

Copley Newspapers

THE COPLEY PRESS, INC.

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FACSIMILE NO. 239-591-3219
ORIGINAL VIA CERTIFIED MAIL

Mr. Todd Pree
Mass Media Distribution LLC
1004 Collier Way, Ste. 105
Naples, FL 34110

Re: *Retraction Demand; California Civil Code Section 48a*

Dear Mr. Pree:

I represent *The San Diego Union-Tribune* and reporter Penni Crabtree. On January 25, 2008, Mass Media Distribution Newswire published a press release entitled, "Despite subpoena, San Diego Union-Tribune journalist refuses to answer claims she took money to discredit local businessman."

As stated on your website, this press release was distributed to: "HIGHLY TARGETED DISTRIBUTION: Once we receive your order, we read your press release and target journalists from a list of 135,000 media outlets and 465,000 media contacts. Each press release is sent by itself and not grouped together with other press releases. Our media list is divided into 1,644 categories so that we can choose journalists that are looking for your news." As explained fully below, this press release contains numerous false and defamatory statements concerning Ms. Crabtree, and *The San Diego Union-Tribune*.

Pursuant to California Civil Code section 48a, we are submitting this demand for retraction resulting from the defamatory statements contained in this press release. The following statements of fact are false and must be corrected to each and every journalist and media outlet that received it with the truthful statement provided below. For ease of dissemination, we provide the false statement in the press release, followed by the correct statement of fact.

Press Release False Statement: "Despite subpoena, San Diego Union-Tribune journalist refuses to answer claims she took money to discredit local businessman."

Response: It is absolutely false that Ms. Crabtree ever took money from anyone to discredit Mr. Brodie, or his companies. Any claim to that effect is false and defamatory.

Press Release False Statement: "Penni Crabtree, staff writer at the newspaper, is amongst journalists being investigated for taking money from a rival pet company."

Response: Penni Crabtree is not being investigated for taking any money from a rival pet company.

Press Release False Statement: "Investigators for Simon Brodie, the inventor of a revolutionary pet diagnostic product and developer of new breed of 'lifestyle pets', including the hypoallergenic cat, are investigating claims that Penni Crabtree, a reporter for the Union-Tribune newspaper in San Diego, may have taken money from Idexx Laboratories to discredit Brodie in a number of articles written in their newspaper during 2006."

Response: Ms. Crabtree is not being investigated by any entity and there are no credible allegations or "claims" she ever took money from Idexx in exchange for discrediting Mr. Brodie in articles she has written. Ms. Crabtree has never taken any money from Idexx and claims made by Mr. Brodie she may have done so are false.

Press Release False Statement: "Although Crabtree was subpoenaed by Brodie's attorneys, she has so far failed to agree to any questioning."

Response: Ms. Crabtree was subpoenaed Mr. Brodie's company, Allerca, as part of a civil suit Brodie filed against a former employee, in which he alleged that the former employee sold the newspaper confidential information. As with all journalists in California, Ms. Crabtree asserted her right not to provide unpublished information pursuant to the Reporter's Shield law set forth under the California Constitution, Article I, section 2. The implication in the press release that the subpoena related to an investigation being conducted into Ms. Crabtree taking money from Idexx is patently false.

Press Release False Statement: "The articles written by Crabtree began appearing a few weeks after Brodie's veterinary diagnostic company Cyttegra issued legal proceedings against Idexx Laboratories."

Response: The first article about Allerca was published on June 8, 2006, while Brodie's company Cyntegra's lawsuit against Idexx was filed three weeks later on June 30, 2006.

Press Release False Statement: "In one of the articles, she accused Brodie of illegally taking donations through an animal non-profit (so the headline read), even though she was aware that the non-profit web site was a pure design concept, had not been launched and no donations were ever taken."

Response: The Allerca Foundation Website was active and accepted donations when the article was written. The Foundation's Website claimed that every gift was tax-deductible and described itself as a nonprofit corporation of the State of California. The IRS and the California Attorney General's Office confirmed that Allerca had not registered as a nonprofit and had no nonprofit status, even though the Foundation's Website was actively soliciting donations as a nonprofit. The foundation also claimed on its Website to be working with the Audubon Zoo in New Orleans to clone the rare clouded leopard, and with the Feline Conservation Center in Rosamond to add genetic samples of endangered species to the foundation's DNA bank. Both organizations confirmed that they were not working with Brodie or his foundation.

Press Release False Statement: "In the articles written by Crabtree, she failed to mention any of the details for the Idexx case, even though she was made fully aware of Idexx's actions and the serious threat this action would cause too many of the country's pets."

Response: Novartis Animal Health, the maker of the Sentinel line of pet medicines, sued Brodie, Allerca and another Brodie company, GeneSentinel, alleging infringement of Novartis' trademark and cyberpiracy. A month later, Novartis was granted a permanent injunction against Brodie and his companies. Around the same time, GeneSentinel laid off several employees, to whom it collectively owed unpaid wages, and changed its name to Cyntegra. Brodie also revealed in a prospectus for GeneSentinel (Cyntegra) that the animal diagnostics technology that he claims to have invented were the subject of a threatened lawsuit by Minneapolis-based Fair Isaac Corp. Fair Isaac's informed Allerca that if it moved forward with the diagnostic technology, Fair Isaac would take legal action if it believed Allerca was using or disclosing Fair Isaac's confidential information.

Press Release False Statement: "For Brodie, these revelations have struck like lightning: It makes absolute sense now. The articles appeared just after we sued Idexx. Crabtree wrote a number of negative articles about me, my

lifestyle pets business ALLERCA and our hypoallergenic cats, but never once mentioned Idexx. So let me get this right: Crabtree somehow forgot to write about a large company like Idexx squeezing out life-saving groundbreaking new technology, an action that now threatens people's pets, and as important, has the potential to save thousands of human lives as well?"

Response: As to Brodie's claim to inventing "life-saving groundbreaking new technology," he and Cytogra lost the lawsuit in October 2007 that they filed against Idexx. U.S. District Judge Philip Gutierrez granted Idexx's motion for summary judgment and ordered Cytogra to pay \$7,100 in costs. Brodie has appealed this decision. The Judge's order stated, "The evidence shows that Plaintiff's (Cytogra) sole employee and founder, Brodie, has little background or experience in the market of molecular diagnostic testing. Brodie is unaware of the difference between certain common diagnostic testing techniques, in addition, Brodie testified at deposition that he has never taken a course of a technical or scientific nature, or any courses that focus on management or business. The evidence shows that any steps Plaintiff took to engage in the proposed business were only preliminary or exploratory in nature . . . In addition, Brodie never developed a formal business plan, Plaintiff had no other employees besides its founder Brodie, Plaintiff never acquired a laboratory or employed a laboratory manager, Plaintiff never contacted an investment bank or venture capital firm to raise capital and Plaintiff never obtained a license to sell the canine influenza test, one of the few products it purported to sell. Furthermore, despite claiming to have a patent pending for its veterinary diagnostic system, aside from Brodie's declaration, Plaintiff has failed to provide the Court with any other evidence regarding the patent."

Press Release False Statement: "Crabtree also reported Brodie to the California business authorities when she claimed that his company was taking deposits for a proposed franchise program; however, after investigation, the authorities proved that Crabtree's claims where in fact false as the company had never taken any franchise based funds. Much of this information used in these articles came from a laptop computer that Crabtree was aware had been stolen from the company."

Response: Ms. Crabtree did not "report" Brodie to California business authorities. As it turns out, the Department of Corporations confirmed Brodie and Allerca had never registered the cat franchise it was marketing, even though it was promoting them on its Website. The Department of Corporations investigated and ordered Allerca and Brodie to "desist and refrain" from the further offer or sale of Allerca franchises "for the protection of investors" until the cat franchise business was registered, or declared exempt.

Press Release False Statement: "She did provide a brief written response in which she refused to answer questions but at the same time Crabtree may have committed perjury when she stated she had not had any communication with a former disgruntled employee."

Response: After receiving the subpoena, Ms. Crabtree's counsel informed Allerca that Ms. Crabtree was asserting her rights under the California Constitution not to reveal unpublished information. Ms. Crabtree submitted a declaration to Allerca's counsel stating if called to testify should would invoke her rights under the California Constitution and California Evidence Code not to provide unpublished information. Ms. Crabtree never perjured herself and has never provided "a brief written response" to any of Allerca's questions.

Press Release False Statement: "Brodie had received a number of serious threats from animal rights activists and that his personal security was always a concern. Says Brodie: Crabtree's response? Publish my address in her next article, which caused me to move and put my partner and child in danger. I guess she was really trying to provide the best service possible to Idexx."

Response: A July 16, 2006 story correctly stated Brodie had been evicted in February 2006 from the downtown 777 Sixth Avenue Lofts complex for nonpayment of rent. On October 8, 2006 we reported that according to a recently filed U.S trademark application for the Ashera cat filed by Brodie, Brodie and Allerca resided at The Grande condo complex in downtown San Diego. The information was public record and readily available to anyone who wanted to go to the U.S. Patent office Website and look up the Ashera cat. No specific address was ever provided and Mr. Brodie's "guess" Ms. Crabtree reported certain facts to "provide the best service possible to Idexx" is defamatory.

Press Release False Statement: "A few weeks after the Union-Tribune articles appeared, one of Allerca's hypoallergenic cats was successfully tested on a number of national, live television shows. Brodie's company has since delivered dozens of these special cats to very happy customers, many of whom are willing to extol the cat's virtues on the Allerca website. The cat was subsequently voted one of TIME magazine's best inventions of 2006. Says Brodie: Conveniently, Crabtree, Grens and others failed to mention our success."

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Response: On November 15, 2006, Allerca announced it was relocating the company to Los Angeles, citing its strategic growth plans, which we reported in an article that ran November 16, 2006. Within that story, we also noted that *Time* magazine had placed the sneeze-free cat on its Best Inventions of 2006 list.

Very truly yours,

Scott A. Wahrenbrock /kk
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