

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DOCTOR’S DATA, INC., a Nevada)	
corporation,)	
)	
Plaintiff,)	
)	
v.)	No. 10-CV-3795
)	
STEPHEN J. BARRETT, M.D., THE NATIONAL)	
COUNCIL AGAINST HEALTH FRAUD, INC.,)	Hon. William J. Hibbler ,
and QUACKWATCH, INC.)	judge presiding;
)	Hon. Nan R. Nolan,
Defendants.)	magistrate presiding.

FIRST AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

STATEMENT OF THE CASE

Doctor’s Data, Plaintiff, is a CLIA-certified scientific and medical laboratory in St. Charles, Illinois, in the business of analyzing blood, tissue and other samples for health care practitioners. Plaintiff was the lab of choice for many physicians until Dr. Stephen Barrett and his minions began defaming Plaintiff on their websites, accusing the lab of intentionally providing false and fraudulent results by applying improper reference ranges to specimen analyses, and conspiring with the physicians from whom they receive the specimens, to commit fraud.

This is an action for false or misleading descriptions or representations of fact under federal statutory law, and supplemental pendant state statutory claims of trade name dilution, consumer fraud and deceptive business practices, deceptive trade practices, and personal liability of corporate officers and directors; and state common-law claims of business libel, tortious interference with existing and prospective business relationships, and civil conspiracy. For redress of these grievances, Doctor’s Data seeks

injunctive relief, and compensatory and exemplary damages arising out of Defendants' wrongful conduct. The causes of action are as follows:

TABLE OF CONTENTS

A. Nature of Action 1

B. The Parties2

C. Jurisdiction 6

D. Factual Allegations Applicable to All Counts7-9, 13-15

- Allegations Pertaining to Exhibit A (¶¶ 31-38)..... 8
- Allegations Pertaining to Exhibit B (¶¶ 39-41).....10
- Allegations Pertaining to Exhibit C (¶¶ 42-43)..... 11
- Allegations Pertaining to Exhibit D (¶ 44).....12
- Allegations Pertaining to Exhibit E (¶ 45)12
- Allegations Pertaining to Exhibit F (¶ 46)..... 12
- Allegations Pertaining to Exhibit G (¶ 47)13
- Allegations Pertaining to All Exhibits..... 14

E. Causes of Action

Count I (Lanham Act violations) 15

Count II (Trademark dilution under ITRPA) 18

Count III (Consumer Fraud) 21

Count IV (Uniform Deceptive Trade Practices) 25

Count V (Business Libel *per se*) 28

Count VI (Business Libel *per quod*). 29

Count VII (Tortious Interference with Business Relationships)..... 30

Count VIII (Fraud or Intentional Misrepresentation)	31
Count IX (Civil Conspiracy)	33
Count X (Corporate Officer and Board Member Personal Liability).....	34
Count XI (Injunctive Relief)	36
F. Jury demand	38
G. Exhibits A through G	

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NOW COMES DOCTOR'S DATA, INC., a Nevada corporation, Plaintiff, by Augustine, Kern and Levens, Ltd., its attorneys, and requests a jury trial in the above-named cause except on matters related to injunctive relief, and for its Amended Complaint against STEPHEN J. BARRETT, THE NATIONAL COUNCIL AGAINST HEALTH FRAUD, and QUACKWATCH, INC., a dissolved Pennsylvania corporation, Defendants, states as follows:

A. NATURE OF ACTION

1. Doctor's Data, Plaintiff, is a scientific and medical laboratory in the business of analyzing blood, tissue and other samples for health care practitioners.
2. Defendants are self-styled protectors of the public against what they have unilaterally deemed to be unscrupulous health care practices by anyone whose methods or beliefs differ from their own.
3. This is an action for false or misleading descriptions or representations of fact under federal statutory law, and supplemental pendant state statutory claims of

trademark dilution, consumer fraud and deceptive business practices, deceptive trade practices, and personal liability of corporate officers and directors; and common-law claims of business libel, tortious interference with existing and prospective business relationships, and civil conspiracy. For redress of these grievances, Doctor's Data seeks injunctive relief, and compensatory and exemplary damages arising out of Defendants' wrongful conduct.

B. THE PARTIES

4. Doctor's Data, Inc., is a corporation organized and existing under the laws of the State of Nevada and registered to do business in the State of Illinois, with principal place of business at 3755 Illinois Avenue, St. Charles, Illinois 60174.
5. Doctor's Data is a fully licensed and CLIA-certified clinical laboratory which performs laboratory testing on specimens derived from humans for the purpose of providing information for (1) diagnosis, prevention, or treatment of disease or impairment, and (2) assessment of health.¹
6. The "Clinical Laboratory Improvement Program," also known as CLIA, sets standards and certifies clinical laboratories, with the objective of ensuring uniform accuracy and reliability of test results regardless of where the test was performed. Doctor's Data is certified by CLIA, participates in numerous quality assurance and proficiency testing programs in this rigidly monitored industry, and meets or exceeds all CLIA Program requirements.
7. On information and belief, STEPHEN JOEL BARRETT, Defendant, hereinafter "Barrett," is a retired physician and a citizen of North Carolina.

¹ The Center for Medicaid and State Operations, Survey and Certification Group, Division of Laboratory Services, within the Centers for Medicare and Medicaid Services (CMS) is primarily responsible for the CLIA Program, which is primarily funded by user fees collected from approximately 200,000 laboratories, most located in the United States. <http://www.cms.hhs.gov/clia/>.

8. Barrett's last address known to Plaintiff was and still may be Chatham Crossing, Suite 107/208, 11312 U.S. 15 501 North, Chapel Hill, North Carolina 27517.
9. On information and belief, QUACKWATCH, INC., hereinafter "Quackwatch," is a not-for-profit corporation organized under the laws of the Commonwealth of Pennsylvania, the principal place of business of which is or may be 2419 Greenleaf Street, Allentown, Pennsylvania 18104. It has been dissolved since April 3, 2009, but continues to do business. CASEWATCH and AUTISM-WATCH are internet websites affiliated with and linked to Quackwatch.
10. On information and belief, at all times at issue herein, Barrett was and still is the owner or operator of, or webmaster for, www.quackwatch.org and www.quackwatch.com, as well as certain affiliated internet websites including but not limited to www.casewatch.org and www.autism-watch.org, sometimes hereinafter referred to as "the websites."
11. On information and belief, The NATIONAL COUNCIL AGAINST HEALTH FRAUD, INC., Defendant, hereinafter "NCAHF," is a 501(c)(3) California corporation headquartered at 841 Santa Rita Avenue, Los Altos, California 94022, which claims to be "a private nonprofit, voluntary health agency that focuses upon health misinformation, fraud, and quackery as public health problems."²
12. Barrett is president of NCAHF and webmaster of its website. (FN2)
13. Barrett edits the Consumer Health Digest, hereinafter "Digest," a weekly electronic newsletter found at <http://www.ncahf.com> which is hosted by SSR.com, co-sponsored by NCAHF and Quackwatch, and co-owned by Barrett, Quackwatch, NCAHF, or some combination thereof.

² <http://www.ncahf.org/>

14. False information is hosted, transmitted and communicated on these websites with little, no, or slanted investigation by Defendants under the auspices of improving the quality of health care information on the worldwide web, but which is really wholly or partly designed and intended to sell Defendants' publications, solicit donations from users of and visitors to said websites, and charge fees to businesses wishing to advertise thereon; and to encourage lawsuits against health care practitioners by attorneys who are friendly to Defendants and who serve as legal advisers to Defendants, to which attorneys Defendants' bevy of technical advisers, including Barrett and others, is available for hire as consultants or experts, or in some other capacities.

15. False information is hosted, transmitted and communicated to the public by Defendants or some of them through said websites, specifically about Doctor's Data, for the purposes of:

- a. Interfering with, and harming, Doctor's Data, and its business in the State of Illinois and the Northern District of Illinois; and,
- b. Interfering with, and harming, physicians in the State of Illinois and particularly in the Northern District of Illinois who:
 - i. Rely on Doctor's Data and its services in their medical practices and in the treatment of their patients;
 - ii. Until now, were always confident that they could trust and rely on the analyses generated by Doctor's Data in treating their patients;
 - iii. Have halted referrals of patients to doctors identified on Defendants' websites as having conspired with Doctor's Data to commit fraud;

- iv. Have been persuaded to employ labs recommended by Defendants;
 - v. Have, in some instances, themselves come under verbal attack on Defendants' websites;
 - vi. Have, in some instances, come under legal attack due to lawsuits having been filed against Doctor's Data and them, at least one of which has been filed in the Northern District of Illinois, which lawsuits are either directly or indirectly instigated, engendered, assisted and encouraged by Defendants; and,
- c. Interfering with, and harming, residents of Illinois who have been, may have been, or continue to be wrongly persuaded by Defendants to: shun or avoid treatments and procedures that could potentially improve their quality of life and health; seek out physicians who may be less knowledgeable as to the types of services sought, in a misguided effort to avoid physicians who have been linked by Defendants to Doctor's Data; or request that their physicians not use Doctor's Data to analyze their "labs" out of a mistaken belief that Doctor's Data is defrauding the public;
- d. Embroiling Doctor's Data in litigation here in the Northern District of Illinois, and elsewhere; and,
- e. Attacking Doctor's Data, and others, to propagate contributions in response to its web solicitations, and to be hired to render opinions.
16. Doctor's Data has demanded that Defendants remove all putative information from said websites and transmit retractions of the false and defamatory information thereon, but Defendants have refused or otherwise have not done so.

C. JURISDICTION

17. This court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because the parties are citizens of different states and the matter in controversy exceeds \$75,000 exclusive of interest and costs.
18. This court also has original jurisdiction in this action under 28 U.S.C. § 1331 in that this is a civil action arising under laws of the United States, namely: Section 43(a) of the Lanham Act, 15 U.S.C. §1125.
19. This court has *in personam* jurisdiction over Defendants because they (a) directed and continue to direct tortious conduct at Doctor's Data, which maintains its principal place of business in the Northern District of Illinois, and which conduct impacts Plaintiff in this District; (b) have encouraged lawsuits to be filed against Plaintiff in this District; (c) operated and continue to operate commercial interactive websites which can be and, on information and belief, are regularly accessed by the public in this District; (d) solicit and engage in business within this District; and (e) have legal and technical advisers in this District.
20. A genuine and actual controversy exists between the parties, which is ripe for declaratory, injunctive, and monetary relief by this court. 29 U.S.C. §1132(a)(1)(B), §1132(a)(3).
21. Venue is proper in this district pursuant to 28 U.S.C. § 1391(a)(2) and (b)(2).
22. Plaintiff also brings supplemental pendant state claims pursuant to 28 U.S.C. § 1367(a).

D. FACTUAL ALLEGATIONS APPLICABLE TO ALL COUNTS

23. Barrett and the other defendants operate numerous internet websites, including, *inter alia*, the websites referenced in this complaint. (*Supra*, ¶¶ 9-13) Barrett is the owner or one of the principals in charge of content and is listed as the contact thereon.
24. Defendants operate the aforesaid websites and others to attack what they unilaterally deem to be unscrupulous health care practices by anyone whose methods or beliefs differ from their own.
25. For unjust and conspiratorial reasons, Defendants have taken to attacking the laboratories, including Doctor's Data, upon which many health care practitioners rely for laboratory analyses.
26. Generally, the users of and visitors to said websites are, *inter alia*, members of the public who are researching and investigating forms of medical treatment for themselves or loved ones; members of the public shopping for a new health care provider who come across one of said websites through Google or other internet search engines; members of the public interested in medicine and healthcare issues who come across one of said websites through Google or other internet search engines; investigators for state medical boards looking for evidence of wrongdoing by practitioners licensed in their jurisdiction; and zealots who have adopted and embraced Barrett's and the other defendants' propaganda.
27. Even though some statements on the websites indicate that the interactive sections are "unmoderated" and "public," Barrett and the other defendants actively control the technical operation and content of these websites, and actively and frequently

refuse access and delete content of users who post “messages... antagonistic to the aims and purposes of [the] antiquackery network.”³

28. Defendants control the content of the websites without regard for the truth of the information published thereon.
29. The aforesaid websites are commercial in nature in that they solicit contributions; advertise, promote and offer to sell Defendants’ self-styled consumer advocacy publications and other products for purchase and sale; encourage potential customers of Doctor’s Data to employ other labs instead, conveniently naming the other labs; and contract themselves out as consultants or experts to attorneys preparing for or engaged in litigation concerning any of the myriad medical issues Defendants have attacked from time to time; for all or most of which, on information and belief, they receive financial remuneration.
30. On information and belief, Quackwatch, though not in good standing, continues to be funded mainly by small individual donations, commissions from sales on other sites to which Quackwatch refers its users through hot links, profits from sales of publications, and other sources unknown to Plaintiff at this time.

ALLEGATIONS PERTAINING TO EXHIBIT A

31. Doctor’s Data performs laboratory testing and analysis of blood, tissues, bodily fluids and by-products, and other samples for a large and diverse population of medical and other healthcare practitioners, some of whom are engaged in the traditional or “mainstream” practice of medicine, and others who would be considered practitioners of “alternative” or “complementary” medicine.

³ “Healthfraud Discussion List” accessed through “Join Discussion” link at www.quackwatch.com.

32. Barrett posted an article on Quackwatch entitled, "How the 'Urine Toxic Metals' Test Is Used to Defraud Patients."⁴ Although it does not contain an original publication date, this article, a copy of which is attached hereto as "**Exhibit A**" and incorporated by reference thereto as though fully set forth herein, is, like most of Defendants' postings, periodically revised. This particular article was updated as recently as March 14, 2010, but the thrust of the article has not changed nor have the derogatory, false comments about Doctor's Data.

33. Exhibit A begins by falsely exclaiming that Doctor's Data "**caters to nonstandard practitioners.**"⁵ While the term itself is virtually meaningless, it has a seriously negative connotation and is meant to insult and denigrate Doctor's Data, whose clientele is diverse and impressive, and includes governments and universities as well as physicians and other health care practitioners.

34. Exhibit A is also meant to interfere with Doctor's Data in, and to cause damage to, its business by driving away clients who do not want to be labeled, or thought of, as "nonstandard" for having employed Doctor's Data to analyze their tests and samples.

35. The first sentence of Exhibit A states, "Many **patients are falsely told** that their body had [*sic*] dangerously high levels of lead, mercury, or other heavy metals and should be 'detoxified' to reduce these levels"; in its second sentence, that it **will explain "how a urine test is used to defraud patients"**; and goes on to presume to tell readers of Quackwatch "**Why Provoked Testing Is a Scam.**"

36. Even though the test is ordered by the practitioner and *not* by the laboratory that analyzes the test results and specimens, and applies the results to standardized

⁴ http://www.quackwatch.org/01QuackeryRelatedTopics/Tests/urine_toxic.html. (Exh. A, printed 3/29/10)

⁵ The actionable language has been bolded for ease of reference. If any such language is bolded in the original text, it will be noted.

reference ranges, Barrett and the other defendants insist that the **management at Doctor's Data is involved in conspiring with "nonstandard practitioners" to defraud patients.**

37. On March 14, 2010, the "Regulatory Actions and Civil Suits" section of Exhibit A was updated to announce that "James Coman filed suit on behalf of his 7-year-old son against Anju Usman, M.D., Daniel Rossignol, M.D., and Doctor's Data."⁶ It was filed in the Cook County Circuit Court, in the Northern District of Illinois.

38. The lawsuit was filed March 3, 2010, by David J. Wilzig, a Los Angeles attorney well known for filing lawsuits promoting Barrett's causes, who is not licensed in Illinois and had to seek leave to appear *pro hac vice* in said lawsuit. It is not a coincidence that the lawsuit was reported on Casewatch.org on March 6, 2010. Affiliated with Quackwatch, it "is an organization that aims to provide you with all the help you need in order to help you solve your fraud cases."⁷

ALLEGATIONS PERTAINING TO EXHIBIT B

39. In an article published on March 5, 2010, in "Consumer Health Digest #10-09," Barrett and the NCAHF, reporting on the Coman lawsuit, announced "Autism Specialists" had been sued. [Quotes in Original]⁸ The article, a copy of which is attached hereto as "**Exhibit B**" and incorporated by reference thereto as though fully set forth herein, greatly simplifies and summarizes the complaint in bullet points but misleads readers to believe the bullet points are factual rather than mere allegations. It then reports false allegations as *facts* in bullet points, such as that Defendants, including Doctor's Data, "**conspired to induce patients to undergo**

⁶ Coman v. Usman, True Health Medical Center, S.C., Rossignol, Creation's Own Corp., and Doctor's Data, Inc., No. 2009-11009 (Cook County, Illinois).

⁷ <http://www.killerstartups.com/Site-Reviews/casewatch-org-your-guide-to-health-fraud>

⁸ <http://www.ncahf.org/digest10/10-09.html>

unwarranted chelation therapy,” and that, **“The scheme** in this case, involving Doctor’s Data, centered around Usman’s **use of a ‘provoked’ urine toxic metals test to falsely assert** that the boy had accumulated dangerous levels of mercury and several other metals.”

40. In the next paragraph of Exhibit B, Barrett, having finished his bullet points, comments, **“The provoked urine toxic metals test is a fraud.”** This is an obvious reference to Doctor’s Data as well as Dr. Rossignol, who practices in Florida, and Dr. Usman, who practices in DuPage County, in the Northern District of Illinois. It is also a false statement.

41. On information and belief, Barrett was instrumental in persuading the plaintiff to file the Coman lawsuit, and that his motivation, *inter alia*, was intimidation and the promotion and validation of his false claims against Doctor’s Data.

ALLEGATIONS PERTAINING TO EXHIBIT C

42. In an article entitled, “CARE Clinics, Doctor’s Data, Sued for Fraud,” a copy of which is attached hereto as **“Exhibit C”** and incorporated by reference thereto as though fully set forth herein, Barrett reported that a lawsuit had been filed against Doctor’s Data and others “for fraud, negligence, and conspiracy in connection with the treatment of [Ronald Stemp]....”⁹ He then reports, again as factual rather than allegations, but not citing to the lawsuit itself, that “[Stemp] subsequently learned that the diagnosis was incorrect and that the test used to diagnose it—**Doctor’s Data’s urine toxic metals test—is a fraud.**”

⁹ <http://www.casewatch.org/civil/stemp/petition.shtml>; Stemp v. CARE Clinics, Inc., Nutrigenomics, Inc., Center for Autistic Spectrum Disorders, Inc., CASD Biomedical Clinic, CASD Bioresearch Clinic and Laboratories, Kazuko Grace Curtain, Jesus Antonio Caquias, Doctor’s Data, Inc., and Jeff Baker, No. 1D-1-GN-09-00279 (Travis County, Texas).

43. Exhibit C was posted on July 15, 2009. (Exh. C, 13) However, the lawsuit was filed July 16, 2009. (Exh. C, 1) **Barrett wrote a summary of the lawsuit and posted it on Casewatch—with a copy of the complaint—the day before it was filed.** Exhibit C was still on the website as of March 29, 2010.

ALLEGATIONS PERTAINING TO EXHIBIT D

44. In an article dated July 16, 2009—the **same day it was filed**—Barrett and NCAHF reported on the Stemp lawsuit in the Digest. (*Supra*, FN9) Page 1 of the “Consumer Health Digest #09-29,” a copy of which is attached hereto as “**Exhibit D**” and incorporated by reference thereto as though fully set forth herein, reported that a “**shady lab**,” referring to Doctor’s Data, was “under legal assault.”¹⁰

ALLEGATIONS PERTAINING TO EXHIBIT E

45. In an article entitled, “Be Wary of CARE Clinics and the Center for Autistic Spectrum Disorders (CASD),” Defendants again declared that “**the urine test [performed by Doctor’s Data] was a fraud.**”¹¹ The article, a copy of which is attached hereto as “**Exhibit E**” and incorporated by reference thereto as though fully set forth herein, was revised on December 31, 2009, and was still posted as of March 30, 2010, in “Autism Watch,” which is billed as “Your Scientific Guide to Autism, Operated by Stephen Barrett, MD.,” and is, like CaseWatch, affiliated with Quackwatch.

ALLEGATIONS PERTAINING TO EXHIBIT F

46. On April 2, 2009, on page 1 of an article entitled, “Your Weekly Update of News and Reviews,” published in Consumer Health Digest #09-14, Barrett referred to a prior Quackwatch article that had “posted a close look at **how the ‘Urine Toxic**

¹⁰ <http://www.ncahf.org/digest09/09-29.html>

¹¹ <http://www.autism-watch.org/reports/casd/overview.shtml>

Metals' test is used to trick people into thinking that they have lead and mercury poisoning and need 'detoxification' with chelation therapy."¹² The article, a copy of which is attached hereto as "**Exhibit F**" and incorporated by reference thereto as though fully set forth herein, was still available as of March 29, 2010.

ALLEGATIONS PERTAINING TO EXHIBIT G

47. In an article entitled, "Laboratories Doing Nonstandard Laboratory Tests," Defendants grouped Doctor's Data with 37 other laboratories and declared that "**routine use of any of these laboratories [would be regarded] as an unfavorable sign.**"¹³ Published on www.quackwatch.com and revised on February 8, 2010, a copy of this article is attached hereto as "**Exhibit G**" and incorporated by reference thereto as though fully set forth herein.

ALLEGATIONS PERTAINING TO ALL EXHIBITS (CONTINUED)

48. The accusations set out in the aforesaid articles by Barrett and the other defendants, as set out in paragraphs 32 through 47 above, are false.
49. The postings on the websites as aforesaid have disrupted and will continue to disrupt the ability of Doctor's Data to conduct business in that internet search engines automatically discover the aforesaid false reports against Doctor's Data, but Doctor's Data does not know who has accessed the sites or is reading or being provided with the false information, and therefore has no opportunity to deny said false claims perpetrated by Defendants as aforesaid.
50. Defendants encourage users of and visitors to said websites to bring lawsuits against individuals or entities engaged in the practice of alternative or

¹² <http://www.ncahf.org/digest09/09-14.html>

¹³ <http://www.quackwatch.org/01QuackeryRelatedTopics/Tests/nonstandard.html>

complementary medicine. To effectuate this goal, they created and ostensibly rely in whole or in part on a “Quackwatch Legal Advisory Board” (“QLAB”) which sounds official, smart and neutral, but is actually a list of lawyers soliciting potential clients “interested in filing lawsuits on behalf of quackery victims.”¹⁴

51. Defendants actively solicit membership for their QLAB throughout the United States and from within the Northern District of Illinois. One such QLAB board member is Mark A. Sanders, of 2549 Waukegan Rd., Bannockburn, Illinois, which is located in the Northern District of Illinois.¹⁵

52. Defendants have created and ostensibly rely in whole or in part on technical advisers in their effort to encourage users of and visitors to said websites to bring lawsuits against individuals or entities engaged in the practice of alternative or complementary medicine. To effectuate this goal, they created a “Quackwatch Scientific and Technical Advisory Board” on www.quackwatch.org. (“QSTAB”), with whose members, upon information and belief, they are in regular contact and communication, and who are involved in “projects [that] can take anywhere from a few minutes per month to several hours per week.”¹⁶ Some QSTAB members are from within the Northern District of Illinois and may have been involved in formulating Defendants’ false and defamatory views.

53. Barrett and the other defendants continue to pose a threat of harm, and continue to cause actual harm, to Doctor’s Data and its business through the hosting, transmission and communication of the aforesaid published false and defamatory statements.

¹⁴ Legal Advisory Board link in “About Quackwatch” section of www.quackwatch.com.

¹⁵ ARDC lists Mr. Sanders at 1 Court of Nantucket, Lincolnshire, Illinois. The website shows him in Bannockburn. Either address is in the Northern District of Illinois.

¹⁶ Scientific and Technical Advisory Board link in “About Quackwatch” section of www.quackwatch.com.

E. CAUSES OF ACTION

COUNT I

(Restraint of Trade, Deceptive Business Practices and Tradename Dilution under Lanham Act)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count I and incorporates them by reference thereto as though fully set forth herein.
54. Section 43(a) of the federal Lanham Act, which is Section 1125 of the U. S. Trademark Act, 15 U.S.C. § 1125, provides, in pertinent part, that (1) any person who, in connection with any services, uses in commerce any false or misleading description of fact, or false or misleading representation of fact, which (B) misrepresents, in the course of commercial promotion, the nature, characteristics, or qualities of another's goods, services, or commercial activities, shall be liable in a civil action by any person who believes he or she is or is likely to be damaged thereby. 15 U.S.C. § 1125(a)(1)(B).
55. Barrett and all the other defendants caused and continue to cause damage to Doctor's Data by having made and continuing to make false or misleading statements, as follows:
- a. That Doctor's Data "caters to nonstandard practitioners," and that use of Doctor's Data or any other lab on Defendants' list would be regarded as "an unfavorable sign." (¶ 34-35, Exh. A; ¶ 47, Exh. G)
 - b. That Doctor's Data prepares, or conspires to prepare, fraudulent reports telling persons that their bodies have dangerously high levels of lead, mercury, or other heavy metals and should be 'detoxified' to reduce these levels," when they really do not, and that the urine test used to render these findings defrauds patients. (¶ 36, Exh. A)

- c. That management at Doctor's Data knows its reports are fraudulent." (§ 37, Exh. A)
 - d. That a "provoked" urine toxic metals test was used in a scheme to falsely assert that a child had accumulated dangerous levels of mercury and several other metals. (§ 40, Exh. B)
 - e. That Doctor's Data conspired with doctors "to induce patients to undergo unwarranted chelation therapy." (§ 40, Exh. B)
 - f. That "Doctor's Data's urine toxic metals test is a fraud." (§ 41, Exh. B; § 42, Exh. C; § 45, Exh. E)
 - g. That Doctor's Data is a "shady lab." (§ 44, Exh. D)
 - h. That the 'Urine Toxic Metals' test is used to trick people into thinking that they have lead and mercury poisoning and need 'detoxification' with chelation. (§ 46, Exh. F)
 - i. That routine use of nonstandard laboratories, which list includes Doctor's Data, "[would be regarded] as an unfavorable sign." (§ 47, Exh. G)
56. The aforesaid false or misleading statements were made in the course of self-promotion by Barrett, Quackwatch, and NCAHF for the purpose of, among other things, soliciting donations and contributions in their war against whatever persons or entities they choose to attack as quacks; attracting visitors to their websites to purchase products from their advertisers; enticing visitors to their websites to visit hot-linked entities that pay referral fees therefor; and encouraging visitors to their websites to file lawsuits for perceived injuries caused by the victims of Defendants' verbal attacks, and to retain QLAB attorneys to

represent them in such lawsuits, which attorneys will then hire QSTAB experts and consultants to assist them in said lawsuits.

57. Defendants' past and present acts and threatened future acts as aforesaid have caused and are likely to continue to cause confusion to the public and to health care practitioners as to whether to employ Doctor's Data for samples and testing analysis, or to employ a laboratory approved by Barrett, Quackwatch, or NCAHF, all in violation of the rights of Doctor's Data under Section 43(a) of the Lanham Act. 15 U.S.C. § 1125(a).

58. Defendants' acts described herein were and are intended to cause and have caused deception of the public. They have misled clients and prospective clients of Doctor's Data as to the true characteristics and qualities of its services; discouraged the public from doing business with a laboratory of superior quality, thereby depriving the public of services that could be beneficial to them; and led anyone who searches for Doctor's Data on the internet to be led to links to Defendants' websites.

59. The damage and negative impact of Defendants' improper conduct as aforesaid was experienced by Plaintiff primarily at its principal place of business in the Northern District of Illinois.

60. Doctor's Data is entitled to compensatory damages, treble damages as punitive damages, plus attorneys' fees and costs pursuant to Section 1117 of the U. S. Trademark Act. 15 U.S.C. § 1117.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Issue an order and judgment declaring that Barrett, Quackwatch, and NCAHF have violated the Lanham Act as alleged;
- B. Award Plaintiff compensatory damages of \$500,000;
- C. Award Plaintiff punitive damages of three-times compensatory damages;
- D. Award Plaintiff attorneys' fees and costs of suit;
- E. Award such other and further relief as deemed just and fair in equity or law.

COUNT II

(Trademark Dilution under Illinois Trademark Registration and Protection Act)

1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count II and incorporates them by reference thereto as though fully set forth herein.

54. The first use by Doctor's Data of its trade name and trademarks in Illinois was in 1981. It first registered a trademark in Illinois in 1984. Most recently, it registered the name, "Doctor's Data," on July 16, 2009, as no. 100587, and it is a valid and active trademark in the State of Illinois.

55. Barrett and the other defendants diluted and continue to dilute the value of Doctor's Data's trade name and trademark and besmirch its reputation by having made and continuing to make false or misleading statements, as follows:

- a. That Doctor's Data "caters to nonstandard practitioners," and that use of Doctor's Data or any other lab on Defendants' list would be regarded as "an unfavorable sign." (¶ 34-35, Exh. A; ¶ 47, Exh. G)
- b. That Doctor's Data prepares, or conspires to prepare, fraudulent reports telling persons that their bodies have dangerously high levels of lead, mercury, or other heavy metals and should be 'detoxified' to reduce these

- levels,” when they really do not, and that the urine test used to render these findings defrauds patients. (¶ 36, Exh. A)
- c. That management at Doctor’s Data knows its reports are fraudulent.” (¶ 37, Exh. A)
 - d. That a “provoked” urine toxic metals test was used in a scheme to falsely assert that a child had accumulated dangerous levels of mercury and several other metals. (¶ 40, Exh. B)
 - e. That Doctor’s Data conspired with doctors “to induce patients to undergo unwarranted chelation therapy.” (¶ 40, Exh. B)
 - f. That “Doctor’s Data’s urine toxic metals test is a fraud.” (¶ 41, Exh. B; ¶ 42, Exh. C; ¶ 45, Exh. E)
 - g. That Doctor’s Data is a “shady lab.” (¶ 44, Exh. D)
 - h. That the ‘Urine Toxic Metals’ test is used to trick people into thinking that they have lead and mercury poisoning and need ‘detoxification’ with chelation. (¶ 46, Exh. F)
 - i. That routine use of nonstandard laboratories, which list includes Doctor’s Data, “[would be regarded] as an unfavorable sign.” (¶ 47, Exh. G)
56. Defendants’ acts described herein were and are intended to cause and have caused damage and embarrassment to Doctor’s Data, have devalued its name and business by having deceived and misled the public as to the true characteristics and qualities of its services; having discouraged the public from doing business with this laboratory of superior quality, thereby depriving the public of services that could be beneficial to them; and having led anyone who performs an internet search of Doctor’s Data to be led to links to Defendants’ websites.

57. The damage and negative impact of Defendants' improper conduct as aforesaid was experienced by Plaintiff primarily at its principal place of business in the Northern District of Illinois.
58. Section 65 of the Illinois Trademark Registration and Protection Act (ITRPA) entitles the owner of a mark which is famous in Illinois "to an injunction against another person's commercial use of a mark or trade name, if the use begins after the mark has become famous and causes dilution of the distinctive quality of the mark..." 765 ILCS 1036/65(a).
59. Due to the intentional nature of Defendants' actions and conduct in diluting the value of Doctor's Data's trade name and trademark and besmirching its reputation by plastering Plaintiff's name on their websites and connecting Plaintiff's name to false and outrageous statements, as aforesaid, for their own financial gain and reputation, Doctor's Data is entitled to the remedies set forth in Section 70 of the ITRPA, including treble damages, attorneys' fees and costs. 765 ILCS 1036/70.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Issue an order and judgment declaring that Barrett, Quackwatch, and NCAHF have violated the Illinois Trademark Registration and Protection Act, as alleged;
- B. Award Plaintiff compensatory damages of \$500,000;
- C. Award Plaintiff punitive damages of three-times compensatory damages;
- D. Award Plaintiff attorneys' fees and costs of suit;
- E. Award such other and further relief as deemed just and fair in equity or law.

COUNT III

(Illinois Consumer Fraud and Deceptive Business Practices Act)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count III and incorporates them by reference thereto as though fully set forth herein.
54. All of the web-ratings of Barrett, Quackwatch, NCAHF, and their websites such as Casewatch, Quackwatch, and Autism-Watch state and declare as a given, based on the apparent authority of their stations and *raison d'etre*, that Doctor's Data did trick consumers, commit fraud, and conspire with physicians to commit fraud.
55. Barrett and the other defendants caused and continue to cause damage to Doctor Data's business and besmirch its reputation by having made and continuing to make false, deceptive, misrepresentative and misleading statements, as follows:
- a. That Doctor's Data "caters to nonstandard practitioners," and that use of Doctor's Data or any other lab on Defendants' list would be regarded as "an unfavorable sign." (¶ 34-35, Exh. A; ¶ 47, Exh. G)
 - b. That Doctor's Data prepares, or conspires to prepare, fraudulent reports telling persons that their bodies have dangerously high levels of lead, mercury, or other heavy metals and should be 'detoxified' to reduce these levels," when they really do not, and that the urine test used to render these findings defrauds patients. (¶ 36, Exh. A)
 - c. That management at Doctor's Data knows its reports are fraudulent." (¶ 37, Exh. A)
 - d. That a "provoked" urine toxic metals test was used in a scheme to falsely assert that a child had accumulated dangerous levels of mercury and several other metals. (¶ 40, Exh. B)

- e. That Doctor's Data conspired with doctors "to induce patients to undergo unwarranted chelation therapy." (§ 40, Exh. B)
- f. That "Doctor's Data's urine toxic metals test is a fraud." (§ 41, Exh. B; § 42, Exh. C; § 45, Exh. E)
- g. That Doctor's Data is a "shady lab." (§ 44, Exh. D)
- h. That the 'Urine Toxic Metals' test is used to trick people into thinking that they have lead and mercury poisoning and need 'detoxification' with chelation. (§ 46, Exh. F)
- i. That routine use of nonstandard laboratories, which list includes Doctor's Data, "[would be regarded] as an unfavorable sign." (§ 47, Exh. G)

56. Barrett and the other defendants caused and continue to cause damage to Doctor Data's business and besmirch its reputation by having omitted and continuing to omit from said websites, and having failed and continuing to fail to inform visitors thereto, of material facts, as follows:

- a. Not one time have they reminded visitors to their websites that a civil complaint is merely a charging document and the fact that Mr. Coman or Mr. Stemp brought a lawsuit is not proof of wrongdoing. (*Supra* at §§ 37-38, Exh. A, FN6-7; §§ 40-41, Exh. B, FN8 (Coman); §42, Exh. C; FN9 (Stemp))
- b. Defendants have never mentioned that Doctor's Data is a CLIA-certified laboratory, or described the rigors of the certification process; nor have they mentioned that Doctor's Data is a laboratory, not a health care practitioner, and the physicians who utilize its services dictate what tests are to be analyzed in the placing of their orders.

- c. Defendants have entirely eliminated from their web writings the possibility that the “provoked urine test” may have uses and benefits, that its use is supported by some very smart, educated doctors and scientists, and that, while reasonable minds may debate its benefits and uses, it is not illegal.
- d. Under the auspices of reporting on lawsuits, Defendants have gone beyond reporting to accuse Doctor’s Data of having conspired, or conspiring, with doctors to commit fraud, but have never stated a single fact to support such accusations.

57. Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act.

815 ILCS 505/2 [Emphasis Added], states; in pertinent part:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the “Uniform Deceptive Trade Practices Act”, approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.

- 58. The omitted facts, as discussed in paragraph 56 above, are material omissions.
- 59. Defendants’ past and present acts, and anticipated future acts, of commission and omission as aforesaid have caused and are likely to continue to cause confusion to the public and to health care practitioners as to whether to employ Doctor’s Data for samples and testing analysis or to instead employ a laboratory approved by Defendants, all to Doctor’s Data’s great damage to its business and harm to its

reputation, in violation of the rights of Doctor's Data under Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act. 815 ILCS 505/2.

60. Defendants' acts and omissions described herein were and are intended to cause and have caused deception of the public, misleading clients and prospective clients of Doctor's Data as to the true characteristics and qualities of its services and have disparaged Doctor's Data's trade name and trademark and besmirched its reputation, are likely to mislead consumers with respect to the true characteristics and quality of Doctor's Data's services, and affiliation, connection, or association of Doctor's Data or its services with other individuals or entities, and to lead anyone who does an internet search of Doctor's Data to be led to links to Defendants' websites where they will be exposed to false and defamatory representations pertaining to Doctor's Data.

61. Defendants' past and present acts and threatened future acts and omissions as aforesaid have caused and are likely to continue to cause confusion to the public and to health care practitioners as to whether to employ Doctor's Data for samples and testing analysis, or to employ a laboratory approved by Defendants, all in violation of the rights of Doctor's Data under Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act. 815 ILCS 505/2.

62. Defendants' acts described herein were and are intended to discourage the public from doing business with this laboratory of superior quality, thereby depriving the public of services that could be beneficial to them.

63. The damage and negative impact of Defendants' improper conduct as aforesaid was experienced by Plaintiff primarily at its principal place of business in the Northern District of Illinois.

64. Doctor's Data is entitled to compensatory damages, treble damages as punitive damages, plus attorneys' fees and costs, pursuant to the Illinois Consumer Fraud and Deceptive Business Practices Act.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Issue an order and judgment declaring that Barrett, Quackwatch, and NCAHF have violated the Illinois Consumer Fraud and Deceptive Business Practices Act;
- B. Award Plaintiff compensatory damages of \$500,000;
- C. Award Plaintiff punitive damages of three-times compensatory damages;
- D. Award Plaintiff attorneys' fees and costs of suit;
- E. Award such other and further relief as deemed just and fair in equity or law.

COUNT IV

(Illinois Deceptive Trade Practices Act)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count IV and incorporates them by reference thereto as though fully set forth herein.
- 54-56. Doctor's Data repeats and re-alleges paragraphs 54 through 56 of Count III above (Illinois Consumer Fraud Act) as paragraphs 54 through 56 of Count IV and incorporates them by reference thereto as though fully set forth herein.
57. Section 2 of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2 [Emphasis Added], states, in pertinent part:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or concealment, suppression or omission of any material fact, with intent that others rely upon the concealment,

suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.

58. The facts omitted by Defendants as discussed in paragraph 56 of this Count IV are material omissions.
59. Defendants' past and present acts and anticipated future acts of commission and omission as aforesaid have caused and are likely to continue to cause confusion to the public and to health care practitioners as to whether to employ Doctor's Data for samples and testing analysis or to employ instead a laboratory approved by Defendants, all to great damage to its business and harm to its reputation, in violation of the rights of Doctor's Data under Section 2 of the Illinois Uniform Deceptive Trade Practices Act. 815 ILCS 510/2.
60. Defendants' acts and omissions described herein were and are intended to cause and have caused deception of the public, misleading clients and prospective clients of Doctor's Data's as to the true characteristics and qualities of Doctor's Data's services, its affiliation, connection, or association of Doctor's Data or its services with other individuals or entities, and leading anyone who performs an internet search of Doctor's Data to links to Defendants' websites.
61. In violation of Section 2(a)(7) of the Illinois Uniform Deceptive Trade Practices Act, Defendants, in making their false and deceptive claims and accusations as set forth above, in connection with the operation of their websites, have represented and continue to represent that Doctor's Data's services are nonstandard and of low quality, when in fact they are of the highest quality, as substantiated by its CLIA and other certifications. 815 ILCS 510/2(a)(7).

62. In violation of Section 2(a)(8) of the Illinois Uniform Deceptive Trade Practices Act, Defendants, in making their false and deceptive claims and accusations as set forth above, in connection with the operation of their websites, have disparaged and continue to disparage Doctor's Data's services and business through false and misleading representations of fact as aforesaid. 815 ILCS 510/2(a)(8, 12).
63. Defendants' past and present acts and threatened future acts and omissions as aforesaid have caused and are likely to continue to cause confusion to the public and to health care practitioners as to whether to employ Doctor's Data for samples and testing analysis, or to employ a laboratory approved by Defendants, all in violation of Plaintiff's rights under Section 2 of the Illinois Uniform Deceptive Trade Practices Act. 815 ILCS 510/2(a)(7, 8).
64. Doctor's Data is entitled to compensatory damages, treble damages as punitive damages, plus attorneys' fees and costs, pursuant to the Illinois Consumer Fraud and Deceptive Business Practices Act.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Issue an order and judgment declaring that Barrett, Quackwatch and NCAHF have violated the Illinois Uniform Deceptive Trade Practices Act, as alleged;
- B. Award Plaintiff compensatory damages of \$500,000;
- C. Award Plaintiff punitive damages of three-times compensatory damages;
- D. Award Plaintiff attorneys' fees and costs of suit;
- E. Award such other and further relief as deemed just and fair in equity or law.

COUNT V
(*Business Libel per se*)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count V and incorporates them by reference thereto as though fully set forth herein.
- 54-56. Doctor's Data repeats and re-alleges paragraphs 54 through 56 of Count III above as paragraphs 54 through 56 of Count V and incorporates them by reference thereto as though fully set forth herein.
57. Defendants' past and present false statements on their aforesaid websites were made intentionally and with malice aforethought.
58. Defendants' past and present false statements on their aforesaid websites have caused great damage to Doctor's Data's business and harm to its reputation, in that said acts and omissions described herein were and are intended to cause and have caused deception of the public, misleading clients and prospective clients of Doctor's Data's as to the true characteristics and qualities of Doctor's Data's services, and have disparaged Doctor's Data's name in the laboratory and health care industries, and besmirched its reputation through false and misleading misrepresentations of fact as aforesaid.
59. Defendants' actions and conduct as aforesaid constitute business libel *per se* in that they attack Doctor's Data's and its management's honesty and ethics, and accuse them of moral turpitude.
60. Doctor's Data has demanded that Defendants cease publication of the wrongful material and publish appropriate apologies or retractions, but Defendants have refused or otherwise failed to do so.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Award Plaintiff compensatory damages of \$500,000;
- B. Award Plaintiff punitive damages of \$1 million for this intentional tort;
- C. Award Plaintiff attorneys' fees and costs of suit;
- D. Award such other and further relief as deemed just and fair in equity or law.

COUNT VI

(Business Libel per quod)

1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count VI and incorporates them by reference thereto as though fully set forth herein.

54-60. Doctor's Data repeats and re-alleges paragraphs 54 through 60 of Count V above as paragraphs 54 through 60 of Count VI and incorporates them by reference thereto as though fully set forth herein.

61. In the alternative, if Defendants' past and present false statements were not made with intent and malice aforethought, as alleged in Count V above, they were made with reckless disregard for the truth or falsity of their claims and statements and constitute libel *per quod*.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Award Plaintiff compensatory damages of \$500,000;
- B. Award Plaintiff punitive damages for this intentional tort;
- C. Award Plaintiff attorneys' fees and costs of suit;
- D. Award such other and further relief as deemed just and fair in equity or law.

COUNT VII

(Tortious Interference with Existing and Potential Business Relationships)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count VII and incorporates them by reference thereto as though fully set forth herein.
- 54-56. Doctor's Data repeats and re-alleges paragraphs 54 through 56 of Count III above as paragraphs 54 through 56 of Count VII and incorporates them by reference thereto as though fully set forth herein.
- 57-58. Doctor's Data repeats and re-alleges paragraphs 59 and 60 of Count III above as paragraphs 57 and 58 of Count VII and incorporates them by reference thereto as though fully set forth herein.
59. Defendants' past and present acts and omissions as aforesaid have caused and are likely to continue to cause the public, and health care practitioners in particular, not to employ Doctor's Data for samples and testing analysis, and are likely to seek out a laboratory approved by Defendants, in interference with Doctor's Data's existing and prospective clients and to its severe damage and detriment.
60. Defendants' past and present false statements on their aforesaid websites have caused great damage to Doctor's Data's business and harm to its reputation, in that said acts and omissions described herein were and are intended to cause and have caused deception of the public, misleading clients and prospective clients of Doctor's Data's as to the true characteristics and qualities of Doctor's Data's services, and have disparaged Doctor's Data's name in the laboratory and health care industries, and besmirched its reputation through false and misleading misrepresentations of fact as aforesaid.

61. Defendants' conduct as aforesaid in disseminating false and disparaging information and dissuading the public from dealing with Doctor's Data constitutes unlawful interference with Doctor's Data's existing and prospective contracts with its current and prospective clients to its severe damage and detriment, as a result of which Doctor's Data has suffered damage to its business, harm to its reputation, humiliation and embarrassment, lost income, attorneys' fees, and other economic loss.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Award Plaintiff compensatory damages of \$500,000;
- B. Award Plaintiff punitive damages for this intentional tort;
- C. Award Plaintiff attorneys' fees and costs of suit;
- D. Award such other and further relief as deemed just and fair in equity or law.

COUNT VIII

(Fraud or Intentional Misrepresentation)

1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count VIII and incorporates them by reference thereto as though fully set forth herein.

54-56. Doctor's Data repeats and re-alleges paragraphs 54 through 56 of Count III above as paragraphs 54 through 56 of Count VIII and incorporates them by reference thereto as though fully set forth herein.

57. Defendants intentionally published and communicated the aforesaid false statements and deceptions knowing they were wrong and misleading, with knowledge, intention and expectation that readers of the aforesaid websites would

believe and rely on them to the detriment of Doctor's Data, as a result of which visitors to the websites who were physicians or other health care practitioners would choose not to employ Doctor's Data for their test and specimen analysis; laypersons who had suffered injury, real or perceived, because or possibly because of the treatment of or by a practitioner of alternative or complementary medicine, or otherwise underwent said treatments which failed to improve the targeted condition, would contemplate filing lawsuits and hiring QLAB attorneys to represent them and QSLAT consultants and advisers to assist them; and, in general, readers would be so thankful for the Quackwatch protectorate that they would contribute donations to Defendants.

58. As a result of Defendants' conduct as aforesaid, Doctor's Data has suffered harm to its reputation, humiliation and embarrassment, lost revenue, attorneys' fees and other economic losses, including crucial loss of good will.

59. The statements made by Defendants are false and malicious. Doctor's Data has never committed fraud in fulfilling its obligations to its clients or the operation of its business, and has never conspired to provide false information to anyone for any purpose, all as stated by Barrett and the other defendants on their websites.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants and specifically that this court:

- A. Award Plaintiff compensatory damages of \$500,000;
- B. Award Plaintiff punitive damages of \$1 million for this intentional tort;
- C. Award Plaintiff attorneys' fees and costs of suit;
- D. Award such other and further relief as deemed just and fair in equity or law.

COUNT IX
(Civil Conspiracy)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count IX and incorporates them by reference thereto as though fully set forth herein.
- 54-56. Doctor's Data repeats and re-alleges paragraphs 54 through 56 of Count III above as paragraphs 54 through 56 of Count IX and incorporates them by reference thereto as though fully set forth herein.
57. Barrett and all the other defendants have engaged in, committed, and conspired to engage in and commit fraud or intentional misrepresentation, libel, and tortious interference with economic advantage, all directed at Doctor's Data.
58. By way of example, the Coman lawsuit discussed above was filed against Doctor's Data and others on March 3, 2010. (*Supra*, ¶¶ 37-41) By March 6th news of the lawsuit was on Defendants' websites due to the conspiracy between Defendants and James Coman's lawyer, David J. Wilzig, of Los Angeles, California, who is well known for filing lawsuits promoting Barrett's causes, and filed Coman in Cook County, in the Northern District of Illinois.
59. Likewise, Defendants, who operate Casewatch "to provide you with all the help you need in order to help you solve your fraud cases," reported the filing of the Stemp lawsuit on July 15, 2009. However, the lawsuit *was not filed until the next day*, July 16, 2009. (*Supra*, ¶¶ 42-44).
60. Defendants have engaged and conspired to engage in disparaging and defaming Doctor's Data and the management thereof.
61. Defendants have willfully created or become members of this conspiracy.

62. Defendants have committed overt tortious acts in furtherance of the conspiracy to defraud consumers and to disparage and defame Doctor's Data, as described herein, have benefited therefrom, and the impact of which was experienced primarily at Plaintiff's principal place of business in the Northern District of Illinois, and by the public in Illinois and the Northern District of Illinois.
63. Doctor's Data has been damaged as a direct and proximate result of this conspiracy.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Award Plaintiff compensatory damages of \$500,000;
- B. Award Plaintiff punitive damages for this intentional tort;
- C. Award Plaintiff attorneys' fees and costs of suit;
- D. Award such other and further relief as deemed just and fair in equity or law.

COUNT X

(Corporate Officer and Board Member Personal Liability)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count X and incorporates them by reference thereto as though fully set forth herein.
- 54-56. Doctor's Data repeats and re-alleges paragraphs 54 through 56 of Count III above as paragraphs 54 through 56 of Count X and incorporates them by reference thereto as though fully set forth herein.
57. Section 3.20 of the Illinois Business Corporations Act states that all persons who assume to exercise corporate powers without authority to do so shall be jointly

and severally liable for all debts and liabilities incurred or arising during such time as they are acting without authority to do so. 805 ILCS 5/3.20.

58. Officers of a foreign corporation whose charter has been revoked or otherwise dissolved in its home state can be held personally liable for operating a pretend corporation.

59. Section 8.65 of the Illinois Business Corporations Act states that all directors of a corporation that continues to carry on business after dissolution, over and above what is necessary to wind up the business thereof, shall be jointly and severally liable for all debts and liabilities incurred or arising during such time as the corporation is illegally carrying on its business. 805 ILCS 5/8.65.

60. Once the corporate charter of Quackwatch was dissolved by the Commonwealth of Pennsylvania, it ceased to be a legally recognized corporation for purposes other than the winding up of its business. (*Supra*, ¶ 9)

61. Clearly, Quackwatch has not been winding up its business as it continues to post disparaging, embarrassing, humiliating, libelous remarks about Doctor's Data, which are written and posted by Defendants or some of them, at which time they were and continue to assume and assert corporate powers which they had and have no authority to do because the corporation has been dissolved.

62. As such, the actions of the officers and directors of Quackwatch were and are operating in derogation of Illinois law and, as such, each officer and director should be held jointly and severally liable for all damages incurred by Doctor's Data after the dissolution of Quackwatch on April 3, 2009.

63. The identities of Quackwatch's officers and directors at all times from April 3, 2009, through the present, are unknown to Plaintiff.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter judgment for it and against Defendants, and specifically that this court:

- A. Declare that Quackwatch has violated Illinois law by operating as a dissolved corporation after April 3, 2009, and find all officers and directors thereof since the date of dissolution to be jointly and severally liable for all damages arising out of this lawsuit.
- B. In conjunction with paragraph A of this prayer for relief, order Quackwatch to disclose the identities and contact information for all such officers and directors.
- C. Award Plaintiff costs of suit;
- D. Award such other and further relief as deemed just and fair in equity or law.

COUNT XI
(Injunctive Relief)

- 1-53. Doctor's Data repeats and re-alleges paragraphs 1 through 53 above as paragraphs 1 through 53 of Count XI and incorporates them by reference thereto as though fully set forth herein.
- 54-56. Doctor's Data repeats and re-alleges paragraphs 54 through 56 of Count III above as paragraphs 54 through 56 of Count XI and incorporates them by reference thereto as though fully set forth herein.
- 57. The situation as described herein demonstrates that Doctor's Data has a clearly ascertainable right in need of protection by this court. The postings on the websites have disrupted and continue to disrupt Doctor's Data ability to conduct business in that internet search engines automatically, quickly and easily supply links to these false, disparaging, libelous and humiliating statements.

58. The situation as described herein has caused and is causing Doctor's Data irreparable harm, for every day the aforesaid items are allowed to exist on Defendants' numerous and well-known and frequently viewed websites, Doctor's Data suffers increased embarrassment, humiliation, and its outstanding reputation in the industries it serves is being further disparaged and besmirched.
59. Doctor's Data has no adequate remedy at law for the harm it has befallen and continues to suffer due to Defendants' unlawful and improper conduct, because of the difficulty in calculating damages based on income, if any, to websites which are or claim to be not-for-profit, making the potential to recover actual money damages in the significant amount alleged above and claimed herein, quite slim.
60. Moreover, Doctor's Data will continue to suffer irreparable harm in the form of damage and injury to its business, reputation and goodwill, and will sustain loss of revenues, profits, and market share, and will continue to do so unless the Defendant is preliminarily and permanently restrained and enjoined by the Court from further false advertising practices.
61. Furthermore, Defendant has refused to comply with Doctor's Data's requests to remove the postings and delete all false statements of fact about or concerning Doctor's Data. Without knowing the identities of the presently unknown posters of such information, Doctor's Data does not have the ability to prevent Defendants and others from continuing to disseminate such false, misleading, disparaging and defamatory comments and allegations to third parties.
62. Based on the allegations of misconduct by defendants herein, there is a strong likelihood that Doctor's Data will succeed on the merits of its claims herein.

63. The harm to the public if the aforesaid unlawful and disparaging statements are stricken during the pendency of these proceedings is far less than, and is outweighed by, the severe harm occasioned upon Doctor's Data minute by minute that the aforesaid websites are allowed to carry these disparaging statements.

WHEREFORE, DOCTOR'S DATA, INC., Plaintiff, prays that this court enter an order granting Doctor's Data a permanent injunction; direct them to remove or delete all disparaging statements and remarks pertaining to Doctor's Data from these or any websites under their control; and prohibit them from publishing these or any other or additional such remarks on blogs, the aforesaid websites, or any other websites pending the outcome of this litigation.

F. JURY DEMAND

PLAINTIFF DEMANDS TRIAL BY JURY ON COUNTS I THROUGH X.

Respectfully submitted,

DOCTOR'S DATA, INC., Plaintiff,

By Augustine, Kern and Levens, Ltd., its
attorneys.

s/: Jeffrey B. Levens

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