

**IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY,  
PENNSYLVANIA  
CIVIL DIVISION - LAW**

|                           |   |                     |
|---------------------------|---|---------------------|
| DONALD D. HARRISON,       | ) | No. 2006-C-2564     |
| Plaintiff                 | ) |                     |
| v.                        | ) | IN CIVIL ACTION     |
|                           | ) |                     |
| ALLEN J. BOTNICK, STEPHEN | ) | JURY TRIAL DEMANDED |
| BARRETT, CHIROBASE, and   | ) |                     |
| QUACKWATCH,               | ) |                     |
| Defendants                | ) |                     |

**COMPLAINT**

COMES NOW, Plaintiff, Donald Harrison, by and through his attorneys, Swankin & Turner, and Laub, Seidel, Cohen, Hof & Reid, L.L.C., and files the within Complaint, and in support thereof, avers the following:

**PARTIES**

1. Plaintiff, Donald Harrison, is an adult individual, who at all times relevant hereto, resides at P.O. Box 1590, Evanston, Uinta County, Wyoming. (Hereinafter the term "Plaintiff" shall refer to Plaintiff Donald Harrison.)
  
2. Defendant, Allen J. Botnick, is an adult individual, who at all times relevant hereto, resides at 1111 Livingston Avenue, Apartment #1, New Brunswick, Middlesex County, New Jersey. (Hereinafter, referred to as "Defendant Botnick".)
  
3. The Defendant, Stephen Barrett, is an adult individual, who at all times relevant hereto, resided at 2421 West Greenleaf Street, Allentown, Lehigh

County, Pennsylvania. (Hereinafter referred to as “Defendant Barrett”.)

4. The Defendant, Chirobase, is an internet-based business, with a principal place of business located at 2421 West Greenleaf Street, Allentown, Lehigh County, Pennsylvania.

5. The Defendant, Quackwatch, is an internet-based business, with a principal place of business located at 2421 West Greenleaf Street, Allentown, Lehigh County, Pennsylvania.

### **JURISDICTION**

6. The amount in controversy exceeds the amount established by and for Court of Common Pleas of Lehigh County requiring compulsory arbitration in that the amount in controversy exceeds \$50,000.00.

### **COUNT I - DEFAMATION** **DONALD HARRISTON v. ALLEN J. BOTNICK**

7. In 1980, Plaintiff founded a technique of chiropractic known as Chiropractic Biophysics® and Chiropractic Biomechanics of Posture®.

8. In or about November, 2003, Defendant Botnick wrote an article entitled “A Close Look at Chiropractic Biophysics (CBP)” which was published on the website of Defendant Chirobase. (A true and correct copy of said article is attached hereto and marked as Exhibit “A”.)

9. This article portrayed as fact, false statements about the manner in

which Plaintiff practiced chiropractic care.

10. The Chirobase website referred to Plaintiff by name throughout, the statements contained therein were made about and concerning the Plaintiff, and were so understood by those who read the article to be about Plaintiff.

11. The article contained false statements about Plaintiff and the form of chiropractic he founded, including, but not limited to:

- (a) There is “no relationship between the loss of neck curvature and . . . pain or degenerative changes[,]” when scientific evidence says there is;
- (b) That “CPB analysis does not appear to consider underlying causes of postural problems such as pregnancy, obesity, ligament instability, foot pronation (19), muscle shortening, and malformation of the vertebrae [20,21] [,]” leading to false and dangerous diagnoses, when in fact Plaintiff has included these items in CBP texts he has authored and published;
- (c) That Samuel Homola, D.C., stated [A Patients Guide] “warns that forced extension of the neck can interfere with blood flow in the carotid and vertebral arteries in the nec and cause a stroke[,]” when in truth the reference makes no

statement about stroke;

- (d) That “At the last seminar I attended, Harrison himself told me that 50% of patients were quitting care because of pain[,]” when in fact Plaintiff made no such statement, and the content of the statement was untrue;
- (e) That CBP misleads patients and makes false diagnoses when it takes the position that “most human disease is caused by biomechanical problems of the spine[,]” when CBP does not hold that position;
- (f) That “CBP sometimes fails to recognize when biomechanical problems lower in the body must be corrected before trying to change areas above them [,]” when in truth part of the initial CBP examination looks for the stated abnormalities and recognizes the necessity of correcting them before or during treatment of abnormalities in the upper body;
- (g) That “CBP assumesthat existence of proprioceptive deficits and shortened ligaments based on the patient’s posture and without using established testing [,]” when there is considerable published clinical trial supporting CBP treatments in this area;

(h) That “Patients visiting CBP offices typically receive boilerplate examination that may not identify the true cause for their complaints[,]” when the published CBP textbooks authored by Plaintiff emphasize the importance of individualized examinations.

12. Defendant Botnick repeatedly cited obscure and discredited research on chiropractic to defame Plaintiff when he knew that the prevailing scientific view and overwhelming scientific evidence was contrary to the defamatory statements being made.

13. Defendant Botnick falsely portrayed Plaintiff’s chiropractic method as unsafe, ineffective, over-priced, and misrepresenting its capabilities with the goal of persuading patients to abandon further treatment or persuading potential patients from seeking treatment.

14. On March 26, 2004, Plaintiff demanded a retraction from Defendant Botnick of the defamatory statements made by him and published by Defendant Barrett on said website.

15. On July 5, 2004, Defendant Botnick refused to retract the statements.

16. On or about August 28, 2005, Defendant Botnick signed an open letter retracting the above-described article. In this letter, Defendant Botnick

made the following statements:

*“After reading Dr. Deed Harrison D.C.’s response to the article quoted above I have decided to retract the article and provide some explanation to both chiropractors and the public at large.”*

*“...after reading Dr. Harrison’s response I am concerned that the article I wrote was actually steering patients away from care that was proving to be more effective than other treatments, both chiropractic and medical, for chronic pain syndromes. I wrote earlier that I was concerned that the postural improvements might not last but the research has proven me wrong.”*

*“While all of the research is not yet done, I agree with Dr. Harrison that there is good science supporting the idea that misaligned joints associates with reversed spinal curves are a risk factor for musculoskeletal pain and warrant attention so that patients can maintain healthy joints for as long as possible.”*

*“In conclusion, please accept my apology for these inaccuracies. I applaud the work of Dr. Harrison and the rest of the DBP research team. Their focus on sound scientific methodology has made significant contributions to advancing chiropractic methods and challenging sacred cows in the shared research literature. I believe that their unique work will help many patients who would otherwise have been condemned to lives of suffering and musculoskeletal dysfunction. These individuals deserve recognition for their hard work, not ostracism as quacks.”*

17. Defendant Botnick sent the above described letter to Defendant Barrett on August 29, 2005, informing Defendant Barrett of the retraction and that

Defendant Botnick was no longer convinced that his criticisms of Chiropractic Biophysics were valid.

18. On or about said date, Defendant Botnick asked Defendant Barrett to retract the original article and post a copy of the retraction on Chirobase and Quackwatch.

19. At some time between August 28, 2005 and October 17, 2005, Defendant Barrett removed, or caused to be removed, the Botnick article from the Chirobase website, made minor changes to the article, and posted, or caused to be posted, on the Chirobase website a slight variant on the article under the name of Stephen Barrett, M.D., containing the defamatory statements complained about by Plaintiff and previously retracted by Defendant Botnick.

20. On several occasions during the period October, 2005 and May, 2006, Defendant Botnick repeatedly made malicious statements about Plaintiff and Chiropractic Biophysics and published them on discussion forums on the Chirotalk web site, to wit:

- (a) "Insurance fraud is a good term for it. However, I'm not sure if it really is fraud because it is sanctioned through state licensing. Perhaps quackery is the best term." (Chirotalk, 10/31/05)
- (b) "What you describe is called high volume practice. It is

based on the idea that chiropractic is a separate profession that can ignore diagnosis of patient complaints. Typically patients are run through a boilerplate examination and then put on plan of manipulation that are supposed to be able to restore their vertebral or postural alignment. This problem with this kind of practice is that because it ignores the underlying problems, it never cures anything and patients are encouraged to make frequent visits for a lifetime.

Because diagnosis is ignored, it is not safe. (Chirobase, 10/31/05)

- (c) "They may act as if CBP is legitimate but it really is debunked." (Chirotalk, 11/3/05)
- (d) "I had a conversation with him where Deed Harrison told me he would only fit a foot orthotic after someone did his entire regimen of care after a few months. When I told him this violated the principle of the lower kinematic chain he said that eh didn't believe in it and felt posture causes everything! When I wrote this up for chirobase he wrote in a response article that I lied and made it all up. I think he is dishonest." (Chirotalk, 11/3/05)

- (e) “This is pretty amazing. Chiropractic Biophysics of Posture (CBP) is an oversimplified chiropractic technique based on the idea that even people with advanced disk degeneration can have normal posture [citation omitted]” (Chirotalk, 12/3/05)
- (f) “...Also, there is no indication that their mirror image adjustments are necessary and do anything more than pad the bill. So the method has a long way to go before it achieves legitimacy.” (Chirotalk, 12/3/05)
- (g) “When patients are considering spending \$20,000 they deserve the right to know that their chiropractics recommending a treatment that has a high probability of success that is confirmed by research. Unfortunately this is not the case with CBP.” (Chirotalk, 12/3/05)
- (h) “Chiropractic Biomechanics of Posture (CBP) claims to be scientific but except for the work done on posture analysis, its treatment is for the most part unproven.” (Chirotalk, 1/6/06)
- (i) “I’ve been bearish on CBP for many reasons. First, its diagnostic regimen makes too many assumptions, leading to

premature diagnosis and overutilization.” (Chirotalk, 1/6/06)

(j) “So far there is no evidence showing that mirror image adjustments are necessary at all ...” (Chirotalk, 5/30/06)

(k) “Another major problem is that they don’t believe in and fully understand the rule of the lower kinematic chain - a proven biomechanical fact (i.e. that foot pronation causes postural adaptations above). In this response, Deed Harrison explains that he ignores it - leading to unnecessary treatment.” (Chirotalk, 5/30/06)

21. The above-referenced statements were published by Defendant Botnick after he wrote his letter of retraction in which he stated Plaintiff’s chiropractic was focused “on sound scientific methodology [and] has made significant contributions to advancing chiropractic methods...”

22. The false statements made between October, 2005 and May, 2006 were made with malice as Defendant Botnick knew full well that they were false.

23. The above article is libelous on its face.

24. Said article exposes Plaintiff to hatred, contempt, ridicule, obloquy because it charges Plaintiff with misdiagnosing patients, subjecting patients to overexposure of radiation, using chiropractic techniques not based on scientific

evidence, and using a technique that resulted in patients having strokes.

25. Other websites linked to and published the article as published by Defendant Botnick/Barrett, furthering the loss of reputation of Plaintiff among the chiropractic and general communities.

26. Defendant Botnick did not limit his defamatory statements to the article he published on the Quackwatch website. Prior to publishing the article, he made other defamatory statements, including, but not limited to:

- (a) However, many people without symptoms have curves that deviate from CBP's "ideal spine," and research has not demonstrated that anything unique to CBP improves treatment outcomes. The report concludes: 'Patients may expend considerable time and money only to find that they are no better or worse than if they had a few manipulations to the areas related to their symptoms. And some will wind up with unnecessary lifelong care that includes excessive exposure to radiation.' Some practitioners advocate treating children from birth onward. [Botnick A. A Close look at Chiropractic Biophysics (CBP). Chirobase, Nov. 24, 2003] after reading the article, CBP's originator (Donald D. Harrison, DC, PhD, MSE) stated that it contained

'misleading, false & slanderous statements' and demanded that it be removed. When asked to identify the statements, he refused and stated that he will sue the author and the webmaster."

- (b) "They have not integrated ligament reconstruction and core muscle stabilization for hypermobility into their protocols. That was one of the most unsettling things about researching CBP. Numerous CBP doctors and teachings contradict their official position that the method addresses these factors. For example, in that response Deed Harrison admits that CBP teaches that posture causes foot deformity - which contradicts the concept of the kinematic chain-then he claims he addresses the topic in his office and that I fabricated the story which is untrue..."
- (c) "...One problem is that because the formal biomechanics training chiropractic is so poor that chiropractors don't have the knowledge base to evaluate Harrison's arguments. So they end up blindly following him - as they do with all the other technique gurus..."
- (d) "There are studies showing that cervical kyphosis is a risk

factor for neck pain. The trick is identifying where the fundamental problem is. For example, cause a large intersegmental misalignment of the thoracic spine and this will unsettle the foundation of the neck, tipping it interior and causing forward head posture. CBP would ignore the intersegmental problem and treat globally, missing it..."

- (e) "...Standard CBP treatment is much more boilerplate based on posture with none of the specialized rehabilitation."
- (f) "CBP is based on the idea that posture is a primary pathophysiology. It assumes that contractures of the anterior longitudinal ligament are present in every hypolordotic state and overprescribes traction to correct the supposed problems."
- (g) "It assumes that mirror image adjustments useful in changing posture. [sic]"
- (h) "It does not examine for individual underlying problems such as muscle shortening by checking specific muscles. It does not check fascia for restrictions."
- (i) "It assumes that abnormal postures require very high repetition isotonic endurance exercise to train muscles to

accept new neutral positions.”

- (j) “It believes that the fundamental cause of foot pronation or supination is postural problems.”
- (k) “...The funny thing is that Deed Harrison, the author of that so called rebuttle [sic] doesn’t even have an undergraduate degree. Chiropractors don’t need it prior to DC applicaiton and he didn’t bother...”

27. As a direct and proximate result of the above-described publication, Plaintiff has suffered loss of his reputation, shame, mortification, and injury to his business, all to his damage in a total amount be established at trial.

28. As a direct and proximate result of the above-described publication, citing the Botnick/Barrett article, companies which provide health insurance to Plaintiff’s patients (and patients of other practitioners of CBP) have denied coverage for the treatment provided by Plaintiff.

29. The above-described publications were not privileged because they were published by Defendants with malice, hatred and ill-will toward Plaintiff and the desire to injure him.

30. The above-described publications by Defendant were not privileged because they were published knowingly by Defendant after he was

aware of the inaccuracies contained within the article.

31. The above-described publications by Defendant Botnick were not privileged because they were published knowingly by him after he publicly stated the inaccuracies in the statements he was making.

**WHEREFORE**, Plaintiff demands judgment in his favor and against Defendant Botnick in an amount that exceeds the jurisdictional amount requiring arbitration by local rule together with interest and costs. Plaintiff further demands a trial by jury of twelve of his peers to determine his cause.

**COUNT II - DEFAMATION**  
**DONALD HARRISON v. STEPHEN BARRETT, QUACKWATCH and**  
**CHIROBASE**

32. Plaintiff incorporates paragraphs 1 through 31 by reference as though same were set forth more fully and at length herein.

33. On or about August 29, 2005, Defendant Barrett, Quackwatch and Chirobase received the above described letter from Defendant Botnick, informing them of the retraction and that Defendant Botnick was no longer convinced that his criticisms of Chiropractic Biophysics were valid.

34. On said date, Defendant Barrett was requested to retract the original article and post a copy of the retraction on Chirobase/Quackwatch. (A true and correct copy of said retraction letter is attached hereto and marked as Exhibit "B".)

35. At some time between August 28, 2005 and October 17, 2005, Defendant Barrett published, or caused to be published, a slight variant of the article, previously published and then retracted, by Defendant Botnick about Plaintiff and the branch of chiropractic he founded.

36. Defendant Barrett defamed Plaintiff in this article by knowingly making false statements including:

- (a) "Harrison clearly subscribes to a version of chiropractic dogma that most human disease is caused by biomechanical problems of the spine."
- (b) "CBP chiropractors commonly suggest that any deviation from the Harrison Spinal Model ideal value will inevitably lead to degenerative disease process that will adversely affect their health by impairing joint position sense, causing osteoarthritis, herniating spinal disks, and/or putting tension on the spinal cord and nerve roots."
- (c) "CBP analysis can accurately and reliably describe a patient's posture. However, its practitioners use this information to make questionable diagnoses of shortened ligaments and proprioceptive problems that require prolonged and expensive treatment."

- (d) “None of the listed studies demonstrates that patients treated with CBP felt or functioned better as a result of anything unique to CBP treatment.”
- (e) “Patients visiting CBP offices typically receive boilerplate examinations to determine whether their spinal curvature is ‘ideal.’ They are also advised to have x-ray examinations of their entire spine even if they have no symptoms justifying such tests. Patients may expend considerable time and money for treatment that has not been shown to be more effective than a few manipulations to the areas related to their symptoms. And some will wind up with unnecessary long-term care that includes excessive exposure to radiation.”

37. Despite being previously informed by Plaintiff and Defendant Botnick that the statements contained in Defendant Botnick’s August, 2005 article were false, and knowing the statements were false, Defendant Barrett continued to make defamatory statements against Plaintiff, including:

- (a) The inclusion of Chiropractic Biophysics in the “Index of Questionable Treatments” on the Quackwatch website (10/17/05);

(b) The listing of “Chiropractic Biophysics (revised 11/25/03)” on the home page of the Quackwatch website under “Questionable Diagnostic and Treatment Practices (10/17/05).

38. As a direct and proximate result of the above-described publication, Plaintiff has suffered loss of his reputation, shame, mortification, and injury to his business, all to his damage in a total amount be established at trial.

39. As a direct and proximate result of the above-described publication, citing the Botnick/Barrett article, companies which provide health insurance to Plaintiff’s patients (and patients of other practitioners of CBP) have denied coverage for the treatment provided by Plaintiff.

40. The above-described publications were not privileged because they were published by Defendants with malice, hatred and ill-will toward Plaintiff and the desire to injure him.

41. The above-described publications by Defendant were not privileged because they were published knowingly by Defendant after he was aware of the inaccuracies contained within the article.

42. The above-described publications by Defendant Barrett were not privileged because they were published knowingly by him after the author,

Defendant Botnick, publicly stated the inaccuracies in the statements he was making.

**WHEREFORE**, Plaintiff demands judgment in his favor and against the Defendants in an amount that exceeds the jurisdictional amount requiring arbitration by local rule together with interest and costs. Plaintiff further demands a trial by jury of twelve of his peers to determine his cause.

**COUNT III - PUNITIVE DAMAGES**  
**DONALD HARRISON v. ALLEN BOTNICK, STEPHEN BARRETT,**  
**CHIROBASE and QUACKWATCH**

43. Plaintiff incorporates paragraphs 1 through 42 by reference as though same were set forth more fully and at length herein.

44. At all times material hereto, Defendants' publication and re-publication of the above-described articles and statements referenced herein were done so with malice and the intent to injure and permanently damage Plaintiff's reputation.

45. At all pertinent times, the above-described conduct of the Defendants was reckless and outrageous and amounted to an indifference to the rights of Plaintiff such as to warrant an award of punitive damages under and pursuant to Restatement (Second) of Torts § 908, as adopted in the law of the Commonwealth of Pennsylvania.

**WHEREFORE**, Plaintiff demands judgment in his favor and against the

Defendants in an amount that exceeds the jurisdictional amount requiring arbitration by local rule together with interest and costs. Plaintiff further demands a trial by jury of twelve of his peers to determine his cause.

Respectfully Submitted,

Date: \_\_\_\_\_

Christopher M. Reid  
LAUB, SEIDEL, COHEN, HOF & REID, L.L.C.  
8 Centre Square  
Easton PA 18042  
(610) 258-6184

and

\_\_\_\_\_  
James S. Turner  
SWANKIN & TURNER  
1400 16th Street NW, Suite 101  
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**VERIFICATION**

The undersigned having read the attached pleading verifies that the within document is based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. The language of the pleading is that of counsel and not of signer. Signer verifies that he/she has read the within document and that it is true and correct to the best of signer's knowledge, information and belief. To the extent that the contents of the pleading are that of counsel, verifier has relied upon counsel in taking this Verification. This Verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
\_\_\_\_\_ Donald D. Harrison \_\_\_\_\_