 underlying scientific data," end quote.")

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1 THE WITNESS: I think at this point I have
2 to confer with my counsel.

3 MR. SCHEUER: Excuse us for a moment.

4 THE VIDEOGRAPHER: We're now going off the
09:11:44 5 record. The time is 9:11.

6 (Recess taken from 9:11 a.m. until
7 9:13 a.m.)

8 THE VIDEOGRAPHER: We're now back on the
9 record. The time is 9:13.

09:13:58 10 MR. BANDLOW: There was a question pending
11 when you asked to confer with your counsel, why
12 don't we have the reporter read the question back.

13 (Record read as follows:

14 "QUESTION: Isn't it correct that

09:10:34 15 what you want from Ms. Kramer for her to sign
16 a written statement in which she says quote:
17 "To my knowledge their testimony and advice
18 are based on their expertise and objective
19 understanding of the underlying scientific
09:10:52 20 data," end quote.")

21 THE WITNESS: Um, they -- we've had several
22 back and forths, so at this point, in order to
23 verify what it was that we had actually proposed, if
24 you're asking me to craft language, then I have to
09:14:50 25 do that with my counsel; I can't do that here. If

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1 you're asking me about a specific proposal that we
2 sent back to you, I really need to see the proposal.
3 There's been too much back and forth. I don't
4 remember.

09:15:08 5 BY MR. BANDLOW:

6 Q Okay. Let me -- you can go ahead and look
7 at this document. We're not going to mark it as an
8 exhibit right now. Unfortunately, that's my only
9 copy at this moment. Do you recognize the lawyer
09:15:26 10 listed at the top of that letter?

11 A Um --

12 Q Very top of the letter?

13 MR. SCHEUER: The law firm you're
14 referring to?

09:15:36 15 MR. BANDLOW: Yes.

16 THE WITNESS: Scheuer and Gillett?

17 BY MR. BANDLOW:

18 Q That's your attorney Mr. Scheuer; correct?

19 A Yes.

09:15:40 20 Q Do you know if this was a letter sent by
21 your lawyer in which retraction language was
22 requested of Ms. Kramer?

23 A Yes, it was.

24 Q And do you see the language that I quoted
09:16:10 25 a moment ago in my question?

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1 A Yes, I do.

2 Q So at this -- as of the date of that
3 letter, that was a statement that you wished to
4 have Ms. Kramer make in a written statement;
09:16:28 5 correct?

6 A That's correct.

7 Q Let me have that back, please.

8 Now, is it your understanding that since
9 the date of this letter, the June 2007 period,
09:16:40 10 there's been amended retraction demands?

11 MR. SCHEUER: If you have an
12 understanding.

13 THE WITNESS: At this point I just don't
14 remember the sequence.

09:16:54 15 BY MR. BANDLOW:

16 Q Do you have in your mind, independently of
17 any interchanges that have gone on between counsel,
18 do you have in your mind right now the language
19 you'd like to hear Ms. Kramer speak to correct
09:17:10 20 whatever you believe needs to be corrected in this
21 manner?

22 A That retraction would work.

23 MR. SCHEUER: Excuse me, Counsel, what's
24 the date on that letter?

09:17:22 25 MR. BANDLOW: June 21st, 2007.

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1 BY MR. BANDLOW:

2 Q You would like Ms. Kramer to issue a
3 written statement in which she says Dr. Kelman and