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FOURTEEN YEARS OF MEDICAL “NONPROFITS” PROMOTING THE VERITOX THEORY FOR EXPERT DEFENSE WITNESS PROFIT BY SCIENTIFIC FRAUD UPON U.S. COURTS

The Veritox Theory was created fourteen years ago in 2001, by Dr. Sudakin’s former associates and co-owners Veritox, Inc., Mr. Bruce J. Kelman and Mr. Brian D. Hardin. Mr. Hardin retired as a deputy director of CDC NIOSH in 2000 and began a second career of expert defense witnessing in mold litigations. Mr. Kelman is also a prolific defense witness in mold litigation. He came to the mold issue circa 2000 after many years of being an expert defense witness for Big Tobacco. They profitably bill themselves as professional toxicologists when selling doubt of causation of illness by use of LNT models.

Mr. Kelman, Mr. Hardin and Dr. Sudakin have all three generated substantial income as expert defense witnesses in mold litigation. Over the years, I have read many transcripts of their deposition and trial testimonies.[40] Their testimonies have relied heavily upon the Veritox Theory being legitimized since 2002 by “nonprofit” medical trade associations as evidence based science, when clearly it is not.[41]

The endorsements of the “nonprofit” medical associations have added undeserved credibility in support of the “nonprofit’s” members’ paid expert witness opinions on behalf of defendants attempting to avoid liability for causation of illness, disability and death from WDB exposures. Fn 10 is the 2007 front-page Wall Street Journal (WSJ) article titled, “Court of Opinion, Amid Suits Over Mold Experts Wear Two Hats. Authors of Science Papers Often Cited by Defense Also Help in Litigation”. It provides a clear overview of how and why the Veritox Theory science-fraud made its way into policy via the legitimizing by ACOEM in 2002, by the Manhattan Institute and U.S. Chamber in 2003, and by AAAAI in 2006. To quote:

“They [Mr. Kelman and Mr. Hardin] took hypothetical exposure and hypothetical toxicity and jumped to the conclusion there is nothing there.” Dr. Harriet Ammann, IOM Report co-author and Senior Toxicologist, State of Washington (retired)

“a lot people with legitimate environmental health problems are losing their homes and their jobs because of legal decisions based on this so-called 'evidence-based' statement.”
James Craner, MD, MPH, FACOEM

I am aware that ACMT Mold Statement co-author Dr. Kurt has also served as an expert defense witness in no less than one mold litigation in Texas involving the large national self-insured retailer (*Target Corp.*) toward aiding their ability to deny financial responsibility for a worker (*McGovern*) who was disabled by a WDB work environment. In his litigation report, Dr. Kurt claimed with a reasonable degree of certainty that the injured worker could not have been disabled by the WDB. To support his compensated expert opinion, he cited the Veritox Theory in three forms: the medical associations of ACOEM, AAAAI and the mold statement he co-authored for ACMT with Veritox’s Dr. Sudakin.[42]

The attorney in the 2008 Texas workman's compensation case was Darryl Silvera, Esq. – a successful workcomp defense attorney for many large corporations and insurers.[43] I am aware that Mr. Silvera's law firm was again able to use the ACOEM version of the Veritox Theory to defeat WDB-injured workers' claims for another national retailer in 2015. As I understand it, the Texas courts refused to take notice that the ACOEM Mold Statement had been retired as they denied the injured workers' claims.[44]

When workman's compensation insurers and employers are able to discriminate against disabled workers by denying them their rightfully due benefits based on bogus science by bogus experts; then the burden of care for the disabled worker and their family often shifts onto the American taxpayer via various forms of social services.[45] Some states dictate by law that physicians must adhere to workmans' compensation treatment guidelines written by medical associations in order to be insurer compensated for their medical services. The workcomp guidelines written by the "nonprofit" ACOEM are owned by an insurance company.[46]

With regard to WDB-injured workers, the LNT Veritox Theory scam is workcomp insurer fraud to defraud the taxpayer while discriminating against the disabled worker. Mr. Silvera's firm and experts it hires offers a mere glimmer of the magnitude of the problems caused by use of the Veritox Theory in all its wrongfully-"nonprofit"-legitimized versions in workcomp practices, in building maintenance practices, and in all mold litigations/claims handling practices. Stated by Dr. Shoemaker in the 2015 WCC article:

"After 2003, there were no cases that I participated in where the defense did not quote ACOEM"

[40] Documentation available upon request.

[41] 2008 Craner J. "A critique of the ACOEM statement on mold: undisclosed conflicts of interest in the creation of an 'evidence-based' statement". Int J Occup Environ Health. 2008;14(4):283-98. <http://www.ncbi.nlm.nih.gov/pubmed/19043916>

[42] Documentation available upon request.

[43] Silvera Law Firm workmans' comp client list: http://www.silveralaw.com/?page_id=37

[44] The 2015 Texas injured workers wish to remain anonymous for fear of retaliation. Mr. Silvera and the expert defense witness have both been sent letters to assure they are aware that the ACOEM and AAAAI Mold Statements are no longer considered current accepted science to be used to defeat workcomp claims.

[45] 2010 LaDou J "Workers' Compensation in the United States: cost shifting and inequities in a dysfunctional system" New Solut 2010;20(3):291-302. <http://www.ncbi.nlm.nih.gov/pubmed/20943472>

[46] 2013 "Reed Group, Ltd., a wholly owned subsidiary of the Guardian Life Insurance Company of America" owns the workcomp guidelines written by ACOEM <http://freepdfhosting.com/7209d2886e.pdf>