

# 17-2651-CV

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**United States Court of Appeals**  
*for the*  
**Second Circuit**

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DR. ROBERT M. GOLDMAN, DR. RONALD KLATZ,

*Plaintiffs-Appellants,*

— v. —

DR. STEPHEN J. BARRETT, QUACKWATCH, INC.,

*Defendants-Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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**BRIEF AND APPENDIX FOR  
DEFENDANT-APPELLEE DR. STEPHEN J. BARRETT**

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## STATEMENT OF THE ISSUES

1. The plaintiffs, two anti-aging doctors, alleged in their Original Complaint that defendant Dr. Stephen J. Barrett defamed them in an article on his website, “Quackwatch.” After the Original Complaint was dismissed, the plaintiffs filed an Amended Complaint with a new theory: that Dr. Barrett defamed them in phone calls with government officials in China and Malaysia, thereby sabotaging the plaintiffs’ multi-million dollar business deals in those countries. The Amended Complaint would concededly be timely only if it relates back under Rule 15 to the Original Complaint, which made no mention of the calls that form the basis of the Amended Complaint. Was the District Court (Judge Gardephe) correct that the Amended Complaint did not relate back to the Original Complaint?

2. The plaintiffs’ Amended Complaint includes two tortious interference claims (a substantive claim and a conspiracy claim) that are based on the same phone calls and that seek the same damages as their defamation claim. Was Judge Gardephe correct to dismiss these claims as duplicative of the defamation claim, and barred by the shorter, one-year statute of limitations for defamation ?

3. The Amended Complaint accuses Dr. Barrett of conspiring with defendant “Quackwatch, Inc.,” which was dissolved in 2009 and which has never been served or appeared. The plaintiffs concede that this claim cannot proceed standing alone. Was Judge Gardephe correct to dismiss the conspiracy claim?

## FACTUAL BACKGROUND

### **The Quackwatch Article Reporting Fines Against the Plaintiffs**

The plaintiffs are two “anti-aging” specialists who filed this suit in November 2015 accusing Dr. Barrett of defaming them via an article dated March 5, 2001 on his website, “Quackwatch,” reporting that the plaintiffs were fined by the State of Illinois for falsely holding themselves out as “M.D.s.” (A-10, 12 (¶¶ 17-21, 29); SA-22-24 (article); SA-25-29 (Duff Wilson, *Aging: Disease or Business Opportunity*, N.Y. TIMES, April 15, 2007 (discussing plaintiffs’ “anti-aging” practices).) The plaintiffs did not allege that the Quackwatch article was false in any way, nor could they have in good faith done so.

The article consists of a five-sentence introduction and summary of the disciplinary proceedings against the plaintiffs, followed by a verbatim reprinting of the Consent Orders that they themselves signed. (*Compare* SA-22-23 (article) *with* SA-5-10 (Consent Orders); *see also* SA-3-4 (records available online reflecting the fines paid).) As indicated in the Consent Orders, the plaintiffs have medical degrees from a school in Belize that does not qualify for “M.D” licensure under Illinois law, and they agreed to pay \$5,000 each for having nonetheless used the “M.D.” designation in Illinois. (SA-5-10.)

The plaintiffs state in their brief that the “previous fines were vacated through an administrative process” in 2006 (Pl. Br. at 7 (emphasis in original)), but

that is a blatant misrepresentation. In the cited Order, the Illinois Department of Professional Regulation noted that one plaintiff, Dr. Ronald Klatz, had again improperly held himself out as an M.D. — this time in an advertisement in an Illinois medical journal — but decided not to fine him further because the advertisement was placed “in contravention of his standing order” to his staff. (SA-30-31.) Nothing from the prior Order was vacated or modified, and the earlier fines were not refunded.<sup>1</sup>

**Judge Gardephe Dismisses the Original Complaint Concerning the Article**

On August 24, 2016, Judge Gardephe dismissed all the claims in the Original Complaint, on the following grounds.

First, Judge Gardephe dismissed the plaintiffs’ defamation claim because the plaintiffs did not “allege that any statement made in the Article constitutes a false statement fact.” (A-32.) Judge Gardephe also concluded that, to the extent the article’s appearance on a website called “Quackwatch” would imply the plaintiffs are “quacks,” there was no defamation by implication. (A-32-38.) The term “quack” refers to someone who “falsely pretends to have medical skills or

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<sup>1</sup> Dr. Barrett’s counsel requested that the 2006 Order (among other documents) be included in the Appendix, as the Order was incorporated by reference in the plaintiffs’ Original Complaint (A-11 (¶ 24)) and presented to the District Court (SA-30-32), but, in violation of Rule 30’s directive that appellants “must include” materials designated by the appellee, *see* Fed. R. App. P. 30(b)(1), the plaintiffs simply refused. (SA-33-40.)



knowledge,” and that is exactly what the plaintiffs did by misrepresenting their credentials. (A-34-35.)

Second, Judge Gardephe dismissed the remaining claims as either duplicative (tortious interference and prima facie tort), barred by the fact that there was no allegation of a false statement (N.Y. Gen. Bus. L. § 349), or otherwise failed to state a claim (civil conspiracy). (A-38-43.)

Finally, Judge Gardephe dismissed all the claims on the independent ground that they were barred by the statute of limitations. (A-43-47.) The article was published in 2001, which was *fourteen years* before the plaintiffs sued. (A-44.)

### **The Plaintiffs’ Amended Complaint**

In October 2016, the plaintiffs filed an Amended Complaint that no longer asserted any claims based on the Quackwatch article but instead focused on entirely new allegations. (A-49-61.) The Amended Complaint accuses Dr. Barrett of disparaging them in calls with unnamed officials of the Chinese and Malaysian governments, in order to sabotage the plaintiffs’ multi-million dollar business deals in those countries. (A-55-58 (¶¶ 40-62).) The phone calls allegedly occurred before this suit was originally filed (A-56-57 (¶¶ 48, 61)), yet were mentioned nowhere in the Original Complaint.

The Amended Complaint asserts claims for defamation, tortious interference, and conspiracy to commit tortious interference. (A-58-60 (¶¶ 63-86).)

**Judge Gardephe Dismisses the Amended Complaint Concerning the Calls**

On July 25, 2017, Judge Gardephe dismissed the Amended Complaint with prejudice. (A-63-78.)

First, Judge Gardephe dismissed the defamation claim as untimely because the conversations allegedly occurred more than one year before the filing of the Amended Complaint. (A-73; *see also* A-56-57 (¶¶ 48, 61).) Judge Gardephe concluded that the allegations in the Amended Complaint did not relate back to the Original Complaint because “[t]here is nothing in the original complaint that hints at — much less asserts — Plaintiffs’ new claim that Defendants made oral statements to Chinese government officials — nearly fifteen years after the Article was published — that were defamatory of Plaintiffs.” (A-75.)

Second, Judge Gardephe dismissed the plaintiffs tortious interference claims (both the substantive claim and the conspiracy claim) as duplicative because those claims were “clearly premised on the same set of facts as their defamation claim.” (A-77.) He also concluded that these claims were subject to the shorter one-year statute of limitations for defamation because they were “in essence” defamation claims. (A-77 n.8.) This was an independent basis for dismissal.

Finally, Judge Gardephe dismissed the conspiracy claim on the separate ground that Dr. Barrett could not “conspire” with his co-defendant, Quackwatch, Inc., since the company had been dissolved and no longer existed. (A-78 n.8.)

### **The Plaintiffs' Appeal**

This appeal followed. (A-79.)

Notably, the plaintiffs do not challenge on appeal Judge Gardephe's dismissal of the Original Complaint, which was based on the Quackwatch article, and instead focus exclusively on his dismissal of the Amended Complaint, which was based on the phone calls with foreign government officials. (Pl. Br. 12-18.)

Their decision to focus solely on the allegations concerning the phone calls is a curious one, because Dr. Barrett has filed before the District Court a motion to sanction the plaintiffs and their counsel for having no factual basis to make these allegations. (ECF Nos. 42, 45-53.) The plaintiffs refused to voluntarily disclose to Dr. Barrett's counsel the factual basis for believing these calls ever took place, and, in response, Dr. Barrett moved for sanctions, supported by home phone records and cell phone records showing that, in fact, he never spoke with anyone in China or Malaysia during the relevant time. (ECF No. 51 ¶¶ 5-16; 52 ¶¶ 3-4.)

Faced with having to actually defend what the plaintiffs had alleged as fact — including specific allegations that, for example, Dr. Barrett told the government officials that the plaintiffs were going to be “criminally prosecuted” (A-56 (¶ 50)) — plaintiffs could only muster a declaration with secondhand speculation that the calls “likely” occurred, and “likely” caused the cancellation of the business venture. (ECF No. 47 ¶ 12.) The plaintiffs submitted *nothing* to suggest there was

a factual basis for the detailed allegations about what Dr. Barrett supposedly said on the calls. (A-56-57 (¶¶ 49-54).) It is now quite clear that the plaintiffs not only lacked any basis to believe the calls took place, but worse, fabricated out of thin air statements that Dr. Barrett supposedly said on those calls. The plaintiffs have repeated these fabrications to this Court. (Pl. Br. 8-9).

The sanctions motion remains pending before the District Court, and counsel for Dr. Barrett will promptly advise this Court when and if it is decided.

### **SUMMARY OF THE ARGUMENT**

This appeal is meritless.

*First*, Judge Gardephe properly dismissed the plaintiffs' defamation claim in the Amended Complaint as time-barred because it does not relate back to the Original Complaint. The Amended Complaint was based on an entirely new set of allegations — that Dr. Barrett made defamatory statements in phone conversations with officials in China and Malaysia —that appear nowhere in the Original Complaint.

*Second*, Judge Gardephe properly dismissed the plaintiffs' tortious interference claims (the substantive claim and conspiracy claim) as duplicative of their defamation claim. The plaintiffs' purported injuries stem entirely from the allegedly defamatory statements rather than any independent conduct, which is not enough to sustain a separate claim for tortious interference.

*Finally*, the trial court properly dismissed the conspiracy claim because it concededly cannot be brought as a standalone claim. In addition, Judge Gardephe was correct to conclude that Dr. Barrett cannot “conspire” with a nonexistent corporate entity, his co-defendant “Quackwatch, Inc.”

## **ARGUMENT**

### **I. THE DEFAMATION CLAIM WAS CORRECTLY DISMISSED AS UNTIMELY BECAUSE IT DOES NOT RELATE BACK TO THE ORIGINAL COMPLAINT**

Judge Gardephe correctly concluded that the defamation claim in the Amended Complaint did not relate back to the Original Complaint, and was therefore untimely.

“For a newly added action to relate back, the basic claim must have arisen out of the conduct set forth in the original pleading.” *Slayton v. Am. Exp. Co.*, 460 F.3d 215, 228 (2d Cir. 2006) (quotations and citation omitted). The “central inquiry is whether adequate notice of the matters raised in the amended pleading has been given to the opposing party within the statute of limitations by the general fact situation alleged in the original pleading.” *Id.* (citation omitted); *see also Schiavone v. Fortune*, 477 U.S. 21, 31 (1986) (noting that the “linchpin” of relation back “is notice, and notice within the limitations period”).

Here, the calls described in the Amended Complaint are not referenced in the Original Complaint at all. The Original Complaint is solely premised on allegations that Dr. Barrett published an article on his Quackwatch website, and

cannot possibly be read to give Dr. Barrett notice of the phone calls that are the heart of the Amended Complaint. As Judge Gardephe correctly observed: “There is nothing in the original complaint that hints at — much less asserts — Plaintiffs’ new claim that Defendants made oral statements to Chinese government officials fifteen years after the Article was published — that were defamatory of Plaintiffs.” (A-75.)

Judge Gardephe’s ruling is consistent with other cases in this Circuit. In *Ridge Seneca Plaza, LLC v. BP Prods. N. Am. Inc.*, 545 F. App’x 44 (2d Cir. 2013), for example, a property owner sued an inspection firm for failing to detect oil contamination during a study in the year 2000, and this Court concluded that claims relating to an updated study, in 2003, did not relate back to the original complaint: “These later events were separate transactions, despite their connection to the first assessment.” *Id.* at 46-47.

As a further example, in *Pruiss v. Bosse*, 912 F. Supp. 104, 106 (S.D.N.Y. 1996) (cited with approval in *Ridge Seneca*, 54 F. App’x at 47), then-District Judge Parker ruled that a proposed amendment to allege a different instance of the same defamatory statement (that the plaintiff swim coach had sexual encounters with young girls) did not “relate back” to the original complaint because the allegations concerned “distinct” acts occurring on “new dates.” 912 F. Supp. at 106.

Judge Parker explained that an “amendment will not relate back if it sets forth a new set of operational facts; it can only make more specific what has already been alleged.” *Id.*; *see also* 6A Charles A. Wright, et al., Federal Practice & Procedure § 1497 & n.6 (3d ed. 2010) (explaining that “amendments alleging the separate publication” of the same “libelous statement” do not relate back to the initial publication) (collecting cases). If defamatory statements on one occasion do “relate back” to other instances of the *same* statements (as in *Pruiss*), then it is all the more clear that allegedly defamatory statements (the calls alleged here) cannot relate back to other instances of *different* statements (the Quackwatch article).

In response, the plaintiffs argue that that “the Complaint included sufficient allegations regarding” Dr. Barrett’s alleged conduct, and that the Amended Complaint merely “fleshed out the details.” (Pl. Br. at 7.) But these “sufficient allegations” consist only of the vague statement in the Original Complaint that the “Article was accessed by prospective business clients of the Doctors and as a result, Dr. Goldman and Dr. Klatz suffered actual damages in the loss of prospective economic gain with business contacts.” (*Id.* at 13-14 (quoting A-16 (¶ 67).) At best, this allegation suggests that the *article* was responsible for scuttling *potential* business dealings, not that Dr. Barrett made numerous oral, defamatory statements about the plaintiffs (including that they are criminals) wholly separate from the article and resulting in the loss of specific projects that

were underway. (A-56-57 (¶¶ 49-54) (detailing what Dr. Barrett allegedly said on the calls).) In other words, the Original Complaint suggests at most that Dr. Barrett played a passive role, with unspecified “prospective” business clients themselves accessing the article and deciding not to do unspecified business with the plaintiffs. That is a far cry from the active role alleged in the Amended Complaint, where Dr. Barrett supposedly went out of his way report to officials in China and Malaysia information beyond what was contained in the article, so as to terminate particular transactions that the plaintiffs had already “entered into” (not “prospective” business). (A-59 (¶ 74) (alleging Chinese Project had been “entered into”); *see also* A-57 (¶ 60) (alleging that “[t]erms of the Malaysia Project were agreed upon by the parties”).)

The cases the plaintiffs cite in their brief do not help their case, and instead only underscore why the Amended Complaint does not relate back to the Original Complaint.

- In *Holdridge v. Heyer-Schulte Corp.*, 440 F. Supp. 1088 (N.D.N.Y. 1977) (Pl. Br. at 14), the court found that tort claims in an original complaint relating to a doctor’s insertion of one prosthesis did not support relation back for an amended complaint containing claims related to other prostheses in the plaintiff’s body. *Id.* at 1093-94. The



separate insertion amounted to “a new set of operational facts,” *id.* at 1094, which is exactly the case here.

- In *Sokolsku v. Trans Union Corp.*, 178 F.R.D. 393 (E.D.N.Y. 1998) (Pl. Br. 15), the court found relation back where an amended complaint included new causes of action based on “the same conduct that g[ave] rise” to the original complaint. *Id.* at 397. Here, the Amended Complaint is not based on the “same conduct” as the Original Complaint.

The Court should therefore affirm the dismissal of the plaintiffs’ defamation claim.

## **II. PLAINTIFFS’ TORTIOUS INTERFERENCE CLAIMS WERE PROPERLY DISMISSED AS DUPLICATIVE OF THE DEFAMATION CLAIM**

Judge Gardephe also properly dismissed the plaintiffs’ tortious interference claims (both the substantive claim and the alleged conspiracy to interfere) because they are duplicative of the defamation claim, and in all events subject to the one-year statute of limitations for defamation.

“New York law considers claims sounding in tort to be defamation claims,” regardless of their label, “where those causes of action seek damages only for injury to reputation, [or] where the entire injury complained of by plaintiff flows from the effect on his reputation.” *Hengjun Chao v. Mount Sinai Hosp.*, 476 F.

App'x 892, 895 (2d Cir. 2012) (citation and internal quotation omitted); *see also Joseph v. Joseph*, 967 N.Y.S.2d 324, 325 (1st Dep't 2013) (dismissing various tort claims because they “rest on the same facts and allegations supporting the alleged defamation claim”).

In addition, if a claim “sounds in defamation,” the claim will be subject to the one-year statute of limitations for defamation, regardless of a plaintiff's efforts to “redescrib[e]” the claim as something else. *Morrison v. Nat'l Broad. Co.*, 227 N.E.2d 572, 574 (N.Y. 1967).

In *Chao*, for example, a doctor named Hengjun Chao alleged that a hospital's internal investigation wrongly concluded he had “committed research misconduct.” 476 F. App'x at 894. This Court concluded that various tort claims were duplicative of his defamation claim because (i) “the factual allegations underlying each of Chao's other tort claims are virtually identical to the facts underlying his defamation claim — namely, that the defendants made false statements regarding Chao's research integrity” and because (ii) “the harms that Chao contends he suffered as a result of these other torts — attorneys' fees, emotional distress, distraction from his research, and his termination of employment — all ‘flow[ ] from the effect on his reputation’ caused by defendants' alleged defamatory statements.” *Id.* at 895.

These same considerations merit dismissal in this case.

First, both the defamation claim and the tortious interference claims are premised on the same facts — namely, Dr. Barrett’s remarks in phone calls with government officials. The Amended Complaint makes this abundantly clear because the defamation is alleged to have occurred via “statements made by the Defendants to” the government officials in due diligence phone interviews (A-58 (¶ 64)), and the tortious interference is alleged to have arisen from Dr. Barrett “*defaming* Dr. Goldman and Dr. Klatz in the interviews” (A-59 ( ¶ 77) (emphasis added)). These are two slightly different ways of alleging the same facts.

In addition, there can be no serious dispute that any alleged harm from the tortious interference “flows from the effect on [the plaintiffs’] reputation.” *Chao*, 476 F. App’x at 895. Again, the Court need look no further than the plaintiffs’ own Amended Complaint. It alleges that Dr. Barrett’s defamatory statements “cast immediate doubt into the Plaintiffs’ qualifications as both medical doctors and businessmen and resulted in . . . a direct and immediate lost business opportunity.” (A-58 (¶ 69).) This allegation links directly the alleged defamation (disparaging the plaintiffs’ qualifications) and the alleged harm (the lost business opportunities).

Moreover, the tortious interference count states that Dr. Barrett “used *defamatory* statements” to harm the plaintiffs’ “specific business interests.” (A-60 (¶ 78) (emphasis added).) This allegation is effectively a concession that any lost business opportunities flowed from Dr. Barrett allegedly “defam[ing]” the

plaintiffs, which is exactly why there can be no separate tort apart from defamation (and, separately, no escaping the one-year statute of limitations).

Notably, the damages for the claims are all identical, further confirming that the claims are duplicative. (*Compare* A-60 (¶ 69) (defamation resulted in “a direct and immediate lost business opportunity”) *with* A-58 (¶ 79) (as a result of alleged tortious interference “the China Project was terminated and Dr. Goldman and Dr. Klatz each suffered a loss of over ten million dollars”); *id.* (¶ 85) (alleging for conspiracy count the “loss of prospective business relationships”).)

The plaintiffs argue that their tortious interference and conspiracy claims are nonetheless distinct from their defamation claim because they have alleged “a separate and specific injury apart from the general effect on Plaintiff’s reputation.” (Pl. Br. 18.) But the relevant question is not whether the plaintiffs suffered something more than reputational harm; it is whether there is injury separate from what “*flows from*” that reputational harm. *Chao*, 476 F. App’x at 895.

The plaintiff in *Chao* tried to make a virtually identical argument — that the alleged conduct “caused him injury *beyond reputational harm*, including the cost of attorneys throughout the process, injury to his ability to focus on his research, emotional distress, and his ultimate termination,” but the District Court concluded, and this Court affirmed, that those harms were insufficient because they “all flow from the effect of the allegedly defamatory statement.” *Chao v. Mount Sinai Hosp.*,

No. 10 Civ. 2869, 2010 WL 5222118, at \*12 (S.D.N.Y. Dec. 17, 2010), *aff'd*, 476 F. App'x 892, 895 (2d Cir. 2012) (emphasis added). And, in fact, there are a “plethora of cases in which courts have found that claims brought under the guise of other causes of action actually sound in defamation, even if the plaintiff alleged economic harm” from specific lost business transactions. *Lesesne v. Brimecome*, 918 F. Supp. 2d 221, 225 (S.D.N.Y. 2013) (collecting cases).

In response, the plaintiffs cite a number of cases arguing that the tortious interference claim is not duplicative. Each of these cases is easily distinguishable:

- In *Classic Appraisals Corp v. DeSantis*, 552 N.Y.S.2d 402 (2d Dep't 1990) (cited Pl. Br. at 16), the court only addressed whether interference “by words” was sufficient to allege a tortious interference claim. *Id.* at 403. *Classic Appraisals* did not discuss a defamation claim; thus, the court was not asked to decide whether a tortious interference claim should be dismissed as duplicative.
- In *Eisenberg v. Yes Clothing Co.*, No. 90 Civ. 8280, 1991 WL 107432 (S.D.N.Y. June 7, 1991) (cited Pl. Br. at 16-17), the plaintiff was a sales manager at a clothing distributor, and alleged that one of her employer's suppliers tortiously interfered with her employment contract by “demanding her termination” — a demand that was ultimately met. *Id.* at \*2. The court found that the tortious

interference claim was not duplicative because it arose “out of the *action taken by* defendants in inducing and compelling” the plaintiff’s termination. *Id.* at \*4 (emphasis in original; internal quotations omitted).

- Finally, in *Lindner v. Int’l Bus. Machines Corp.*, No. 06 CIV. 4751, 2008 WL 2461934 (S.D.N.Y. June 18, 2008) (cited Pl. Br. at 17-18), the plaintiff alleged that his former work colleagues “interceded with” a vendor of the company to ensure that he would not get a new job there, and the court concluded that this conduct was distinct from defamation. *Id.* at \*2, \*12-14.

In each of these cases, the defendant was accused of taking affirmative steps — such as using economic leverage to block the plaintiff’s career advancement (*Linder*) or to get the plaintiff fired (*Eisenberg*) — distinct from simply defaming the plaintiff. Here, by contrast, Dr. Barrett is accused of classically defamatory conduct — “cast[ing] doubt into the Plaintiffs’ qualifications as both medical doctors and businessmen” (A-58 ( ¶ 69)). This renders the Plaintiffs’ tortious interference claims nothing more than defamation by another name.

Judge Gardephe’s dismissal of those claims was therefore proper.

### **III. THE DISTRICT COURT PROPERLY DISMISSED THE PLAINTIFFS' CONSPIRACY CLAIM**

The plaintiffs concede that their “conspiracy claim cannot stand alone” (Pl. Br. 21), and, thus, if this Court agrees that the other claims were properly dismissed, then the conspiracy claim must be dismissed as well.

Contrary to the plaintiffs’ arguments, Judge Gardephe was correct to also dismiss the conspiracy claim on the separate ground that Dr. Barrett cannot “conspire” with a non-existent, dissolved entity, Quackwatch, Inc. (A-78 n.8.)

The plaintiffs argue that the Court should not have taken judicial notice of the document from the Pennsylvania Department of State showing that Quackwatch, Inc. was dissolved (Pl. Br. 19-20; A-25-26), but, in fact, this Court routinely takes judicial notice of public records when evaluating motions to dismiss. *See, e.g., In re Morgan Stanley Info. Fund Secs. Litig.*, 592 F.3d 347, 354 n.5 (2d Cir. 2010) (SEC filings); *Mangiafico v. Blumenthal*, 471 F.3d 391, 398 (2d Cir. 2006) (docket of another case). State corporate records are classic examples of public records that that are properly subject to judicial notice.<sup>2</sup>

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<sup>2</sup> *See, e.g., Couzens v. Donohue*, 854 F.3d 508, 513 n.6 (8th Cir. 2017) (taking “judicial notice of publicly available records from the Kansas Secretary of State” about a corporation’s status); *Wallace v. Media News Group, Inc.*, 568 F. App’x 121, 123 n.2 (3d Cir. 2014) (taking judicial notice that a company was “incorporated in Delaware”); *Horowitz v. CitiMortgage, Inc.*, 533 F. App’x 885, 888 (11th Cir. 2013) (taking “judicial notice of the certificate of merger filed with the New York Department of State”); *Swindol v. Aurora Flight Sciences Corp.*, 805 F.3d 516, 519 (5th Cir. 2015) (taking “judicial notice of public documents

The plaintiffs have cited no case to the contrary. They point to *Old Republic Ins. Co. v. Hansa World Cargo Serv., Inc.*, 170 F.R.D. 361 (S.D.N.Y. 1997), as a case “declining to take judicial notice of dissolution” of a company (Pl. Br. at 21), but fail to disclose that the proponent of the evidence in that case had “not submitted any public record to this Court which establishes [the] dissolution,” and relied instead on an affidavit with “with no verifiable information.” *Id.* at 372. The *Old Republic* case therefore undermines the plaintiffs’ position.

The plaintiffs are also wrong to argue that it was “reversible error” under the “law of the case” doctrine for Judge Gardephe to have considered the dissolution document for purposes dismissing the Amended Complaint, when he had not done so when dismissing the Original Complaint. (Pl. Br. 19-20.)

In fact, Judge Gardephe did not change positions, as the plaintiffs incorrectly suggest. In dismissing the Original Complaint, Judge Gardephe noted that the dissolution certificate (among various other documents) was not “attached to, incorporated by reference in, or integral to the complaint” and so would not be considered. (A-29 n.2.) In dismissing the Amended Complaint, Judge Gardephe addressed the separate issue of whether the court could take judicial notice of the

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establishing [a defendant company’s] citizenship” for diversity purposes); *Town of New Windsor v. Avery Dennison Corp.*, No. 10-CV-8611 CS, 2012 WL 677971, at \*6 (S.D.N.Y. Mar. 1, 2012) (taking judicial notice of corporate dissolution record); *Am. Cas. Co. v. Lee Brands, Inc.*, No. 05 CIV. 6701, 2010 WL 743839, at \*4 (S.D.N.Y. Mar. 3, 2010) (same).



document as a public record. (A-63-64 n.3). These are separate issues, and there was no conflict in the two positions.

In any event, the law of the case doctrine would not help the plaintiffs, even if Judge Gardephe had changed positions. The law of the case doctrine “directs a court’s discretion, but does not restrict its authority,” *Westerbeke Corp. v. Daihatsu Motor Co.*, 304 F.3d 200, 219 (2d Cir. 2002) (citation omitted), meaning that Judge Gardephe was not bound to whatever he may have decided before. Nor could this Court possibly be bound, either: “Even if a ruling is the law of the case in the district court it does not bind an appellate court in reviewing a judgment.” *Steinborn v. Daiwa Secs. America, Inc.*, 104 F.3d 351, 1996 WL 547197, at \*1 (2d Cir. Sept. 26, 1996); *see also Rezzonico v. H & R Block, Inc.*, 182 F.3d 144, 149 (2d Cir. 1999) (“[L]aw of the case doesn’t bind an appellate court.”).

This Court may therefore take judicial notice that Quackwatch, Inc. has long since dissolved, which means that the alleged “conspiracy” was impossible.

## CONCLUSION

For the stated reasons, the Court should affirm.

Dated: New York, New York  
January 5, 2018

Respectfully submitted,

STEPTOE & JOHNSON LLP

By: /s/ Charles Michael

Charles Michael

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*Counsel for Dr. Stephen J. Barrett*

**CERTIFICATE OF COMPLIANCE  
WITH RULE 32 AND LOCAL RULE 32.1**

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) and Local Rule 32.1(a)(4) because it contains 4,523 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f)).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it this brief has been prepared in a proportionally spaced typeface, specifically 14-point Times New Roman in Microsoft Word 2010.

Dated: New York, New York  
January 5, 2018

Respectfully submitted,

STEPTOE & JOHNSON LLP

By: /s/ Charles Michael

Charles Michael

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mkeough@steptoe.com

*Counsel for Dr. Stephen J. Barrett*

## **SUPPLEMENTAL APPENDIX**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

DR. ROBERT M. GOLDMAN and  
DR. RONALD KLATZ,

Plaintiffs,

—against—

DR. STEPHEN J. BARRETT and  
QUACKWATCH, INC.,

Defendants.

15 Civ. 9223 (PGG) (HBP)

**DECLARATION OF DR. STEPHEN J. BARRETT**

1. I am a defendant in the above lawsuit and submit this declaration in support of my motion to dismiss this case in its entirety.
2. Attached are true copies of the following documents:

Ex.	Document
A	Complaint (Dkt. 1)
B	Printouts from the website of the Illinois Department of Financial and Professional Regulation showing that the plaintiffs, Dr. Robert Goldman and Dr. Ronald Klatz, agreed to pay a fine for improperly referring to themselves as “M.D.s” (the “proceeding” and “settlement” referenced in ¶ 22 of the Complaint)
C	Consent Orders between Dr. Goldman and Dr. Klatz and the Illinois Department of Financial and Professional Regulation, dated December 6, 2000 (the “proceeding” and “settlement” referenced in ¶ 22 of the Complaint)
D	Printout of the homepage of the Quackwatch website (www.quackwatch.org)
E	Printout from the website of the Pennsylvania Department of State showing that the Quackwatch defendant was dissolved in 2009
F	Quackwatch, <i>Anti-Aging ‘Gurus’ Pay \$5,000 Penalties</i> (last rev. March 6, 2001), the article at issue, which has not been altered since 2001

Ex.	Document
G	A compilation of how the article (Ex. F) and its source code appeared at various points in time from October 2002 (the earliest date available) to the present as preserved via the website archive.org
H	Duff Wilson, <i>Aging: Disease or Business Opportunity?</i> , N.Y. TIMES (Apr. 15, 2007)
I	Order from Illinois Department of Financial and Professional Regulation, dated February 26, 2006 (referenced in ¶ 24 of the Complaint)
J	Pre-motion letter from Charles Michael (my attorney) to the Court, dated December 15, 2015 (Dkt. 9)
K	Plaintiffs' response letter to the Court, dated December 23, 2015 (Dkt. 11)

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Pittsboro, North Carolina  
January 21, 2016




---

Dr. Stephen J. Barrett

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12/2/2015

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## Illinois Department of Financial & Professional Regulation

Bryan A. Schneider, Secretary

Bruce Rauner, Governor

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12/2/2015  
Information found on:  
Ronald Klatz DO, 36064669, Chicago, IL

Action	Discipline Start Date	Discipline End Date	Reason For Action
Fine	12/06/2000		Agreed to cease and desist using the designation "M.D." in addition to the appropriate "D.O." title. He received a degree as a doctor of medicine, but was never properly licensed to use the title "M.D." in Illinois. \$5000 FINE DUE AND PAID

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The Reason For Action from this Lookup dates back to January 1, 1990. Any actions and/or Reason For Action taken against a license prior to 1990 **may not** be displayed. Note that the Reason For Action is extracted from the Monthly Disciplinary Report. Therefore, the text in this column may not begin appearing until the report for the month/year the discipline was issued has been compiled.

**Please Note: Reason for disciplinary actions which occurred for Real Estate professions prior to February 1, 2008 will not be listed here. Please contact the department for information regarding past Real Estate disciplines.**

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12/2/2015

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## Illinois Department of Financial & Professional Regulation

Bryan A. Schneider, Secretary

Bruce Rauner, Governor

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12/2/2015  
Information found on:  
ROBERT M GOLDMAN DO, 36074384, CHICAGO, IL

Action	Discipline Start Date	Discipline End Date	Reason For Action
Fine	12/06/2000		Agreed to cease and desist using the designation "M.D." in addition to the appropriate "D.O." title. He received a degree as a doctor of medicine, but was never properly licensed to use the title "M.D." in Illinois. \$5000 FINE DUE AND PAID

[Return to the Dpr home page](#)

Click [here](#) for definitions of the different types of disciplinary actions the Department may impose.

The Reason For Action from this Lookup dates back to January 1, 1990. Any actions and/or Reason For Action taken against a license prior to 1990 **may not** be displayed. Note that the Reason For Action is extracted from the Monthly Disciplinary Report. Therefore, the text in this column may not begin appearing until the report for the month/year the discipline was issued has been compiled.

**Please Note: Reason for disciplinary actions which occurred for Real Estate professions prior to February 1, 2008 will not be listed here. Please contact the department for information regarding past Real Estate disciplines.**

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**STATE OF ILLINOIS****DEPARTMENT OF PROFESSIONAL REGULATION**

DEPARTMENT OF PROFESSIONAL REGULATION	)	
of the State of Illinois,	)	
	)	
	)	
RONALD KLATZ	)	No. 199903689
License No. 36-064669,	)	
	)	
	)	

**CONSENT ORDER**

The Department of Professional Regulation by John Goldberg, one of its attorneys, and Ronald Klatz, Respondent, hereby agree to the following:

**STIPULATIONS**

Ronald Klatz is licensed as a Physician and Surgeon in the State of Illinois, holding license No. 36-064669. At all times material to the matter set forth in this Consent Order, the Department of Professional Regulation of the State of Illinois had jurisdiction over the subject matter and parties herein.

Information has come to the attention of the Department that Respondent, who is a licensed osteopath, utilized the designation of M.D. in addition to that of D.O., the designation reflected by his licensure. Respondent received a Doctor of Medicine degree in 1998 from the Central America Health Sciences University School of Medicine in Belize, an institution approved by the World Health Organization. However, said degree was never properly licensed through this Department, thereby, according to the Department, precluding the Respondent from identifying himself as an M.D.

The Department believes that the allegation(s), as set forth herein, if proven to be true, would violate 225 Illinois Compiled Statutes (1998), Section 60/28 and therefore would constitute grounds for suspending or revoking Respondent's license as a Physician and Surgeon, on the authority of 225 Illinois Compiled Statutes (1998), Section 60/22(A), paragraph(s) 13.

As a result of the foregoing allegation(s), the Department held a Conference at the offices of the Department, 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601 on June 7, 2000. Respondent appeared in person on that date, represented by Anthony G. Barone. Virgil Wikoff, with subsequent input from Sandra F. Olson, M.D.,

participated as members of the Medical Disciplinary Board of the State of Illinois and John Goldberg appeared as an attorney for the Department.

Respondent admits that he utilized the designation but denies that the use violated any laws including 225 ILCS 60/28. However, the parties have reached an agreement to settle this dispute and Respondent accepts the following terms and conditions in settlement thereof.

Respondent has been advised of the right to have the pending allegation(s) reduced to written charges, the right to a hearing, the right to contest any charges brought, and the right to administrative review of any Order resulting from a hearing. Respondent knowingly waives each of these rights, as well as any right to administrative review of this Consent Order.

Respondent and the Department have agreed, in order to resolve this matter, that Ronald Klatz be permitted to enter into a Consent Order with the Department, providing for the following:

#### **CONDITIONS**

WHEREFORE, the Department, through John Goldberg, its attorney, and Ronald Klatz, agree:

A. Respondent shall immediately Cease and Desist from identifying himself, in the State of Illinois, as an M.D. or otherwise utilizing said designation in the State of Illinois until such time as he becomes properly authorized to do so by the Illinois Department of Professional Regulation. This shall not preclude Respondent from listing his degree from Central America Health Sciences University in the educational part of his curriculum vitae or any similar document so long as the designation is not affixed to or immediately follows his name or any other designation such as D.O. affixed to his name.

B. Respondent shall pay Five Thousand (\$5,000.00) Dollars to be remitted along with this executed Consent Order.

C. Any violation by Respondent of the terms and conditions of this Consent Order shall be grounds for the Department to immediately file a Complaint to revoke the Respondent's license to practice as a Physician and Surgeon in the State of Illinois.

D. This Consent Order shall become effective immediately after it is approved by the Director of the Department.

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JAN-24-2001 10:34

IDPR PUBLIC INFORMATION

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P.07

E. It is understood by the Department that Respondent has authored numerous books and other publications which are in print and in which the M.D. designation is used. Respondent is under contract with several different publishers relating to these books and publications. These contracts generally provide the publisher with the right to reprint books as well as provide the publishers with paperback and other rights. The use of the M.D. designation in any books or publications already in print as of the date of this Order, including reprints of said books and publications occurring after the date hereof, shall not constitute a violation of this Order. In addition, the terms of this Order shall not apply to the book, "What's Eating You?" which is already under contract as of the date of this Order.

DEPARTMENT OF PROFESSIONAL REGULATION  
of the State of Illinois

10-10-2000  
Date

John W. Goldberg  
John Goldberg  
Attorney for the Department

10-4-00  
Date

Ronald Katz  
Respondent

10-5-00  
Date

Anthony G. Barone  
Attorney for the Respondent

November 1, 2000  
Date

Pam Cook  
Member, Medical Disciplinary Board

The foregoing Consent Order is approved in full.

Dated this 10<sup>th</sup> day of December, 2000.

DEPARTMENT OF PROFESSIONAL REGULATION  
of the State of Illinois

Leonard A. Sherman  
Leonard A. Sherman, Director

REF: License No. 36-064669  
Case No. 199903690

TOTAL P.07

**STATE OF ILLINOIS****DEPARTMENT OF PROFESSIONAL REGULATION**

DEPARTMENT OF PROFESSIONAL REGULATION	)	
of the State of Illinois,	)	
	)	
	)	
Complainant	)	
v.	)	No. 199903690
ROBERT GOLDMAN	)	
License No. 36-074384,	)	
Respondent	)	

**CONSENT ORDER**

The Department of Professional Regulation by John Goldberg, one of its attorneys, and Robert Goldman, Respondent, hereby agree to the following:

**STIPULATIONS**

Robert Goldman is licensed as a Physician and Surgeon in the State of Illinois, holding license No. 36-074384. At all times material to the matter set forth in this Consent Order, the Department of Professional Regulation of the State of Illinois had jurisdiction over the subject matter and parties herein.

Information has come to the attention of the Department that Respondent, who is a licensed osteopath, utilized the designation of M.D. in addition to that of D.O., the designation reflected by his licensure. Respondent received a Doctor of Medicine degree in 1998 from the Central America Health Sciences University School of Medicine in Belize, an institution approved by the World Health Organization. However, said degree was never properly licensed through this Department, thereby, according to the Department, precluding the Respondent from identifying himself as an M.D.

The Department believes that the allegation(s), as set forth herein, if proven to be true, would violate 225 Illinois Compiled Statutes (1998), Section 60/28 and therefore would constitute grounds for suspending or revoking Respondent's license as a Physician and Surgeon, on the authority of 225 Illinois Compiled Statutes (1998), Section 60/22(A), paragraph(s) 13.

As a result of the foregoing allegation(s), the Department held a Conference at the offices of the Department, 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601 on June 7, 2000. Respondent appeared in person on that date, represented by

Anthony G. Barone. Virgil Wikoff, with subsequent input from Sandra F. Olson, M.D. participated as members of the Medical Disciplinary Board of the State of Illinois and John Goldberg appeared as an attorney for the Department.

Respondent admits that he utilized the designation but denies that the use violated any laws including 225 ILCS 60/28. However, the parties have reached an agreement to settle this dispute and Respondent accepts the following terms and conditions in settlement thereof.

Respondent has been advised of the right to have the pending allegation(s) reduced to written charges, the right to a hearing, the right to contest any charges brought, and the right to administrative review of any Order resulting from a hearing. Respondent knowingly waives each of these rights, as well as any right to administrative review of this Consent Order.

Respondent and the Department have agreed, in order to resolve this matter, that Robert Goldman be permitted to enter into a Consent Order with the Department, providing for the following:

#### **CONDITIONS**

WHEREFORE, the Department, through John Goldberg, its attorney, and Robert Goldman, agree:

A. Respondent shall immediately Cease and Desist from identifying himself, in the State of Illinois, as an M.D. or otherwise utilizing said designation in the State of Illinois until such time as he becomes properly authorized to do so by the Illinois Department of Professional Regulation. This shall not preclude Respondent from listing his degree from Central American Health Sciences University in the educational part of his curriculum vitae or any similar document so long as the designation is not affixed to or immediately follows his name or any other designation such as D.O. affixed to his name.

B. Respondent shall pay Five Thousand (\$5,000.00) Dollars to be remitted along with this executed Consent Order.

C. Any violation by Respondent of the terms and conditions of this Consent Order shall be grounds for the Department to immediately file a Complaint to revoke the Respondent's license to practice as a Physician and Surgeon in the State of Illinois.

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D. This Consent Order shall become effective immediately after it is approved by the Director of the Department.

E. It is understood by the Department that Respondent has authored numerous books and other publications which are in print and in which the M.D. designation is used. Respondent is under contract with several different publishers relating to these books and publications. These contracts generally provide the publisher with the right to reprint books as well as provide the publishers with paperback and other rights. The use of the M.D. designation in any books or publications already in print as of the date of this Order, including reprints of said books and publications occurring after the date hereof, shall not constitute a violation of this Order.

DEPARTMENT OF PROFESSIONAL REGULATION  
of the State of Illinois

10-10-2000  
Date

John M. Goldberg  
John Goldberg  
Attorney for the Department

10/4/2000  
Date

Robert Goldman  
Robert Goldman  
Respondent

10/5/2000  
Date

Anthony G. Barone  
Anthony G. Barone  
Attorney for the Respondent

November 1, 2000  
Date

Paul C. Cook  
Member, Medical Disciplinary Board

The foregoing Consent Order is approved in full.

Dated this 10<sup>th</sup> day of December, 2000.

DEPARTMENT OF PROFESSIONAL REGULATION  
of the State of Illinois

Leonard A. Sherman  
Leonard A. Sherman, Director

REF: License No. 36-074384  
Case No. 199903690

12/3/2015

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# Quackwatch<sup>SM</sup>

Your Guide to Quackery, Health Fraud, and Intelligent Decisions  
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- [Recently Posted Articles](#)
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- [Frequently Asked Questions \(FAQs\)](#) (updated 7/17/14)
- [How to Become a Quackwatch Advisor](#) (posted 3/20/11)
- [Honors and Awards \(70+\) Given to Quackwatch](#) (updated 7/11/04)
- [Cheers and Jeers from Quackwatch Visitors](#) (updated 11/25/13) **FEATURE**
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### About Dr. Barrett 🚩 🚩

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- [Books and Book Chapters](#) (updated 9/28/12)
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- [More Nasty Comments Sent to Quackwatch](#) (updated 6/4/15)

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[Do Children Get Too Many Immunizations? The Answer Is No.](#)

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### General Observations 🚩 🚩

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  - [Should Managed Care Companies Cover "Alternative Medicine"?](#) (posted 1/24/99)
  - [Views of a Concerned Layperson](#) (posted 8/23/01)
  - [Additional Thoughts about "CAM" Beliefs](#) (posted 7/24/02)
  - [Newsweek's Misleading Report](#) (revised 7/14/03)
  - [Definitions of 1,169 Methods](#) (130-page dictionary posted 5/27/97)
  - [White House Commission on Complementary and Alternative Medicine Policy](#) (posted 3/4/02) **FEATURE**
  - [Detailed Analysis of WHCCAMP Draft Report](#) (updated 3/4/02) **FEATURE**
  - [Institute of Medicine Publishes Dishonest "CAM" Report](#) (posted 1/12/05) **NEW**
  - [A Skeptical Look](#) (index to Dr. Barrett's weekly column on Canoe.ca)
- ["Antiaging Medicine"](#) (posted 8/26/04)
- [Aromatherapy: Making Dollars out of Scents](#) (updated 8/22/01)
- [Ayurvedic Mumbo-Jumbo](#) (updated 7/14/12)

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- ["Bio-Identical" Hormones](#) (updated 1/19/08)
- [Cancer: Questionable Therapies](#) (index to many articles, updated 9/16/07) **FEATURE TOPIC**
- ["Calorie-Blockers"](#) (posted 7/5/01)
- ["Candidiasis Hypersensitivity/Yeast Allergy"](#) (updated 10/8/05)
- ["Cellulite" Removers](#) (updated 8/10/00)
- [Chelation Therapy](#) (updated 7/24/07) **FEATURE**
- [Chinese Medicine](#) (updated 1/29/04)
- [Chiropractic: \*\*FEATURE TOPIC - ALSO VISIT CHIROBASE\*\*](#)
  - [Don't Be Fooled](#) (updated 7/31/98)
  - [Chiropractic's Dirty Secret: Neck Manipulation and Strokes](#) (updated 2/18/09)
  - [Advertising Gimmicks](#) (posted 5/20/97)
  - [Steer Clear of Chiropractic Nutrition](#) (updated 2/28/15))
  - "Chiropractic Pediatrics" (to be posted)
  - [Subluxations: Chiropractic's Elusive Buzzword](#) (updated 7/11/08)
  - [Undercover Investigations](#) (updated 12/12/03)
  - [How Chiropractors Oversell Themselves](#) (updated 11/20/98)
  - [My Visit to a "Straight" Chiropractor](#) (updated 9/11/98)
  - [Inside View of a Chiropractic Office](#) (posted 7/14/97)
  - [Applied Kinesiology](#) (updated 3/10/09)
  - [Contact Reflex Analysis](#) (updated 8/27/09)
  - [What a Rational Chiropractor Can Do for You](#) (link to Chirobase)
  - [Does the Bad Outweigh the Good?](#) (posted 3/23/01)
  - ["Veterinary Chiropractic"](#) (link to Chirobase)
  - [Chiropractic Victim Support Group](#) (posted 6/13/98)
- [Colloidal Minerals](#) (posted 12/11/98)
- [Colloidal Silver](#) (updated 10/10/02)
- [Colon Therapy and Related Quackery](#) (updated 8/4/10)
- [Craniosacral Therapy](#) (updated 9/21/04)
- [Dentistry: Dubious Care](#)
  - ["Holistic Dentistry" / "Biologic Dentistry"](#) (updated 5/26/08)
  - [The "Mercury Toxicity" Scam](#) (updated 3/2/06)
  - [Neuralgia Inducing Cavitation Osteonecrosis \(NICO\)](#) (updated 2/3/08)
- ["Detoxification" Schemes and Scams](#) (updated 9/7/14) **FEATURE TOPIC**
- [DHEA: Ignore the Hype](#) (updated 10/12/98)
- [Dietary Supplements, Herbs, and Hormones](#) (index to many articles) **FEATURE TOPIC**
- [Dubious Diagnostic Tests](#) (index to many articles) **FEATURE TOPIC**
- [Ear Candling](#) (updated 4/15/05/03)
- [Electrodiagnostic Device Quackery](#) (updated 9/14/08) **FEATURE TOPIC**
- ["Ergogenic Aids"](#) (updated 8/14/00)
- [Eye-Related Quackery](#) (updated 9/13/07)
- [Fad Diagnoses](#) (updated 12/14/08) **FEATURE TOPIC**
- [Faith Healing](#) (updated 12/27/09)
- [Genetic Testing Scams](#) (updated 1/22/03)
- [Gerovital](#) (posted 2/24/11)
- [Glucosamine and Chondroitin for Arthritis](#) (updated 12/14/08) **MAJOR UPDATE**
- [Gamma-hydroxybutyric Acid: A Growing Danger](#) (posted 7/17/98)
- [Growth Hormone Schemes and Scams](#) (updated 10/16/07)
- [Hair Analysis: A Cardinal Sign of Quackery](#) (updated 7/29/10)
- [Hair Removal Methods: What Works and What Doesn't](#) (updated 8/21/01)
- [Herbal Practices and Products](#)

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- [The Herbal Minefield](#) (updated 8/19/12)
- [Paraherbalism: Ten False Tenets](#) (posted 8/31/99)
- ["Natural Product" of the Month: Garcinia](#)
- **Homeopathy: FEATURE TOPIC - ALSO VISIT HOMEOWATCH**
  - [The Ultimate Fake](#) (updated 10/4/07) **FEATURE**
  - [Essay by Oliver Wendell Holmes \(1842\)](#) (posted 3/26/99)
- [Hyperbaric Medicine: What Works and What Does Not?](#) (partially posted 4/21/01)
- [Insurance Fraud and Abuse](#) (updated 11/17/05)
- [Ionic Cleansing](#) (link to Device Watch)
- [Iridology](#) (updated 3/28/08)
- [Juice Plus+<sup>®</sup>](#) (link to MLM Watch)
- [Juicing](#) (updated 9/7/99)
- [Low-Carbohydrate Diets \(including Atkins Diet\)](#) (major update 7/13/08)
- [Lyme Disease: Questionable Diagnosis and Treatment](#) (updated 3/12/07)
- [Macrobiotics](#) (posted 9/27/01)
- [Mail-Order Quackery](#) (updated 7/11/01)
- [Magnet Therapy: A Skeptical View](#) (updated 6/29/08)
- [Massage Therapy: Riddled with Quackery](#) (updated 3/9/06)
- **Mental Help, Questionable Approaches**
  - [Feingold Diet](#) (updated 3/11/02)
  - [Nutritional Supplements for Down Syndrome](#) (updated 10/18/98)
  - [Orthomolecular Therapy](#) (updated 7/12/00)
  - [Procedures to Avoid](#) (updated 11/9/08)
  - [Psychomotor Patterning](#) (posted 7/6/01)
  - [Psychotherapy Mismanagement](#) (updated 3/22/11)
  - [Self-Help Products](#) (updated 8/18/04)
  - [Index to Mental Help Topics](#) (updated 2/6/04)
- [Metabolic Therapy](#) (posted 7/1/01)
- [Multiple Chemical Sensitivity \(MCS\)](#) (updated 3/18/11)
- [Multiple Sclerosis "Cures"](#) (updated 3/28/07)
- [Multilevel Marketing: Mostly a Mirage](#) (updated 5/4/14) **ALSO VISIT MLM WATCH**
- [Natural Hygiene: A Critical Look](#) (posted 12/31/07)
- **Naturopathy ALSO VISIT NATUROWATCH**
  - [A Close Look](#) (updated 1/4/12)
  - [Opposition to Immunization](#) (posted 12/29/01)
  - [HEW Report \(1968\)](#) (updated 8/30/99)
  - [Medicare Testimony \(1970\)](#) (posted 5/25/99)
- [Nutrition Insurance: A Skeptical View](#) (posted 12/12/01)
- [Organic Foods: Certification Does Not Protect Consumers](#) (updated 7/17/06)
- [Osteopathy's Dubious Aspects](#) (updated 6/25/03)
- **Pharmacists**
  - [Unethical and Ignorant Behavior](#) (major update 7/19/11)
  - [Misuse of Compounding](#) (updated 10/14/02)
- [Pneumatic Trabeculoplasty \(PNT\) for Glaucoma](#) (updated 1/15/06)
- [Power Lines and Cancer: Nothing to Fear](#) (updated 5/17/01)
- [Psychic Practices \(Astrology, Tarot, Palm Reading, Tarot, etc.\)](#) (posted 5/1/03)
- [Qigong](#) (updated 7/30/99)
- [Reiki is Nonsense](#) (updated 7/14/13)
- [Reflexology: A Close Look](#) (updated 3/28/15)
- [Therapeutic Touch](#) (several articles, updated 2/3/08)

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- [Top Health Frauds](#) (FDA list, updated 4/5/99)
- [Unnecessary Surgery](#) (posted 2/22/99)
- [Vitamin C: The Dark Side of Linus Pauling's Legacy](#) (updated 10/24/08)
- [Water-Related Frauds and Quackery](#) (index to several articles, posted 12/2/01)
- [Weight Control Gimmicks and Frauds](#) (updated 2/7/99)

### Questionable Advertisements

- ["80% of Doctors Take Antioxidants"](#) (updated 12/6/97)
- [Can Florsheim Shoes Cure Your Magnetic Deficiency?](#) (updated 8/8/00)
- ["Chiropractic Healing Successfully Treats Cancer"](#) (link to Chirobase)
- [Clarified Butter \(Ghee\): Is It a health food?](#) (updated 9/1/98)
- [Dr. Oz Makes Wacky Claims for Pyjamas](#) (updated 7/26/12)
- [Dubious Claims Made for DZ10 Enzyme Supplement](#) (updated 7/26/15)
- [Eckerd Drugs' "Personalized Vitamins"](#) (posted 7/4/01)
- [Enzyte Marketers Sued](#) (posted 9/28/04)
- ["Enzyme Deficiency"](#) (updated 3/11/03)
- [Gero Vita, A. Glenn Braswell, and the 'Journal' of Longevity](#) (updated 2/6/06) **FEATURE**
- [Homeopathic Hype](#) (posted 2/15/98)
- [Impossible Weight-Loss Claims: Summary of an FTC Report](#) (posted 12/16/03)
- [Life Force Energy Discs](#) (posted 10/25/97)
- [Magnetic Bracelet](#) (posted 8/13/99)
- [Magnetize Your Beverages?](#) (posted 9/19/98)
- ["Mommy My Ears Hurt"](#) (updated 6/9/06)
- ["Oxygenated Water" Device](#) (updated 7/3/06)
- [More Oxygen Hype: "Magnesium-Based Oxygen Therapy"](#) (posted 1/19/08)
- [Phytopharma/Plant Macerat Weight-Loss Plan](#) (updated 9/14/01)
- ["Recommend Centrum to Bridge Nutrition Gaps"](#) (updated 8/9/98)
- [Recovery™: An "Amazing" Story](#) (posted 11/30/01)
- [Reflexology Steering Wheel Cover](#) (posted 9/16/97)
- [Slim Slippers: A Precautionary Tale](#) (posted 2/28/02)
- ["Free Preliminary Spinal Examination"](#) (posted 10/11/97)

### Nonrecommended Sources of Health Advice

- [Books](#) (updated 9/6/06)
- [Degree Mills](#) (updated 6/2/00)
- [Health-Food-Store Advice: Don't Trust It!](#) (updated 4/25/09)
- [Individuals](#)
  - Robert Atkins, MD
  - [Robert Barefoot](#) (updated 6/13/03)
  - [Peter R. Breggin, MD](#) (posted 9/12/02)
  - [Jeffrey Bland, PhD](#) (updated 4/19/04)
  - [Patrick T. "Tim" Bolen](#) (updated 7/3/13)
  - [Hulda Clark's Bizarre Claims](#) (updated 10/23/09)
  - [Adelle Davis](#) (updated 1/15/06)
  - [Lorraine Day, MD](#) (updated 1/24/08)
  - [Kurt W. Donsbach](#) (updated 4/17/11)
  - [David Eisenberg, MD](#) (posted 3/16/02)
  - [James S. Gordon, MD](#) (posted 2/14/02)



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- [Earl Mindell](#) (posted 3/14/05)
- [Gary Null](#) (updated 1/29/12)
- [Memhet Oz, MD](#) (link to another site)
- [David W. Rowland](#) (updated 5/6/00)
- [Jordan S. Rubin](#) (posted 3/13/06)
- [Robert Sears, MD](#) (link to another site)
- [Andrew Weil, MD](#) (posted 3/10/02)
- [Julian Whitaker, MD](#) (link to another site)
- [Robert O. Young](#) (posted 1/25/14)
- [Other Individuals \(Index\)](#) (updated 2/19/15)
- [Questionable Organizations: An Overview](#) (updated 2/10/15)
  - [American Association of Nutritional Consultants](#) (updated 10/18/05)
  - Center for Medical Consumers
  - Citizens for Health
  - Council for Responsible Nutrition
  - [Foundation for the Advancement of Innovative Medicine](#) (updated 9/21/99)
  - [National Health Federation](#) (posted 7/18/03)
  - [People's Medical Society](#) (updated 8/23/06)
  - [Physicians Committee for Responsible Medicine](#) (link to another site)
- [Periodicals](#) (updated 1/20/08)
- ["Psychic" Advice by Mail or Telephone](#) (updated 8/2/01)
- [Publishers That Promote Quackery](#)
  - Avery Publishing Group
  - [Bottom Line Books](#)
  - EBSCO (Natural & Alternative Treatments Database)
  - Future Medicine Publishing
  - Keats Publishing
  - Mary Ann Liebert, Inc.
  - Rodale Press
- [Nonrecommended Web Sites](#) (updated 3/18/04)

## Consumer Protection

- [Intelligent Consumer Behavior](#) (posted 5/1/97)
- [Doctor-Patient Communication Tips](#) (updated 10/9/06)
- [How to Spot a Personal Injury Mill](#) (posted 7/25/02)
- [Antiquackery Organizations](#) (updated 4/29/07)
- [Where to Complain or Seek Help](#) (updated 2/11/04)
- [Online Scams: A Message from the FTC](#) (posted 5/20/97)
- [Legal Help for Quackery Victims](#) (revised 3/23/10)
- [Dealing with Telephone Pests](#) (posted 5/15/02)
- [Spam Messages](#)
  - [Some Strategies to Prevent Spams](#) (updated 10/29/02)
  - [FTC Names "Dirty Dozen" Spam Scams](#) (posted 4/6/00)
- [Strengths and Weaknesses of Our Laws](#) (updated 9/15/01)
- [How Congress Weakened the FDA in 1994](#) (updated 5/18/02)
- [Genetically Engineered Foods Should NOT Bear Special Labels](#) (posted 1/2/00)
- [Why Nutritionist Licensing Is Important](#) (updated 8/16/11)
- [AMA Discourages Product Sales in Medical Offices](#) (updated 11/23/99)
- [NYC Dept. of Consumer Affairs Health Food Stores Investigation \(1983\)](#) (posted 11/29/14)

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- [Viatical Settlements](#) (posted 8/16/00)
- [FDA Warning Letters \(2001\)](#)
- [The Dr. Rinse Case: An Inside Look at FDA Dietary Supplement Regulation in the 1980s](#) (posted 6/19/11)
- [Other Important Regulatory Actions](#)
  - [Enzymatic Therapy](#) (posted 8/15/00)
  - [General Nutrition](#) (updated 11/29/14)
  - [Home Shopping Network](#) (posted 4/17/99)

### Consumer Strategy: Health Promotion 🚩 🚩

- [Antioxidants and other Phytochemicals: Current Scientific Perspective](#) (updated 1/22/10)
- [Cardiovascular Disease](#)
  - [Risk Factors](#) (updated 12/20/00)
  - [Does Lowering Homocysteine Prevent Cardiovascular Disease?](#) (updated 5/6/10)
- [Dietary Supplements: Appropriate Use](#) (updated 11/12/10)
- [Exercise: Choosing and Using Equipment](#) (posted 11/7/97)
- [Fluoridation: Don't Let the Poisonmongers Scare You!](#) (4 articles, updated 3/4/01)
- [Food Irradiation: A Valuable Public Health Measure](#) (link to another site)
- [Immunization: Common Misconceptions](#) (updated 4/20/13)
- [Low-Fat Eating: Practical Tips](#) (updated 4/6/11)
- [Tobacco-Related News](#) (updated 4/7/00)
- [Vegetarianism: Healthful But Not Necessary](#) (updated 3/17/00)
- [Vitamin K Injections Needed to Prevent Bleeding in Infants](#) (posted 11/23/13)

### Consumer Strategy: Tips for Provider Selection 🚩 🚩

- [Choosing a Dentist](#) (posted 1/31/01)
- [Where to Get Mental Help](#) (updated 11/14/02)
- [Where to Get Professional Nutrition Advice](#) (updated 1/3/10)
- [Choosing an Osteopathic Physician](#) (updated 4/24/01)
- [Choosing a Chiropractor](#) (updated 10/13/00)
- [Be Wary of "Free Foot Exam" Ads](#) (updated 12/20/98)
- [Board Certification: What Does It Mean?](#) (updated 12/5/00)
- [Choosing a Personal Trainer](#) (undergoing revision)
- [How to Check a Physician's Credentials](#) (updated 1/14/08)
- [Choosing a Health Club](#) (link to another site)
- [Personal Emergency Response Systems](#) (posted 4/20/02)
- [Nonrecommended Treatment Facilities](#) (posted 4/13/02)

### Consumer Strategy: Disease Management 🚩 🚩

- [Drugs](#)
  - [Tips for Prudent Use](#) (posted 10/25/99)
  - [Generic Drugs: What You Need to Know](#) (posted 9/22/02)
  - [Glaucoma Patients: Don't Waste Money on Overpriced Eyedrops](#) (posted 5/1/00)
- [Fibromyalgia Strategies](#) (8 articles, updated 2/13/00) **FEATURE TOPIC**
- [Irritable Bowel Syndrome](#) (posted 6/7/00)
- [Latex Allergy Epidemic](#) (updated 1/23/00)

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- [Low Back Pain](#) (updated 5/18/99)
- [Refractive Surgery](#) (updated 8/23/05)
- [Scoliosis: A Sensible Approach](#) (posted 1/14/98)

### Education for Consumers and Health Professionals 🚩 🚩

- [A Smoking Un: How the Tobacco Industry Gets Away with Murder \(1984\)](#) (posted 11/3/13)
- [Consumer Health Library: Recommended Reference Books](#) (updated 1/18/08)
- [Handling Challenges to Skepticism](#) (posted 9/30/99)
- [HONcode Principles: What Do They Signify?](#) (updated 8/10/14)
- [Internet Health Scares](#) (posted 9/12/99)
- [Internet Search Strategies](#) (posted 8/25/01)
- [Media Watch: Critiques of Prominent Articles and Broadcasts](#)
  - [Consumer Reports' Attack on Pesticides Criticized](#) (posted 4/30/99)
  - [The Unfounded Vaccination/Autism Scare](#) (updated 11/17/02)
- [News Briefs](#) (many topics, updated 12/18/01)
- [Questions and Answers](#) (updated 3/31/03)
- [Quiz: What's Your Consumer Health IQ?](#) (posted 9/19/97)
- [Recommended Magazines, Newsletters, and Journals](#) (updated 3/8/08)
- [Reliable Agencies and Organizations](#) (updated 10/20/05)
- [Urban Legends, Rumors, and Hoaxes](#) (updated 3/3/02)
- [Web Site Evaluations](#) (updated 3/18/04)

### Research Projects (Volunteers Needed) 🚩 🚩

- [Alternative Cancer Treatment Registry](#) (posted 9/20/98)
- [Dubious Advertising](#)
- [Link Patrol](#) (posted 5/18/98)
- [Multilevel Marketing through the Internet](#) (updated 3/9/00)
- [Questionable Methods Project](#) (updated 1/9/99)

### Legal and Political Activities (How You Can Help) 🚩 🚩

- [Fighting Quackery: Tips for Activists](#) (revised 3/11/04)
- [Scientific Activism for Cosmetic Chemists \(and Others\)](#) (posted 5/18/15)
- [Qui Tam Suits against Health Care Fraud](#) (posted 8/23/00)
- [Why Psychologists Should Not Be Licensed to Prescribe Psychiatric Drugs](#) (posted 4/15/02)

### Recommended Links 🚩 🚩

- [ALS Untangled](#) (Investigates clinics claiming to treat ALS)
- [American Council on Science and Health \(ACSH\)](#)
- [Aquascams](#) (Water-related scams and quackery)
- [Bad Science](#) (Ben Goldacre, M.D. blog)
- [Bad Science Watch](#)
- [Campaign for Science-Based Healthcare](#)
- [Chirobase](#) (Quackwatch's skeptical guide to chiropractic history, theories, and current practices) **FEATURE**
- [Commission for Scientific Medicine and Mental Health](#)



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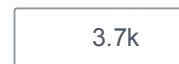
- [Committee for the Scientific Investigation of Claims of the Paranormal \(CSICOP\)](#)
- [Current Issues in Alternative Medicine \(CINAM\)](#) (Quackery viewed from a Christian perspective)
- [Dental Watch](#) (Quackwatch's guide to intelligent dental care) **FEATURE**
- [ebm-first.com](#) (What "alternative" medical practitioners might not tell you)
- [Dr. Bill of Health.com](#)
- [Edzard Ernst's CAM Blog](#)
- [Encyclopedia of American Loons](#)
- [Friends of Science in Medicine](#)
- [Genomics, Medicine, and Pseudoscience](#) (Steven Saltzberg's blog)
- [H<sub>2</sub>O dot con](#) (water-related pseudoscience and quackery)
- [Hair quackery.com](#)
- [Homeowatch](#) (Quackwatch's skeptical guide to homeopathy's history, theories, and current practices) **FEATURE**
- [James Randi Educational Foundation](#)
- [MLM Watch](#) (Quackwatch's guide to multilevel marketing) **FEATURE**
- [Museum of Questionable Medical Devices](#)
- [The Nightingale Collaboration](#) (consumer protection campaigns)
- [PainScience.com](#) (science-based medicine for aches, pains, and injuries)
- [The Quack-Files](#)
- [Quackcast](#) (skeptical evaluations of "alternative" medicine)
- [Quackometer](#) (efficient Web search for critical information)
- [RatbagsDotCom](#) (fighting quackery with humor)
- [Sense about Science](#)
- [Science Based Medicine](#) (antiquackery blog)
- [Society for Science-Based Medicine](#)
- [Skeptical Information Sources](#) [updated 4/11/07]
- [Skeptics Circle Blogspot](#)
- [Skeptics Dictionary](#) (over 400 topics)
- [The SkeptVet](#)
- [Veterinarywatch](#)
- [What's the Harm?](#)
- [Other Valuable Sites](#) (More than 200 links, updated 2/27/15) **FEATURE**

## Ring Membership

- [Anti-Quackery Ring](#) (health-related frauds, myths, fads, and fallacies)  
Navigate the Ring: [Next Site](#) ||| [Previous Site](#) ||| [Random](#) ||| [List Next 5](#) ||| [List All Sites](#)
- [Skeptic Ring](#) (examines claims about paranormal phenomena and fringe science)  
Navigate the Ring: [Next Site](#) ||| [Previous Site](#): [Random](#) ||| [List Next 5](#) ||| [List All Sites](#)



Quackwatch abides by  
the  
[HONcode principles](#)  
of the  
Health On the Net  
Foundation



Recommend

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Quackwatch  
home  
page visitors  
since 1/4/97:

13568416

Our home-page hits reached 1  
million on 3/28/00, 5 million  
on 8/19/04, and 10 million on  
7/16/09.

Portions of Quackwatch are updated several times a month.

Most recent update: September 14, 2015

Site indexing is done daily at 5:00 AM

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"Quackwatch" and the duck picture are service-marked; their unauthorized use is illegal.

Site design was developed by Marty Mapes of [Boulder Information Services](#)

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#### Links to Recommended Vendors

- [PharmacyChecker.com](#): Compare drug prices and save money at verified online pharmacies.
- [Natural Medicines Comprehensive Database](#). Trustworthy information on dietary supplements and herbs.
- [ConsumerLab.com](#): Evaluates the quality of dietary supplement and herbal products.
- [Zenni Optical](#). High-quality eyeglasses at amazingly low prices.
- [Amazon.com](#): Discount prices, huge inventory, and superb customer service.
- [Swim instruction videos and books from world champion Dr. Pete Andersen](#)
- [Crystal Cruises](#): With bridge tournaments and superb lectures by Roberta Salob
- [Herbal Medicine, 3rd edition](#). Excellent reference book, discount-priced.
- [Roar and Squeak](#). Nonprofit site that offers T-shirts and other novelty items to benefit the World Wildlife Fund.
- [Nevyas Eye Associates](#): LASIK and other refractive surgery.
- [OnlyMyEmail](#): Award-winning anti-spam services.
- [10 Types](#): Website design, development, and hosting with superb technical support.

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[Quackwatch Home Page](#)

## Anti-Aging "Gurus" Pay \$5,000 Penalties

On December 6, 2000, osteopathic physicians Ronald Klatz, D.O., and Robert Goldman, D.O., agreed to pay \$5,000 each to the State of Illinois and to stop identifying themselves as M.D.s in Illinois unless authorized to do so by the Illinois Department of Professional Regulation. The agreement indicates that each acquired an "M.D." degree from the [Central America Health Sciences University School of Medicine](#) in Belize but was not licensed to use the credential in Illinois. The agreement also permits them to list the credential in their curriculum vitae as long as it does not closely follow their name.

Klatz and Goldman have been associated for many years in activities related to "anti-aging medicine" and the promotion of dietary supplements. The agreements, reproduced below, were identically worded except for their names and license numbers and the final sentence of Klatz's agreement, which is not in Goldman's agreement.

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### STATE OF ILLINOIS DEPARTMENT OF PROFESSIONAL REGULATION

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#### CONSENT ORDER

The Department of Professional Regulation by John Goldberg, one of its attorneys, and \_\_\_\_\_ Respondent, hereby agree to the following:

#### STIPULATIONS

\_\_\_\_\_ is licensed as a Physician and Surgeon in the State of Illinois, holding License No. \_\_\_\_\_. At all times material to this matter set forth in this Consent Order, the Department of Professional Regulation of the State of Illinois had jurisdiction over the subject matter and parties herein.

Information has come to the attention of the Department that Respondent, who is a licensed osteopath, utilized the designation of M.D. in addition to that of D.O., the designation reflected by his licensure. Respondent received a Doctor of Medicine degree in 1998 from the Central America Health Sciences University School of Medicine in Belize, an institution approved by the World Health Organization. However, said degree was never properly licensed through this Department, thereby, according to the Department, precluding the Respondent from identifying himself as an M.D.

The Department believes that allegation(s), as set forth herein, if proven to be true, would violate 225 Illinois Compiled Statutes (1998), Section 60/28 and therefore would constitute grounds for suspending or revoking Respondent's license as a Physician and Surgeon on the authority of 225 Illinois Compiled Statutes (1998), Section 60/22(A), paragraph(s) 13.

As a result of the foregoing allegation(s), the Department held a Conference at the offices of the Department, 100 West Randolph Street, Suite 9-300, Chicago, Illinois 60601 on June 7, 2000. Respondent appeared in person on that date, represented by Anthony G. Barone. Virgil Wikoff, with.

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Applying "Cure" Pays \$5,000 Penalties

subsequent input from Sandra IF. Olson, M.D., participated as members of the Medical Disciplinary Board of the State of Illinois and John Goldberg appeared as an attorney for the Department.

Respondent admits that he utilized the designation but denies that the use violated any laws including 225 ILCS 60/28. However, the parties have reached an agreement to settle this dispute and Respondent accepts the following terms and conditions in settlement thereof.

Respondent has been advised of the right to have the pending allegation reduced to written charges, the right to a hearing, the right to contest any charges brought and the right to administrative review of any Order resulting from a hearing. Respondent knowingly waives each of these rights, as well as any right to administrative review of this Consent Order.

Respondent and the Department have agreed, in order to resolve this matter, that \_\_\_\_\_ be permitted to enter into a Consent Order with the Department providing for the following:

### CONDITIONS

WHEREFORE, the Department, through John Goldberg, its attorney, and Ronald Klatz, agree:

A. Respondent shall immediately Cease and Desist from identifying himself, in the State of Illinois, as an M.D. or otherwise utilizing said designation in the State of Illinois until such time as he becomes properly authorized to do so by the Illinois Department of Professional Regulation. This shall not preclude Respondent from listing his degree from Central America Health Sciences University in the educational part of his curriculum vitae or any similar document so long as the designation is not affixed to or immediately follows his name or any other designation such as D.O. affixed to his name.

B. Respondent shall pay Five Thousand (\$5,000.00) Dollars to be remitted along with this executed Consent Order.

C. Any violation by Respondent of the terms and conditions of this Consent Order shall be grounds for the Department to immediately file a Complaint to revoke the Respondent's license to practice as a Physician and Surgeon in the State of Illinois.

D. This Consent Order shall become effective immediately after it is approved by the Director of the Department.

E. It is understood by the Department that Respondent has authored numerous books and other publications which are in print and in which the M.D. designation is used. Respondent is under contract with several different publishers relating to these books and publications. These contracts generally provide the publisher with the right to reprint books as well as provide the publishers with paperback and other rights. The use of the M.D. designation in any books or publications already in print as of the date of this Order, including reprints of said books and publications occurring after the date hereof, shall not constitute a violation of this Order. In addition, the terms of this Order shall not apply to the book "What's Eating You?" which is already under contract as of the date of this Order.

Dated this 6th day of December, 2000.

[Quackwatch Home Page](http://www.quackwatch.org/11Ind/klatz.html)

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Anti-Aging "Guns" Pay \$5,000 Penalties

This article was revised on March 6, 2001.

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## Aging: Disease or Business Opportunity?

By DUFF WILSON  
Published: April 15, 2007

FOR four days last December, America's pleasure dome in the desert, Las Vegas, played host to a convention dedicated to the proposition that growing old is "a treatable medical condition."

Booths advertising [vitamins](#), [hormones](#) and [pharmaceutical drugs](#), along with an array of oxygenating or detoxifying paraphernalia, filled the exhibition hall of the Venetian Resort Hotel Casino. Lectures and workshops were offered on a bevy of "wellness" topics, including the alluring idea that human growth hormone could be deployed to beat back old age.

Several thousand attendees, mostly physicians, crowded the Venetian, a testament to what analysts say is now an industry that snares \$50 billion a year in sales by catering to Americans' obsession with looking and feeling younger. This spring, though, the anti-aging industry has come under a harsher light. The authorities have indicted 20 people, including four doctors, in three states as part of an investigation into what federal and state prosecutors describe as a booming and illegal trade: Internet trafficking in human growth hormone and anabolic [steroids](#).

More than half of those indicted thus far in the case worked for companies that peddled their wares at the Las Vegas convention or that belonged to the trade group that organized it, the American Academy of Anti-Aging Medicine. Most of the publicity surrounding the investigations has focused on sales to athletes. But experts in government, law enforcement and the industry say human growth hormone, or HGH, is actually used much more often, and increasingly so, to slow aging.

While it has not been accused of any wrongdoing in the investigations, the academy is one of the leading preachers of growth hormone's anti-aging powers and has as its core gospel the idea that HGH can, as its literature states, "produce striking improvements" in patients' "health, energy level and sense of well-being."

Since two osteopathic physicians in Chicago, Ronald M. Klatz and Robert M. Goldman, founded it 15 years ago, the academy has spun its teachings into a lucrative enterprise that claims 20,000 members, runs a Web site ([www.worldhealth.net](http://www.worldhealth.net)), worldwide conventions and medical education programs that award board

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Dr. Robert M. Goldman helped to organize the convention.

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Sally Ryan for The New York Times

This building in the Lincoln Park neighborhood of Chicago serves as the headquarters of the American Academy of Anti-Aging Medicine.

certifications in “anti-aging regenerative medicine.” Along the way, the academy has also become a consistent focus of criticism, derided by an establishment that calls anti-aging medicine quackery or hype, says growth hormone is dangerous and labels the academy’s promotions as medically and legally specious.

“The whole idea of anti-aging medicine is controversial,” said Dr. Robert N. Butler, who was director of the National Institute on Aging, a federal agency, from 1976 to 1982. “On the good side, it encourages healthy behaviors. On the other side, it sells things like human growth hormone, which is harmful.”

Medical research has tended to support the view that growth hormone’s risks outweigh any potential anti-aging benefits. Under federal law, the substance is illegal to use except for treating childhood growth disorders, [AIDS](#) and a rare adult hormone deficiency. But Dr. Klatz and Dr. Goldman have argued that aging is a disease that causes the pituitary gland to gradually produce less growth hormone. Therefore, they say in books, articles and speeches that hormone replacement therapy at low doses is legal and beneficial in “properly diagnosed deficient adults.”

Dr. Klatz, who is 51 and the academy’s president, and Dr. Goldman, 52, its chairman, declined to be interviewed for this article. But in response to written questions through their lawyer, they said the 1990 federal law making it a felony to prescribe growth hormone for “off label” uses was aimed specifically at athletic abuse and nothing else. Neither of the doctors is mentioned in the recent indictments, and they also have not been accused of any wrongdoing in connection with the investigation.

But many of the individuals and companies cited in the indictments have been involved with the academy and its conventions over the years. Dr. Klatz and Dr. Goldman would not comment on the investigations, saying they barely knew the suspects or the nature of their businesses. They say they neither prescribe nor distribute growth hormone, and advocate doing so only in accordance with state and federal laws and after a proper physical examination, not as an Internet purchase.

They also say that pharmacies and individuals indicted in the investigation will no longer exhibit, sponsor or advertise at academy conventions and have already been removed from the academy’s Web site. Pharmacies and individuals had been paying \$150 to \$750 to be listed in the academy’s directory and \$3,695 to \$22,000 to buy display booths at its conventions.

Despite the controversy surrounding them, Dr. Klatz and Dr. Goldman have grown wealthy through their stewardship of the academy and as leading anti-aging evangelists, building their business on books like “Grow Young With HGH,” disputed science and on people’s perennial — indeed, ageless — fear of growing old. They recently sold an 80 percent stake in their conventions business for as much as \$49 million to the **Tarsus Group**, a London media concern.

Dr. Klatz and Dr. Goldman are not afraid to take on their critics. In the last few years, they have been embroiled in legal disputes — with the State of Illinois, over offshore medical degrees they received in the late 1990s, and with professional critics whom they sued for giving them a “silver fleece” award in 2004 for promotion of questionable anti-aging products. (That suit was settled last November; its terms are confidential.)

Self-described mavericks, Dr. Klatz and Dr. Goldman dismiss their critics as biased

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toward “the old-school medical establishment” and say that the medical establishment’s current gerontology practices pessimistically promote “a cult of death.”

Hormones, including steroids and human-growth treatments, have captured the imaginations and bodies of athletes and others for many decades now, for the all-too-visible reason that they promote rippling, strapping muscular bulk and enhance performance. The hormone movement gained traction after a 1990 article in [The New England Journal of Medicine](#) said that a six-month study of 12 men, ages 61 to 81, who took HGH had less body fat and more lean body mass compared with a control group that did not take the hormone.

More recently, however, advocates also have promoted growth hormones as the modern fountain of youth. The expansion of the anti-aging movement is being fed by several factors — among them, graying baby boomers, growing enthusiasm for physical fitness, interest in alternative medical treatments, and, some analysts say, many doctors’ efforts to compensate for income lost to managed care. The market for drugs to control and treat diseases of aging and for appearance-related products and services is expected to reach \$71 billion a year by 2009, according to BCC Research, a market research company in Wellesley, Mass.

Government and industry officials estimate that 25,000 to 30,000 Americans take injections of growth hormone for anti-aging purposes, paying up to \$1,000 a month. And investigators say that the hormone, like many pharmaceuticals, is increasingly being bought on the Internet. State and federal law enforcement officials have focused on doctors who may have written prescriptions without seeing patients and on businesses that may have illegally trafficked in HGH.

Some of the legal parameters around promoting and dispensing HGH are nebulous. Steven D. Silverman, an assistant director of compliance at the Center for Drug Evaluation and Research, part of the [Food and Drug Administration](#), says that people advocating growth hormone for anti-aging purposes “may be engaged in protected speech.” But, he adds, “if a doctor or pharmacy is actually dispensing this product for anti-aging purposes, that’s different and it may be illegal.”

Recent research underscores growth hormone’s potential dangers. This year, in the *Annals of Internal Medicine*, a review of 31 randomized, controlled studies concluded that “risks far outweigh benefits when it is used as an anti-aging treatment in healthy older adults.” Side effects, according to the [National Institutes of Health](#), may include [diabetes](#), [hypertension](#), hardening of the arteries and abnormal growth of bones or internal organs.

FOR his part, Dr. Klatz challenges the concerns of the *Annals of Internal Medicine* about possible risks of HGH, contending that thousands of other studies showed “clear benefits” at lower doses; he compares using the hormone to using insulin for treating diabetics.

He says HGH slows down aging by improving lean muscle mass, reducing body fat and increasing energy. The hormone affects metabolic processes in many ways, according to [Genentech](#), the company that developed the first synthetic growth hormone in 1981. But while Genentech and other pharmaceutical suppliers, on the advice of regulators, emphasize that HGH should be given only for government-approved uses like dwarfism, Dr. Klatz and Dr. Goldman have pushed it onto the frontiers of anti-aging.

“They have led the charge to educate in a realm that pharmaceutical companies won’t,” said Dr. Mark L. Gordon, a family practitioner in Encino, Calif. Asked how important Dr. Klatz and Dr. Goldman were in the anti-aging world, he responded: “as figureheads, extremely.”

But Dr. Stephen Barrett, a senior member of the National Council Against Health Fraud, a nonprofit advocacy group that operates the [quackwatch.org](#) Web site, says the academy has misrepresented research on growth hormone and promotes questionable products.



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Dr. Barrett dismisses the medicinal value of the academy's work and says its operations are more akin to Fort Knox than anything else. "I think it's basically a money-making machine for Klatz and Goldman," he said.

No mainstream medical association like the American Board of Medical Specialties or the [American Medical Association](#) recognizes the academy's board certification — though Dr. Klatz and Dr. Goldman say they are currently asking for A.B.M.S. approval. Doctors seeking certification from the academy must pay \$3,440, study three books partly written or edited by Dr. Klatz and Dr. Goldman, and pass a multiple-choice test, chart review and oral exam.

While the academy has certified hundreds of doctors, some who were once involved with the anti-aging movement have distanced themselves from the work of Dr. Klatz and Dr. Goldman. Dr. L. Stephen Coles, a researcher at the [University of California](#), Los Angeles, recalled the excitement when he first joined the doctors and about 10 other physicians near Cancún, Mexico, in 1992 to talk about hormones and aging. Growth hormone is legal in Mexico, and some enthusiastic users lived there at the time.

"I remember saying this is really important, this is what medicine will be in the next five years," Dr. Coles recalled. He has changed his mind. Now, he says, "Growth hormone is risky, and I'd like to see long-term studies."

Dr. Klatz and Dr. Goldman are graduates of osteopathic colleges in Iowa and Illinois, respectively. Osteopaths, who represent about 6 percent of the nation's licensed physicians, focus on holistic health treatments and the muscular-skeletal system and also perform functions of medical doctors like prescribing drugs and performing surgery.

Through his lawyer, Dr. Goldman said that he had received two doctoral degrees from "distance learning programs," which he said had required "work with a mentor, textbook reading and testing." A fitness buff, he says in a biography posted on [www.worldhealth.net](#) that he has held world records for one-armed push-ups (321) and consecutive sit-ups (13,500).

Dr. Klatz was working at a Wisconsin clinic in 1992 when he was injured in an automobile accident. After diagnosis of a cervical fracture, severe headaches, cognitive problems and a wrist injury, he spent the next six and a half years living in part on about \$500,000 in disability payments, according to court records. During those years, he and Dr. Goldman, whom he first met in 1981, started the academy, working in a quasi-Gothic building in the Lincoln Park neighborhood of Chicago.

Both men received medical degrees in 1998 from the Central American Health Sciences University in Belize, without, they acknowledged, ever having studied in the country. Dr. Klatz and Dr. Goldman say through their lawyer that they earned their medical degrees with transfer credit from previous academic work and a year in clinical rotations in Mexican hospitals.

Licensing authorities in Illinois did not recognize the Belize degrees, and in 2000 fined the doctors \$5,000 each for adding M.D. after their names. They agreed to a cease-and-desist order with an exception: books already printed or being reprinted with the contractual requirement that they be identified as M.D.'s. They were also allowed to continue using the M.D. designation on their résumés.

While the agreement states that they can lose their licenses for violating its terms, the doctors currently identify themselves as M.D.'s in recently published books, correspondence, their Web site and promotional materials for conferences, including one last summer in Chicago. They say through their lawyer that they are not violating the agreement because of a confidential superseding accord, but a spokeswoman for the Illinois Division of Professional Regulation says they are not permitted to designate themselves as M.D.'s in the state.

Despite having their bona fides questioned in Illinois, the doctors have been able to use

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the academy and its conventions to promote the anti-aging wonders of human growth hormone. Along the way, many other companies have helped make the conventions successful, and some of them have been charged with illegally trafficking in growth hormone, according to indictments handed down in state and federal investigations of the HGH business.

Among them are an Orlando concern, Signature Compounding Pharmacy, which was a sponsor and exhibitor at the Las Vegas convention; Dr. Robert G. Carlson, the medical director of the Palm Beach Rejuvenation Center, who moderated an anti-aging workshop in Las Vegas; and Dr. Claire D. Godfrey, an obstetrician-gynecologist who runs the Ageless Clinic in Orlando and gave a lecture on female hormones at the convention.

Each of those parties has pleaded not guilty to the charges. Another sponsor and exhibitor in Las Vegas, Applied Pharmacy Services, is named in a sealed indictment in Alabama, according to its lawyer, who denied that the company had engaged in any illegal activity.

IN Las Vegas last December, speakers told doctors how to diagnose mild hormone deficiencies so they could legally prescribe HGH. Dr. Gordon, the California physician, talked about diagnosing pituitary gland damage from brain trauma from slips, falls or sports injuries. A Long Island lawyer, Richard D. Collins, counseled that while growth hormone could not legally be prescribed for completely healthy people, it is permissible for disease symptoms stemming from the aging process.

Mr. Collins is now a defense lawyer for Signature Pharmacy, one of the companies indicted in the recent case. (He did not respond to interview requests.)

It is unclear what impact the investigations will have on the academy or on the careers of Dr. Klatz and Dr. Goldman — or whether it will dent the two men's popularity in the anti-aging industry. As recently as two months ago, just before her business was raided and she was charged with illegal distribution of prescription drugs, Naomi Loomis, chief executive of Signature Pharmacy, offered a glowing testimonial saluting the academy on its Web site.

"Since our company aligned with" the academy, she noted, "our success in the age management business has grown exponentially."

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#### Tips

To find reference information about the words used in this article, double-click on any word, phrase or name. A new window will open with a dictionary definition or encyclopedia entry.

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## DIVISION OF PROFESSIONAL REGULATION

 $\gamma$ 

) No. 1999036891 &  
) 2003000141&2

Respondent

## Page 1

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in contravention of his standing order that no advertising be aimed solely and exclusively at Illinois residents with M.D. behind his name.

Respondent's attorney Algis Augustine has conferred with John M. Lagattuta, the Acting Chief of Statewide Enforcement, and reached agreement on the disposition set forth in this Order.

Respondent and Robert M. Goldman, D.O., PhD are licensed physicians and surgeons of osteopathic medicine in good standing in Illinois for over 20 years, which allows them to practice and carry out all duties equivalent to what a medical doctor, an M.D., may do in Illinois. Dr. Goldman and Dr. Klatz aver they have never harmed, misled or injured any patient in Illinois or anywhere. This Order is limited in application to Dr. Klatz and Dr. Goldman.

Dr. Goldman and Dr. Klatz have valid M.D. degrees from a recognized medical school, a school which is on the World Health Organization's list of approved and sanctioned medical schools. In fact, said medical school graduates are currently undergoing M.D. residency training in the USA and worldwide.

The Department has agreed by the entry of this order that it does not have jurisdiction over Dr. Klatz or Dr. Goldman to the extent that they use the term M.D. in any place or in any form outside of the State of Illinois. In addition, so long as such activities are limited to academic research, education, conferences, brochures, books, journals or other writings, the Internet, or electronic media, advisory boards, and no advertising is aimed specifically or solely at Illinois, the Department acknowledges that it does not have jurisdiction to prosecute Dr. Klatz or Dr. Goldman.

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This Non-Disciplinary Order shall become effective after it is approved by the Acting Director of the Department.

DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION  
of the State of Illinois

12-1-2005  
DATE

David K. Igasaki  
David K. Igasaki  
Attorney for the Department

11-3-05  
DATE

Ronald Klatz, D.O.  
Respondent

11/4/05  
DATE

Algis Augustine  
Attorney for the Respondent

12/21/05  
DATE

Douglas P. Webster, D.O.  
Member, Medical Disciplinary Board

The foregoing Non-Disciplinary Order is approved in full.

DATED THIS 28<sup>th</sup> day of February, 2006.

DEPARTMENT OF FINANCIAL AND  
PROFESSIONAL REGULATION  
of the State of Illinois  
Dean Martinez, Acting Secretary  
Division of Professional Regulation

Daniel E. Bluthardt  
DANIEL E. BLUTHARDT  
ACTING DIRECTOR

REF: License No. 036064669  
Case Nos. 1999036891 & 200300014 1&2



SA-33

**Michael, Charles**

---

**From:** Wesley J. Paul (PLG-NY) <wpaul@paullawgrp.com>  
**Sent:** Friday, December 01, 2017 12:32 PM  
**To:** Michael, Charles; Keough, Michael  
**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Charles,

I'm not going to be able to provide this information today, nor do I agree with your assertions regarding marginal costs.

---

**Wesley J. Paul, Esq.**  
Paul Law Group, LLP  
902 Broadway, 6<sup>th</sup> Floor  
New York, NY 10010  
Tel: (646) 202-2532 (direct)  
eFax: (646) 514-6829

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---

**From:** Michael, Charles [mailto:cmichael@Step toe.com]  
**Sent:** Friday, December 01, 2017 12:07 PM  
**To:** Wesley J. Paul (PLG-NY); Keough, Michael  
**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Wes:

You would have to bear the cost of the appendix no matter what, as the appellant, so there's no reason why we should bear anything more than the marginal cost. The appendix you submitted does not even include the article that is the subject of the litigation.

Setting that aside for a second, however, can you just let me know what these charges are (both the overall and marginal (presumably per page) cost), so we can know the scope of this dispute and the extent to which it is worth fighting over?

Thanks,

Charles

---

**From:** Wesley J. Paul (PLG-NY) [mailto:[wpaul@paullawgrp.com](mailto:wpaul@paullawgrp.com)]  
**Sent:** Friday, December 01, 2017 11:58 AM  
**To:** Michael, Charles; Keough, Michael  
**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

SA-34

Charles,

We will not agree to just the "marginal" costs. We need to have an agreement that at least we share costs jointly since the majority of the appendix is with documents (which I still do not believe are all needed) that you have requested.

---

**Wesley J. Paul, Esq.**

Paul Law Group, LLP  
902 Broadway, 6<sup>th</sup> Floor  
New York, NY 10010  
Tel: (646) 202-2532 (direct)  
eFax: (646) 514-6829

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---

**From:** Michael, Charles [<mailto:cmichael@Step toe.com>]

**Sent:** Friday, December 01, 2017 11:50 AM

**To:** Wesley J. Paul (PLG-NY); Keough, Michael

**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Wes:

Here they are. I did not suggest below that we agreed to cover the cost of including these, only that you could seek to do so when costs are sorted out.

For the sake of moving this along, though, please let me know the marginal additional cost of adding these pages (not the overall cost of the appendix, but the costs added by having the appendix be 280 pages instead of 79). I suspect the marginal additional cost is small, given that you have a printer already. So maybe we can just work out the money part. Please let me know ASAP.

Thanks,

Charles

---

**From:** Wesley J. Paul (PLG-NY) [<mailto:wpaul@paul lawgrp.com>]

**Sent:** Friday, December 01, 2017 11:25 AM

**To:** Michael, Charles; Keough, Michael

**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Charles,

Please send me the pages you are requesting to be included as a consolidated pdf and I understand your client will then bear the additional costs.

Regards,

---

**Wesley J. Paul, Esq.**

SA-35

Paul Law Group, LLP  
902 Broadway, 6<sup>th</sup> Floor  
New York, NY 10010  
Tel: (646) 202-2532 (direct)  
eFax: (646) 514-6829

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---

**From:** Michael, Charles [<mailto:cmichael@StepToe.com>]  
**Sent:** Friday, December 01, 2017 11:21 AM  
**To:** Wesley J. Paul (PLG-NY); Keough, Michael  
**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Wes:

The rule could not more clear that you "must include the designated parts in the appendix" that we indicate should be included. FRAP 30(b)(1). If you believe those part were unnecessary, then your remedy is to seek those costs, not to foist onto us the burden of creating an entirely separate appendix from scratch. It is difficult to imagine why you think these parts of the record are unnecessary, as they refer to a materials we cited in our briefs in support of our motion, and materials that the Second Circuit could rely upon in affirming, regardless of whether Judge Gardephe relied upon them or not.

Just from a practical perspective, it would certainly be far easier for you to contact your printer and have them recreate the appendix with these additional pages. They could be put at the end so as not to require any changes to your brief. Please do so as soon as possible.

Thanks,

Charles

---

**From:** Wesley J. Paul (PLG-NY) [<mailto:wpaul@paullawgrp.com>]  
**Sent:** Friday, December 01, 2017 11:10 AM  
**To:** Keough, Michael  
**Cc:** Michael, Charles  
**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Michael,

Rule 30(b)(1) also states that the parties must not engage in unnecessary designation of parts of the record and we note that the appendix is not captioned as a joint appendix. We think it would be better for you to file a supplemental appendix under Rule 30.1(g) if you feel that is necessary.

Regards,

---

**Wesley J. Paul, Esq.**  
Paul Law Group, LLP  
902 Broadway, 6<sup>th</sup> Floor



New York, NY 10010  
Tel: (646) 202-2532 (direct)  
eFax: (646) 514-6829

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---

**From:** Keough, Michael [<mailto:mkeough@Step toe.com>]  
**Sent:** Friday, December 01, 2017 8:37 AM  
**To:** Wesley J. Paul (PLG-NY)  
**Cc:** Michael, Charles  
**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Wes –

Could you please file an amended appendix today (the deadline) including the materials we requested below to be added?

Rule 30(b)(1) states that you “must include” material requested by the appellee.

Thanks,

Michael

**Michael A. Keough**  
Associate  
[mkeough@Step toe.com](mailto:mkeough@Step toe.com)  
+1 212 378 7545 direct | +1 212 506 3950 fax

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**From:** Michael, Charles  
**Sent:** Thursday, September 07, 2017 10:04 PM  
**To:** Wesley J. Paul (PLG-NY)  
**Cc:** Keough, Michael  
**Subject:** RE: Goldman v. Barrett -- Settlement Communication - FRE 408

Thanks Wes. I assume you saw today’s CAMP mediation order, which I suppose takes care of your first question.

I think any settlement talks would benefit though from a substantive response from your side to our offer. Please do let me know when you are able to counter.

SA-37

For the Joint Appendix, please also add documents 15 (Dr. Barrett's declaration and exhibits) and 16-1 (the exhibit to our reply brief on the original MTD)

Best,

Charles

---

**From:** Wesley J. Paul (PLG-NY) [<mailto:wpaul@paullawgrp.com>]  
**Sent:** Wednesday, September 06, 2017 12:37 PM  
**To:** Michael, Charles  
**Cc:** Keough, Michael  
**Subject:** Re: Goldman v. Barrett -- Settlement Communication - FRE 408

Charles,

Apologies for not responding earlier. My clients did not accept your client's offer, but I was waiting for a counter which my clients said they would provide (but have not yet done so). My clients have previously expressed a willingness to mediate. Is that something your client is willing to consider?

Separately, do you agree with the following documents for the Joint Appendix for the appeal?

-----  
Documents for Joint Appendix:

[Doc. 2]  
- original complaint  
[Doc 23]  
- order dismissing complaint  
[Doc 26]  
- amended complaint  
[Doc 38] - order dismissing amended complaint  
[Doc 44]  
- notice of appeal  
-----

Regards,

- Wes

---

**Wesley J. Paul, Esq.**  
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**Michael, Charles**

---

**From:** Wesley J. Paul (PLG-NY) <wpaul@paullawgrp.com>  
**Sent:** Thursday, December 07, 2017 5:48 PM  
**To:** Michael, Charles  
**Cc:** Keough, Michael  
**Subject:** Re: 17-2651 Goldman v. Barrett "Defective Document FILED"

Charles, my clients prefers to file their own appendix. I assume you will file a supplemental appendix.

Regards,

---

**Wesley J. Paul, Esq.**  
Paul Law Group, LLP  
[902 Broadway, 6<sup>th</sup> Floor](#)  
[New York, NY 10010](#)  
Tel: [\(646\) 202-2532](#) (direct)  
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On Dec 6, 2017, at 1:35 PM, Michael, Charles <[cmichael@Steptoe.com](mailto:cmichael@Steptoe.com)> wrote:

Wes –

Since you'll need to redo the appendix anyway, as a compromise, could you please just include the 32 pages attached? We still think the full set of documents on the motion at issue should be in there (~200 pages) but if you would please include these 32, we'll consider this dispute resolved.

Thanks,

Charles

From: [cmecf@ca2.uscourts.gov](mailto:cmecf@ca2.uscourts.gov) [<mailto:cmecf@ca2.uscourts.gov>]  
Sent: Wednesday, December 06, 2017 4:29 PM  
To: Michael, Charles

SA-39

Subject: 17-2651 Goldman v. Barrett "Defective Document FILED"

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Court of Appeals, 2nd Circuit

Notice of Docket Activity

The following transaction was filed on 12/06/2017

Case Name:

Goldman v. Barrett

Case Number:

17-

2651<<https://ecf.ca2.uscourts.gov/n/beam/servlet/TransportRoom?servlet=DocketReportFilter.jsp&caseId=38617>>

Document(s):

Document(s)<<https://ecf.ca2.uscourts.gov/docs1/00205870673?uid=694cb3cbdac3e5c0>>

Docket Text:

DEFECTIVE DOCUMENT, Appendix, [37], on behalf of Appellant Robert M. Goldman and Ronald Klatz, FILED.[2188411] [17-2651]

Notice will be electronically mailed to:

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Wesley Paul, -: [wpaul@paullawgrp.com](mailto:wpaul@paullawgrp.com)<<mailto:wpaul@paullawgrp.com>>

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84bd40258589f8b3c6f0476854aff6459cfcf42bce192b]]

Recipients:

- \* Charles A. Michael, -
- \* Wesley Paul, -
- \* Quackwatch, Inc., -

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<Additional Appendix Pages.pdf>

STATE OF NEW YORK     )  
                                      )  
COUNTY OF NEW YORK    )

ss.:

**AFFIDAVIT OF SERVICE  
BY MAIL**

I, Omar Sierra, 25 Clifton Avenue, Newark, New Jersey 07104, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above or at

**On January 5, 2018**

deponent served the within: **Brief and Appendix for Defendant-Appellee Dr. Stephen J. Barrett**

**upon:**

**Quackwatch, Inc.  
Defendant-Appellee Pro Se  
Chatham Crossing, Suite 107/208  
11312 U.S. 15 501 North  
North Chapel Hill, NC 27517**

the address(es) designated by said attorney(s) for that purpose by depositing **2** true copy(ies) of same, in a postpaid properly addressed wrapper in a Post Office Mail Depository, under the exclusive custody and care of the United States Postal Service, within the State of New York.

**Sworn to before me on January 5, 2018**

**/s/ Marianna Iannotta**

**Marianna Iannotta**

Notary Public State of New York

No. 01IA6285846

Qualified in Nassau County

Commission Expires July 15, 2021

**/s/ Omar Sierra**

**Job# 277866**