

1 Rodney F. Stich  
2 Diablo Western Press  
3 PO Box 5  
4 Alamo, CA 94507  
5 Phone: 925-944-1930  
6 Defendants in pro se

7 IN THE SUPERIOR COURT  
8 COUNTY OF CONTRA COSTA  
9 STATE OF CALIFORNIA

10  
11 STEVE GRATZER, ) Case No. MSC01-05094  
12 )  
13 ) Petitioner/Plaintiff ) DEFENDANTS' RESPONSE TO  
14 ) vs. ) PLAINTIFF'S MEMORANDUM OF  
15 ) DIABLO WESTERN PRESS, Inc. ) POINTS AND AUTHORITIES  
16 ) RODNEY STICH, ) Date: 5-2-02  
17 ) ) Time: 9:00  
18 ) ) Dept: 05  
19 ) Appellee/Defendants.  
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19 Defendants respond to Plaintiff's Memorandum of Points and Authorities, as additional sup-  
20 port for the motion to vacate the entry of the South Carolina default judgment in the California  
21 courts.

22 Plaintiff states to this court (Page 2, Paragraph 2), "Defendants acknowledge their personal  
23 appearance in South Carolina," and then goes into a dissertation that the South Carolina default  
24 judgment is final after the jurisdictional issue is litigated. Settled law says otherwise.

25 **Neither Defendant Made A General Appearance In the South Carolina Court**

26 Filed with his Memorandum of Points and Authorities is defendants' request to take judicial  
27 notice, Exhibit JN2, which is a copy of Defendants papers submitted to the South Carolina courts  
28 that plainly state, "Special Appearance Objecting To This Court's Jurisdiction Over Defendants,

1 with the footers on each page stating, “Special Appearance Objecting To Personal Jurisdiction.”

2 Defendants’ special appearance objecting to the South Carolina court’s personal jurisdiction  
3 is similar to California’s CCP § 418.10 and Rule of court Rule 1230(a)(2).

4 The South Carolina judge refused to recognize his absence of personal jurisdiction over de-  
5 fendants, and then compounded his holdings by refusing to accept the special appearance brief  
6 filed by Diablo Western Press, compounding the due process violations.

### 7 **Plaintiff’s Typical Response When Lacking Defense In Fact Or Law**

8 Plaintiff’s only response to Defendants’ motion to vacate included:

- 9 • Claim that Defendants’ motion to vacate is frivolous. Insulting the intelligence of the  
10 court, Plaintiff’s reverses the common sense and legal definition of the term, “frivolous.”  
11 The U.S. Supreme Court held that “An appeal [or other filing] is not frivolous if any of  
12 the legal points [are] arguable on their merits ...” The California Supreme Court held in  
13 *Anders v. California* (1967) 386 U.S. 738 that an appeal [or other filing] is not frivolous  
14 if “any of the legal points [are] arguable on their merits.”
- 15 • Claim that Defendants’ special appearance was a general appearance.
- 16 • Claim that there is no defense against a judgment once it is rendered. This statement to  
17 mislead the court violates California law that clearly provides grounds for vacating the  
18 South Carolina default judgment. It ignores U.S. Supreme Court holdings that a judgment  
19 entered without personal jurisdiction or that violates constitutional due process is a void  
20 order and this issue can be raised at any time that its status is in question. The limitations  
21 inherent in the requirements of due process and equal protection of the law extend to ju-  
22 dicial as well as political branches of government, so that a judgment may not be ren-  
23 dered in violation of those constitutional limitations and guarantees. *Hanson v Denckla*,  
24 357 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.
- 25 • Claim that Defendants’ first filing was incorrectly filed as a motion, when CCP §  
26 1710.40, Motion To Vacate Judgment, specially provides for filing a motion.

### 27 **Quick Overview Of Basis For Vacating Entry Of South Carolina Default Judgment**

- 28 • Void judgment. The South Carolina default judgment meets the U.S. Supreme Court’s

1 definition of a void judgment on the basis of absence of personal jurisdiction and viola-  
2 tion of due process.

- 3 • Any recognizable grounds by California law. CCP 1710.40, which provides that a judg-  
4 ment entered pursuant to this chapter may be vacated on any ground which would be a  
5 defense to an action in this state on the sister state judgment, and another judgment en-  
6 tered—including against the Plaintiff, for which defendant requests a jury trial.
- 7 • No defamation occurred. The wording in the book, *Drugging America*, clearly did not de-  
8 fame anyone.
- 9 • There can be no recovery for defamation without a falsehood. (*Baker v. Los Angeles*  
10 *Herald Examiner* (1986) 42 Cal.3d 254,259.) The very limited wording in the book used  
11 by plaintiff in his defamation claim simply repeated word for word what was stated to the  
12 author. Ignoring for a moment that the wording did not defame anyone, a defamation  
13 claim that survives a First Amendment challenge, plaintiff must present evidence of a  
14 statement of fact that is provably false. (*Milkovich v. Lorain Journal Co.* (1990) 497 U.S.  
15 1, 20) “Statements do not imply a provably false factual assertion and thus cannot form  
16 the basis of a defamation action if they cannot “‘reasonably [be] interpreted as stating ac-  
17 tual facts” about an individual.’ Thus, ‘rhetorical hyperbole,’ vigorous epithet[s] ‘lusty  
18 and imaginative expression[s] of ... contempt,’ and language used ‘in a loose, figurative  
19 sense’ have all been accorded constitutional protection.
- 20 • Plaintiff has not denied any of the factual or legal matters stated in Defendants’ Motion to  
21 Vacate the entry of the South Carolina default judgment. Their argument consisted of the  
22 claims that: (a) defendants’ motion was incorrect, despite the fact the statute provides for  
23 it; (b) the motion was frivolous, thus reversing the Supreme Court’s criteria for that term;  
24 (c) defendants wish to relitigate the matter, but the matter was never litigated.
- 25 • Absence of personal jurisdiction. No personal jurisdiction arises as a result of the passive  
26 informational Internet site intended to inform the public on matter of major national in-  
27 terests and to petition government. Neither defendant had any constitutionally acceptable  
28 contacts with the State of South Carolina for personal jurisdiction to be obtained. Su-

1 preme Court decisions make this a void judgment.

- 2 • Major bias and prejudice is clearly shown in the wording of the default judgment issued  
3 by the South Carolina Master-In-Equity showed major bias and prejudice, providing fur-  
4 ther support for refusing to recognize it.
- 5 • Judgment obtained by extrinsic fraud. (Fraud in the South Carolina complaint is shown  
6 by the clear contradiction between the defamation claims and the wording in the book,  
7 Drugging America, which was used for the lawsuit. There was no defamation of anyone,  
8 let along a South Carolina resident.)
- 9 • California Anti-SLAPP statute and California Supreme Court rulings. The facts surround-  
10 ing the South Carolina complaint and default judgment are a classic example of why the  
11 California legislature passed the anti-SLAPP statute. Only in this case, the underlying  
12 purpose has a far graver objective: halt defendant from exposing and seeking to petition  
13 government relating to corrupt activities that continue to inflict great harm upon major  
14 national interests, including national security. The latest California ruling relating to Cali-  
15 fornia’s Anti-SLAPP statute, *Jennifer Seelig v. Infinity Broadcasting Corporation* (Cite  
16 as 2002 DJDAR 4125, filed April 16, 2002) provides additional support for vacating the  
17 entry of the South Carolina default judgment. In this latest court ruling, the defendants  
18 filed a special motion to strike plaintiff’s complaint and asserted that the suit constituted a  
19 SLAPP (strategic lawsuit against public participation) pursuant to CCP 425.16 on the ba-  
20 sis of commentary made “in connection with an issue of public interest.” The court held:  
21 In 1992, the Legislature enacted section 425.16 in an effort to curtail lawsuits brought  
22 primarily “to chill the valid exercise of ... freedom of speech and petition for redress of  
23 grievances” and “to encourage continued participation in matters of public significance.”  
24 That statute authorized a special motion to strike a cause of action against a person aris-  
25 ing from any act of that person in furtherance of the person’s right of petition or free  
26 speech under the United State or California Constitution in connection with a public issue  
27 ...” (§ 425.16, subd. (b)(1).) The goal is to eliminate meritless or retaliatory litigation at  
28 an early stage of the proceedings. (*Liu v. Moore* (1999) 69 Cal.App.4<sup>th</sup> 745, 750; *Macias*  
*v. Hartwell* (1997) 55 Cal.App.4<sup>th</sup> 669, 672.) The statute directs the trial court to grant the  
special motion to strike “unless the court determines that the plaintiff has established that  
there is a probability that the plaintiff will prevail on the claim.” (§ 425.16, subd. (b)(1).)  
... to satisfy the first threshold requirement, the offending comments must have been  
made “in connection with an issue of public interest.” (§ 425.16, subd.

1 (e)(3).)Furthermore, this requirement, like all of section 425.16, is to be “construed  
2 broadly” so as to encourage participation by all segments of our society in vigorous pub-  
3 lic debate related to issues of public interest. (§ 425.16, subd. (a); and see *Averill v. Su-*  
4 *perior Court* (1996) 42 Cal.App.4<sup>th</sup> 1170, 1175-1176 [425.16, subd. (e) intended to be  
5 given broad application in light of its purposes].)

- 6 • Obstruction of justice. Strong evidence exists that the covert reasons for the lawsuit and  
7 entry as a California judgment is to halt defendants’ exposure activities, and halt his peti-  
8 tioning of government, thereby protecting the people guilty of the crimes against the  
9 United States and continuing the offenses that Plaintiff has documented for the past 40  
10 years. Three law firms and seven lawyers are involved in plaintiff’s legal efforts, know-  
11 ing that neither defendant have any seizable assets, any net income, or any insurance. The  
12 only purpose can be to halt defendants’ attempts to make known to the people informa-  
13 tion on major national issues and indirectly to petition government relating to these mat-  
14 ters. That goal will not succeed. In addition, the defendant and the lawyers representing  
15 him (or using him as a catalyst) know that their efforts will hinder or halt his exposure of  
16 the criminal and subversive activities, and could very well meet the definition of obstruc-  
17 tion of justice.
- 18 • The 3,000 deaths on September 11, 2001, were made possible because of the corruption  
19 within the FAA that blocked the known preventative measures from being enacted. De-  
20 fendant, a former federal air safety inspector, initially discovered and documented deep-  
21 seated misconduct associated with a series of fatal airline crashes. Over a period of many  
22 years, evidence of corruption was also obtained from many government agents who pro-  
23 vided him with evidence of corruption in other areas. Considerable efforts have been ex-  
24 panded over the years, misusing the courts, to halt his exposure activities.

#### 24 **Defendant Rodney Stich’s Credibility and Background**

- 25 • It is important to recognize defendant Stich’s background and capability of having infor-  
26 mation on matters of such grave national importance. He has extensive nationwide credi-  
27 bility. He has written numerous books<sup>1</sup> using his own funds to inform the public and to

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<sup>1</sup> Three editions of *Unfriendly Skies* and *Defrauding America* and one edition in print of *Drugging America*.

1 petition government. He has appeared as guest and expert on over 3,000 radio and televi-  
2 sion shows throughout the United States, Canada, Mexico, and Europe. He was selected  
3 to take over the grassroots level of the federal government's air safety responsibilities at  
4 the world's largest airline (United Airlines) during a period when the airline was experi-  
5 encing repeated major air disasters, including the world's worst that occurred one mile  
6 from where the World Trade Center was later built. Over the years several dozen other  
7 government agents<sup>2</sup> provided him with information and documentation revealing criminal  
8 activities involving people in other government positions that constitute major crimes  
9 against the United States.

### 10 **Strong Probability Of Felony Obstruction Of Justice Conspiracy**

- 11 • Plaintiff knows that his actions aid and abet the criminal activities that defendants sought  
12 to expose and that such obstruction of justice will result in a continuation of the conse-  
13 quences that defendant Stich has documented for the past 40 years. The attempt to file the  
14 South Carolina default judgment in California is a thinly veiled attempt to obstruct jus-  
15 tice. It is no exaggeration, when defendant's evidence is examined, that the success of the  
16 September 11 hijackers was made possible by the conditions resulting from the corrup-  
17 tion that defendant first documented while a federal air safety inspector.
- 18 • Plaintiff is guilty of misconduct. (The false statements in the South Carolina complaint,  
19 and the use of three law firms and seven lawyers against defendants who they knew had  
20 no assets or income to seize, and no insurance, clearly indicates another motive: halt de-  
21 fendants public spirited exposure of corrupt, criminal, and subversive actions.)

22 It would be important if everyone recognizes that there has developed a vast amount of  
23 documented evidence showing the actions taken to halt defendants' public spirited actions, and  
24 that these matters are receiving considerable attention on the Internet and elsewhere. Virtually  
25 nothing can be done to prevent defendants from continuing to bring this information to the public  
26 and force government officials to address these matters. Anyone who in any way acts to aid and

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28 <sup>2</sup> Former and present government agents who have provided Stich information on criminal and subversive activities  
include agents from the FBI, Customs, Secret Service, CIA, including former heads of secret CIA airlines and secret  
CIA financial institutions.

1 abet these offenses should consider the personal consequences.

2 Date: April 22, 2002.

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Rodney Stich, in pro se for both defendants

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