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6

7 IN THE SUPERIOR COURT
8 COUNTY OF CONTRA COSTA
9 STATE OF CALIFORNIA
10

11 STEVE GRATZER,.

12 Petitioner/Plaintiff

13 vs.

14 DIABLO WESTERN PRESS, Inc.
15 RODNEY STICH,

16 Appellee/Defendants.
17

) Case No. MSC01-05094
)

) MOTION TO VACATE ENTRY
) OF FOREIGN JUDGMENT
) FOR BOTH DEFENDANTS
)

) Code Civil Procedure §1710.40
) Code Civil Procedure § 425.16 (anti-SLAPP)
) JURY TRIAL REQUESTED
) Legal Fees and Costs
) Date: 5-2-02
) Time: 9:00
) Dept: 05
)

18 AFFIDAVIT
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1 Rodney F. Stich and Diablo Western Press, Inc., a Nevada Corporation (collectively referred
2 to as “Stich”), files this opposition to the entry of the South Carolina default judgment (Exhibit
3 A) that was in favor of Steve Gratzer (“Gratzer”). This motion also seeks legal fees, costs, and
4 damages from “Gratzer.” The authority for this motion arises under CCP §1710.40.¹
5

6 Additional authority for denying the entry, or vacating the entry, of the South Carolina de-
7 fault judgment as a California judgment arises under (a) California’s Anti-SLAPP statute, CCP §
8 425.16.

9 **Procedural History Of South Carolina SLAPP Lawsuit**

10 A lawsuit (Attachment “A”) was filed on July 5, 2000, in the State of South Carolina by
11 Steve Gratzer against Rodney Stich, a resident of the state of California and Nevada, and against
12 Diablo Western Press, Inc., a Nevada corporation. The lawsuit claimed that Stich, author of the
13 book, *Drugging America*, and Diablo, a non-profit operation that distributes the book, defamed
14 South Carolina resident Steve Gratzer (“Gratzer”)
15

16 Stich made a special appearance in pro se status on behalf of himself and Diablo Western
17 Press, Inc. by filing a September 28, 2000, objecting to the court’s personal jurisdiction. (At-
18 tachment “B”)
19

20 On October 16, 2000, Gratzter filed a motion to strike the “responsive pleading of Diablo
21 Western Press, Inc. on the basis that the corporation could not be represented by anyone other
22 than a licensed attorney.” (Attachment “C”)
23

24 Stich sent by priority mail a reply to that objection (Attachment “D”) on December 23, 2000,
25
26
27

28 ¹ A judgment entered pursuant to this chapter may be vacated on any ground which would be a defense to an action
in this state on the sister state judgment, including ... and another and different judgment entered ...

1 stating facts showing that Diablo had no assets and that under federal law² for due process, an
2 officer of the corporation could appear in court for the corporation when there were no assets.
3 Also, constitutional due process was being violated by assuming jurisdiction over the defendants
4 who had no connection to the State of South Carolina. The court file-stamped that reply on Janu-
5 ary 2, 2001, a day before the hearing on Plaintiff's motion.
6

7 On November 3, 2000, South Carolina Judge Jackson V. Gregory, signed an order (Attach-
8 ment "E") claiming he had personal jurisdiction over Stich and Diablo [underlining added here]:

9 Gratzer argued that the court should deny Stich's objection to personal jurisdiction based on
10 *Keeton v. Hustler Magazine*, 465 U.S. 770, 104 S.Ct. 1473 (1984), maintaining that the Defen-
11 dants established the requisite contacts with this forum by carrying on a "part of its general busi-
12 ness" in South Carolina and that the injury that resulted from Defendants' libelous conduct oc-
13 curred in South Carolina and resulted from that business activity.
14

15 The court had upheld personal jurisdiction against Hustler Magazine on the basis that the
16 magazine was sold from locations within the state and therefore had a presence in the state that
17 supported personal jurisdiction. Diablo has not locations in any state and as a distributor it ships
18 books from the state of Nevada when orders are received.
19

20 South Carolina judge Jackson Gregory held that a web site provides personal jurisdiction:

21 IT IS FURTHER ORDERED that this Court finds that jurisdiction is proper in this case, the
22 Defendants having established sufficient contacts with this forum through their web site, as
23 well as national retailers, which market and sell the book from which this cause of action
24 arises, and that harm complained of occurred in South Carolina, and that the cause of action
25 arose from the very activity being complained of. [Underlining added here]

26 **Requesting Information On Status Of Lawsuit**

27
28 ² *In the Matter of Holliday's Tax Services, Inc.*, 417 F.Supp 182 (E.D.N.Y. 1976), the court held that a corporation could be represented by its owner where both had filed Chapter XI proceedings and neither the corporation or the individual owner could afford an attorney. The corporation was therefore denied due process and equal protection of the law.

1 On December 5, 2001, Stich sent a letter to the South Carolina court requesting the status of
2 the lawsuit. The court responded on December 10, 2001, by sending a certified copy of the
3 court's July 5, 2001, order. (Attachment "F") This notice of the court's order was received be-
4 yond the period when an appeal could have been filed to that order.
5

6
7 **Stich's Books Attempted To Influence Government Actions Toward Corrupt Activities**
8 **Affecting Major National Interests Through Constitutionally Protected Rights**

9 Stich is a former federal air safety inspector³ who discovered as part of his official duties cor-
10 rupt and criminal activities within the Federal Aviation Administration (FAA) that played key
11 roles in a series of fatal airline crashes.⁴ This misconduct, the resulting crashes and deaths, were
12 aided and abetted by other people in government who know of the charges and who either did
13 nothing or who actively aided in a cover up.
14

15 **Exercising Constitutional Rights To Focus Attention**
16 **On Major National Issues By Authoring Books**

17 Seeking to exercise his responsibilities as a citizen and under the federal crime reporting stat-
18 ute, and to bring about government actions and legislation by informing people of these matters,
19 Stich authored books,⁵ appeared as guest and expert on over 3,000 radio and television shows
20
21
22

23 ³ Stich was a federal air safety inspector responsible for air safety over the most senior program for the world's larg-
24 est airline during the 20-year span that the airline was experiencing many fatal airline crashes. During this period, he
25 documented a deep-seated pattern of corruption and criminal activities that created conditions resulting in numerous
26 air disasters. Later, during investigative activities that included extensive contacts with other government agents,
27 Stich discovered and obtained evidence of criminal activities in other government offices that continues to inflict
28 great harm upon major national interests. On the basis of criminal statutes and citizen responsibilities, Stich has
sought to expose these matters and force government officials to exercise responsibilities over these matters.

⁴ The corrupt activities and related airline crashes are detailed in the third edition of *Unfriendly Skies*, authored by
Rodney Stich as part of his activist attempts to influence government actions and to make this information known to
the public.

⁵ Books on matters of major national concern included *Unfriendly Skies*, *Defrauding America*, and *Drugging Amer-
ica*.

1 since 1978, and gave speeches. He filed federal lawsuits⁶ under the authority of the federal crime
2 reporting statute⁷ and the statute⁸ permitting any citizen to seek a court order requiring a federal
3 official to perform a legal duty and to halt unlawful conduct. These lawsuits included as exhibits,
4 or through reference, the various books Stich wrote, including the book *Drugging America* that
5 was the subject of the South Carolina lawsuit.
6

7 **Government Agents Provided Additional Evidence Of Criminal Activities** 8 **In Other Areas Gravely Affecting Major National Interests**

9 As Stich's sought to influence government actions in this manner, including legislation, other
10 former and present government agents⁹ provided him with information and documentation over a
11 period of years on corrupt activities in other areas that they discovered as part of their official
12 duties. This information and documentation revealed even greater harm to national security and
13 other major national interests.
14

15 **Relationship Between Corruption, Cover-Ups, Actions** 16 **To Block Stich's Exposure Activities, and September 11, 2001, Tragedies**

17 The *latest consequences* of the corrupt activities in the aviation environment occurred on
18

19 ⁶ *Stich v. United States, et al.*, 554 F.2d 1070 (9th Cir.) (table), *cert. denied*, 434 U.S. 920 (1977)(addressed hard-core
20 air safety misconduct, violations of federal air safety laws, threats against government inspectors not to report safety
21 violations and misconduct); *Stich v. National Transportation Safety Board*, 685 F.2d 446 (9th Cir.)(table), *cert. de-*
22 *nie*d, 459 U.S. 861 (1982))(addressed repeated criminal falsification of official airline accident reports, omitting
23 highly sensitive air safety misconduct, making possible repeated crashes from the same sequestered problems);
24 Amicus curiae brief filed on July 17, 1975, in the Paris DC-10 multi-district litigation, *Flanagan v. McDonnell*
Douglas Corporation and United States of America, Civil Action 74-808-PH, MDL 172, Central District Califor-
25 nia.)(addressing the long standing FAA misconduct, of which the cover-up of the DC-10 cargo door problem was
26 one of repeated instances of tragedy related misconduct); U.S. v. Department of Justice, District of Columbia, Nos.
27 86-2523, 87-2214, and other actions filed by Stich seeking to expose and correct the powerful and covert air disaster
28 misconduct.

⁷ Title 18 USC § 4. Misprision of felony. Whoever, having knowledge of the actual commission of a felony cogni-
zable by a court of the United States, conceals and does not as soon as possible make known the same to some judge
or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not
more than three years, or both.

⁸⁸ Title 28 U.S.C. § 1361. Action to compel an officer of the United States to perform his duty. The district courts shall
have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States
or any agency thereof to perform a duty owed to the plaintiff.

⁹ These included agents from the FBI, DEA, Customs, CIA—including former heads of CIA airlines and CIA finan-
cial operations; former drug traffickers, and others.

1 September 11, 2001, when four groups of hijackers seized four airliners. These terrorist hijack-
2 ings could not have succeeded if the corruption and the collateral effects that Stich and Diablo
3 sought to report had not been blocked.
4

5 **The South Carolina SLAPP Lawsuit Was Latest Attempt**
6 **To Halt Stich's Exposure Of Crimes Against the United States**

7 The facts indicate the South Carolina alleged defamation lawsuit, and the entry of the default
8 judgment as a California judgment, are the latest in a series of attempts to block the exposure of
9 these crimes. There are now two law firms and half a dozen lawyers misusing legal process
10 against a 78-year-old former federal agent dedicated to exposing massive corruption. Gratzer,
11 and each of the law firms and lawyers involved in pursuing this action against Stich, knew that
12 (a) he has no assets, no income other than modest Social Security, no insurance, and that there is
13 no possibility of any financial recovery.
14

15 Their only purpose can be to join the list of conspirators whose documented federal offenses
16 have delayed the exposure of criminal activities that continue to inflict great harm upon myriad
17 national interests.

18 The South Carolina lawsuit and default judgment falsely claimed that Stich, as the author,
19 and Diablo, as the “publisher”¹⁰ of the book, *Drugging America*:

- 21 • Accused South Carolina resident Steve Gratzer “of killing his ex-wife and that the mur-
22 der was covered up.”
 - 23 ○ No such statement or allegation was made in the book. The indirect reference that
24 was made to the name, Steve Gratzer, was to a *Nevada resident* named Steve
25 Gratzer, and quoted what the wife of that Nevada resident, Doris Gratzer, stated to
26 her Ely, Nevada physician. That physician, Jeb Cserna, a Lt. Colonel in the Idaho
27

28 _____
¹⁰ Ownership and rights to the books were sold to other entities.

1 Air National Guard, had stated in writing to author Rodney Stich what the patient
2 had said to him. The Gratzner reference was a minor and unrelated part of another
3 subject being discussed¹¹ by the physician relating to the retaliation he suffered
4 when the Idaho National Guard refused to provide a helicopter requested by the
5 FBI for the purpose of the military attack upon the Randy Weaver family.
6

- 7 • Falsely claiming defamatory language about Gratzner.
 - 8 ○ Reference in the book was solely to what a Doris Gratzner stated to Dr. Cserna.
9 Stich added information in the book that raised doubt upon Doris Gratzner’s mental
10 state, thereby negating what she said. (However, it is possible that what she stated
11 about her husband might be correct.)
- 13 • Allegations that accusations were made against Gratzner that were untrue.
 - 14 ○ No statements or accusations were made against Gratzner and merely repeated the
15 statements made by Doris Gratzner to Dr. Cserna, and repeated to author Rodney
16 Stich. No reasonable person with an understanding of law could misinterpret the
17 wording to constitute defamation.
 - 19 ○ Gratzner is not an uncommon name and referred to a Steve Gratzner residing in Ne-
20 vada, not South Carolina. Further, the name Gratzner had already appeared within
21 the last few years in the Las Vegas newspapers in connection with an investiga-
22

24 ¹¹ The physician made statements about the retaliation he suffered after the air National Guard unit in which he was
25 the medical officer refused to provide a helicopter to attack the Randy Weaver cabin in the Ruby Ridge assault. As
26 part of the conversation, the physician wrote that one of his patients told him that if she were found dead, her hus-
27 band, Steve Gratzner of Ely, Nevada, would have been the one who did it. This minor reference was simply included
28 to complete the statements made to the author and did not imply that Gratzner had killed his wife. Further, the author
stated in that section that the hospital staff did not believe anything that the woman said. Further, the name Steve
Gratzner appeared in Las Vegas newspaper articles as among the people questioned in the murder of Las Vegas ca-
sino owner Ted Binion. Further, there are hundreds of people throughout the United States with the name “Steve
Gratzner.”

1 tion into the murder of Las Vegas casino owner Ted Binion.

2 The text in *Drugging America*, relating to a Nevada resident named Steve Gratzner, follows
3 (emphasis added):
4

5
6 **Imprisoning A Doctor On Perjured Testimony**

7 In 1997 I started receiving information from a physician who had been targeted in a similar
8 gun-charge. Dr. Jed Cserna was an MD with a private practice in Ely, Nevada, and a Lt.
9 Colonel in the Idaho National Guard, with 16 years of military service behind him. His prob-
10 lems started in Ely, Nevada, where he was a physician. Cserna told me how it appeared to
11 start. While he was treating a patient, Doris Gratzner, she told him, "If I=ever shot, Steve
12 [her husband] did it." Dr. Cserna told this to the hospital staff and they said that she always
13 had problems, and this occasion was no different than others. A week later, she was found
14 dead, killed by a bullet wound to the head.

15 Cserna said her husband, Steve Gratzner, was influential in the town, especially with the
16 sheriff, who was responsible for conducting an investigation into his wife=s killing. Cserna
17 was now a danger to Gratzner. According to Cserna, false statements were made by a govern-
18 ment informant, seeking to justify his position and pay, that resulted in a raid by ATF agent
19 Doreen on his doctor=s office. His home was broken into and possessions disappeared. Par-
20 ticipating in the ATF raid was the sheriff who he referred to as Burnie (Ronero), who would
21 soon participate in sham charges filed against the doctor.

22 Government agents arrested Cserna a short time later and charged him with possession of
23 a machine gun and a short-barreled rifle. The guns in question were an AR-15 that was not an
24 automatic, and a Uzi 9 mm that had been sold to him with a folding stock and various barrels.
25 He had used both guns two and three times a week at the local police firing range and was
26 never questioned about their legality.

27 **DOJ Retaliation Because of Refusing Ruby Ridge Participation?**

28 Cserna told me about an event that happened in Idaho while he was the physician assigned to
the Idaho National Guard air wing. During the Ruby Ridge attack that killed Mrs. Weaver
and her son, ATF agents had gone to the Idaho National Guard base and told the Commander
of the helicopter division, "We are ordering you to activate your choppers to go north and
strafe Ruby Ridge." The colonel refused, stating, "This is against the law, the constitution,
and finally, Randy Weaver is an Idaho Citizen. Either you get out or I=ll have you thrown
out."

25 **False Statements In the Default Judgment By Master-In Equity**

26 The wording of the default judgment of July 5, 2000, shows misstatement of facts by the
27 South Carolina Master-In-Equity as he falsely stated that the book:
28

- 1 • Accused Steve Gratzner of murdering his wife. [The wording clearly contradicts that
2 statement.]
- 3 • Made several defamatory references to Gratzner. [The wording clearly contradicts that
4 statement. On the contrary, the book adds comments that question the credibility of the
5 wife of Nevada resident Steve Gratzner.]
- 6 • Advanced the theory that Steve Gratzner murdered his wife. [The wording clearly contra-
7 dicts that statement.]
- 8 • Stating as fact matters that were never entered into the record, were not stated in the al-
9 leged defamatory wording in *Drugging America*, and which were outside the confines of
10 whether the statement made in the book was defamatory. For instance (a) That Doris
11 Gratzner committed suicide; that an investigation was made and that Steve Gratzner was not
12 charged [no support for those statements]; “Defendants” never contacted Steve Gratzner in
13 South Carolina. [There was no reason to contact the Steve Gratzner to determine if the let-
14 ter written to Stich by Dr. Cserna really stated what Stich wrote, and Stich had no knowl-
15 edge of a Steve Gratzner residing in South Carolina.] Stich’s writings never referred to
16 anyone by the name of Steve Gratzner residing in South Carolina. Stich would not know
17 how to contact him or any of the hundreds of other Steve Gratzers residing in the United
18 States.]
- 19 • Accused the South Carolina resident, “Steve Gratzner, of a serious crime. [The wording
20 clearly shows that to be a false statement.]
- 21 • That Steve Gratzner ordered the book from an Internet site and that “based upon that site
22 the court had personal jurisdiction.” [No evidence of the site from which the book was
23 ordered. It could have been amazon.com or many others. Further, Internet presence pro-

1 viding information of public interest does not confer jurisdiction throughout the world
2 where the Internet site can be accessed.]

- 3 • That the Plaintiff, Gratzer, presented clear and convincing evidence that the defendant
4 acted with constitutional malice. [The wording in the book clearly shows that no evidence
5 existed, and the wording in the book clearly does not constitute constitutional malice.]
- 6 • Default judgment made reference made to police and autopsy reports, when no such re-
7 ports were entered into the record in South Carolina, and had nothing to do with whether
8 the wording in the book constituted defamation..
- 9 • The South Carolina order stated that the court received into evidence correspondence
10 from Stich showing a lack of respect for the legal system and that court. [The only corre-
11 spondence was the special appearance papers, none of which showed lack of respect for
12 the legal system. Further, this would have nothing to do with whether defamation ex-
13 isted.] The South Carolina judge acted as a representative of Gratzer and the scheme to
14 block further reporting of the criminal and treasonous misconduct.

18 **Another Due Process Violation**

19 Failure of the South Carolina court to provide Stich notice of the default judgment prevented
20 him from filing notice of appeal. Stich did not receive a copy of the order/default judgment until
21 December 12, 2001, *after* he sent a letter to the South Carolina court notifying it by certified mail
22 dated December 5, 2001, that no such order had ever been received. The subsequent receipt of
23 the order from the court showed that it was filed five months earlier, and that it had a December
24 10, 2001, certification date on it. This long-delayed notification prevented filing any notice of
25 appeal.
26
27

28 **Facts Indicate A Motive Other Than Compensation For Sham Defamation Claim**

1 The South Carolina lawsuit was a thinly disguised scheme to halt Stich's exposure of the
2 crimes against the United States. The following facts support this conclusion:

- 3 • Gratzer, his lawyers, and the South Carolina judge, knew that blatant false charges were
4 made in the lawsuit that were contradicted by the clear wording in the book.
- 5
- 6 • Gratzer, his lawyers filing the complaint, and lawyers in California aiding them, knew
7 that Stich and Diablo had no assets, had no income, and had no insurance, and that there
8 was no money that could be obtained from the lawsuit.
- 9
- 10 • Gratzer, and lawyers acting on his behalf, knew that Stich and Diablo were seeking to re-
11 port corrupt and criminal activities that were inflicting great harm upon vital U.S. inter-
12 ests and upon many victims. They surely recognized that their actions would either im-
13 pede or halt these activities and that the continued cover-up of the criminal activities
14 would continue the harm inflicted upon major U.S. interests.
- 15
- 16 • Gratzer and lawyers acting on his behalf, or using him as a catalyst, knew that they were
17 obstructing justice and inflicting harm upon a former federal agent and witness—which
18 are criminal acts.
- 19
- 20 • Gratzer and his lawyers knew that the filing of a lawsuit in South Carolina, nearly 3,000
21 miles from their locations in California and Nevada, would prevent defending the lawsuit
22 in South Carolina due to absence of financial resources, absence of insurance, and Stich's
23 age of 78.

24 **All Parties Knew Their Conduct Would Aid and Abet Corruption and**
25 **Assist Success of Terrorist Acts Made Possible By the Corruption**

26 Before Gratzer and his lawyers filed the lawsuit in South Carolina, they had read the book,
27
28

1 *Drugging America*, examined the related Internet sites,¹² and knew of Stich's other books. They
2 knew that Stich had acquired considerable information and evidence of corrupt and criminal ac-
3 tivities that were inflicting great harm upon important U.S. interests. They knew that Stich and
4 Diablo were attempting to influence government action related to these matters and to inform the
5 public on major national issues that concern everyone in the United States. They knew that the
6 South Carolina lawsuit would interfere with, or block, Stich's exposure of these criminal activi-
7 ties and in turn make possible the continuation of the harm arising from these corrupt activities.

8
9
10 **Continuation Of Scheme Despite 3,000 Deaths
Made Possible By Corruption Stich Seeks To Expose**

11 The South Carolina lawsuit was filed nearly a year and a half *prior* to the September 11,
12 2001, hijacking of four airliners. The success of the four groups of hijackers was made possible
13 by the misconduct¹³ within the Federal Aviation Administration and elsewhere that Stich sought
14 to expose.

15
16 **Federal Crimes Associated With the Gratzer Scheme**

17 Federal crimes arose from the actions of Gratzer and his South Carolina and California law-
18 yers. Their misuse of legal process that knowingly would hinder or halt Stich's exposure activi-
19 ties constitutes federal crimes under Title 18 U.S.C. §§ 2, 3, 4.¹⁴ Misuse of legal process against
20

21
22 _____
23 ¹² Internet sites: www.unfriendlyskies.com and www.defraudingamerica.com.

24 ¹³ Corrupt and criminal activities included threats against federal air safety agents not to report air safety problems
25 or violations; retaliation when they file such reports after being told not to; retaliation for taking authorized actions
26 on air safety problems; covering up for criminal falsification of government-required major safety requirements;
27 false testimony at FAA hearing during which Stich acted as independent prosecutor;

28 ¹⁴ Title 18 U.S.C. § 2. Principals. (a) Whoever commits an offense against the United States or aids, abets,
counsels, commands, induces or procures its commission, is punishable as a principal. (b) Whoever will-
fully causes an act to be done which if directly performed by him or another would be an offense against
the United States, is punishable as a principal.

Note: The legislative intent to punish as a principal not only one who directly commits an offense and one who
"aids, abets, counsels, commands, induces or procures" another to commit an offense, but also anyone who causes
the doing of an act which if done by him directly would render him guilty of an offense against the United States.
Case law decisions: *Rothenburg v. United States*, 1918, 38 S.Ct. 18, 245 U.S. 480, 62 L.Ed. 414, and *United States v.*
Giles, 1937, 57 S.Ct. 340, 300 U.S. 41, 81 L.Ed. 493.

1 a former federal agent and witness that act to block his reporting of criminal activities constitutes
2 additional federal crimes.¹⁵ In addition, there are the deaths of 3,000 people that are only one
3 day's consequence of the corruption Stich sought to report and the consequences of the multiple
4 attempts to silence him, including the attempts using the cover of legal processes.
5

6 Also implicated are those people who know of these allegations and make no effort to have
7 them placed into a public record. By failing to report these federal crimes¹⁶ to a federal officer
8 who is not implicated in prior cover-ups violates Title 18 U.S.C. § 4.
9

10 **II. ARGUMENT**

11 **1. Complaint and Default Judgment Violated Constitutional Protections**

12 The many anti-SLAPP statutes in the United States, including California Code of Civil Pro-
13 cedure 425.16, are intended to prevent retaliatory lawsuits against people who (1) seek to report
14 matters of public interest; (2) seek to influence government actions; (3) exercise the right to free
15 speech; (4) and to protect speakers who exercise these constitutional rights and civic responsi-
16 bilities. To these protections may be added one more: to protect people exposing criminal and
17 subversive activities in government.
18

19 **2. Violates Anti-SLAPP Protections Provided By California Statute**

20 The anti-SLAPP statute allows the defendant media or speaker to file a motion to dismiss an
21 action claiming that the lawsuit is a tactic meant to scare or silence the defendant. The legislature
22 intended the statute to be interpreted liberally so as to encourage people and the media to partici-
23 pate in matters of public importance. California Code Civil Procedure § 425.16 states:
24
25

26 Title 18 U.S.C. § 3. Accessory after the fact. Whoever, knowing that an offense against the United States has
27 been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension,
28 trial or punishment, is an accessory after the fact.

¹⁵ Title 18 U.S.C. §§ 2, 3, 4, 35, 111, 153, 241, 242, 245(b)(1)(B), 246, 371, 1341, 1343, 1503, 1505, 1512, 1513(b),
1515(a).

¹⁶ The criminal activities Stich seeks to expose go far beyond the area of aviation safety and terrorism.

1 **CCP § 425.16. Claim arising From Person’s Exercise of Constitutional Right of Petition**
2 **or Free Speech—Special Motion to Strike.**

3 (b) (1) A cause of action against a person arising from any act of that person in furtherance of the person’s right of petition or free speech under the United States or California Constitution in connection with a public issue shall be subject to a special motion to strike.

4 (e) As used in this section, “action in furtherance of a person’s right of petition or free speech under the United States or California constitution in connection with a public issue” includes:
5 ... (2) any written or oral statement or writing made in connection with an issue under con-
6 sideration or review by a legislative, executive, or judicial body, or any other official pro-
7 ceeding authorized by law: (3) any written or oral statement or writing made in a place open
8 to the public or a public forum in connection with an issue of public interest: (4) any other
conduct in furtherance of the exercise of the constitutional right of petition or the constitu-
tional right of free speech in connection with a public issue or an issue of public interest.

9 Stich’s writings, including those in *Drugging America*, sought to influence officials in the
10 three branches of the federal government in connection with issues of major national importance,
11 including those matters that created conditions insuring the success of the four groups of terrorist
12 hijackers on September 11, 2001. These writings fell under the constitutional right of free speech
13 in connection with major public issues.

14
15 In *Briggs v. Eden Council for Hope & Opportunity*, 19 Cal.4th 1106 (1999), an action alleg-
16 ing defamatory statements, the California Supreme Court held that the statute must be “construed
17 broadly:”

18
19 The stated purpose of the [anti-SLAPP] statute ... includes protection of not only the
20 constitutional right to ‘petition for the redress of grievances,’ but the broader constitu-
21 tional right of freedom of speech.’ (*Averill v. Superior Court* (1996) 42 Cal.App.4th 1170,
1176.)

22 See also *Morehouse v. Chronicle Publishing*, 37 Cal.App.4th 855 (1985), *Richard A. Chavez*
23 *v. Enriqueta Mendoza* ((No. D037586); and *Shekhter v. Financial Indemnity Co.* (2001) 89
24 Cal.App.4th 141,151.)

25
26 “The purpose of section 425.16 is ... to deter frivolous and improperly motivated lawsuits
27 arising from [having exercised constitutional] rights.” Section 425.16 applies when the claims
28 arise from an exercise of a constitutionally protected right (*Paul for Council v. Hanyecz* (2001)

1 85 Cal.App.4th 1356, 11363-1367). (See *McDonald v. Smith* (1985) 472 U.S. 479, 485.) ... [A]s
2 this court has recognized, the potential for a malicious prosecution claim does have a “chilling
3 effect on the willingness of persons to report crimes or pursue legal rights and remedies in
4 court....” (*Ferreira v. Gray, Cary, Ware & Freidenrich* (2001) 87 Cal.App.4th 409, 413.) ... The
5 critical point is whether the cause of action itself as based on an act in furtherance of the right of
6 petition or free speech. (See *ComputerXpress*, 93 Cal.App.4th at pp. 1002-1003.) Claims that
7 arise from a defendant’s prior free speech or petition activities are subject to an anti-SLAPP mo-
8 tion regardless of whether the protected activities have concluded before the lawsuit was filed.
9

10 **3. Violates Federal Law Relating To SLAPP Lawsuits**

11
12 The South Carolina lawsuit and default judgment violates federal *case law* relating to SLAPP
13 lawsuits. An early federal decision relating to SLAPP lawsuit stated the importance of the courts
14 safeguarding freedom of speech and the requirement that a public official prove actual malice by
15 the defendants. *New York Times v. Sullivan*, 1974, 376 U.S. 254, 84 S.Ct. 710. The Times pub-
16 lished a paid advertisement supporting civil rights activities in the South, which an elected offi-
17 cial in Montgomery, Alabama felt defamed him. He brought an action for libel against the news-
18 paper and various clergymen who had signed the ad.
19

20 Violates *federal statutes* relating to SLAPP lawsuits. Federal statutes, Title 42 Section
21 14501-14505, address the importance of protecting persons, in this case volunteers, against li-
22 ability in the performance of services for a nonprofit organization or governmental entity. Stich
23 had been volunteering his efforts in a non-profit manner for the benefit of the United States and
24 its people. Diablo is a non-profit operation formed to provide information on matters of major
25 national interest and concern. Again, broad and liberal interpretation of this statute and Supreme
26 Court decisions is dictated by the great harm arising from the wrongful conduct Stich seeks to
27
28

1 expose.

2 **4. Covert Reason For Lawsuit: Halt Stich's Exposure Of Criminal Activities**

3 An issue never before raised in a SLAPP lawsuit is a scheme obviously intended to halt the
4 exposure of criminal and subversive activities by misuse of the legal process. The facts show that
5 (a) there was no defamation to support the South Carolina lawsuit and the entry of a default
6 judgment in the State of California; (b) that Stich was attempting to report criminal activities that
7 he discovered and documented while a federal agent and which continue to inflict great harm
8 upon major U.S. interests; and (c) that the present attempt to have the South Carolina default
9 judgment entered as a local judgment is part of the scheme or conspiracy that continues to inflict
10 great harm upon the United States.
11

13 **5. Absence Of Personal Jurisdiction Under General Business Holding**

14 The South Carolina Master-In Equity sought to exercise personal jurisdiction over Stich and
15 Diablo on his holding that they carried on "a part of its general business" in South Carolina and
16 had an Internet presence.
17

- 18 • Neither had engaged in any "general business" conduct in South Carolina.
- 19 • Neither had sought or availed themselves of any benefits of the state of South Carolina.
- 20 • Neither had any residence in South Carolina.
- 21 • Neither had any business outlet in South Carolina.
- 22 • Neither had any representatives in South Carolina.
- 23 • Neither had any distributor in South Carolina.
- 24 • Neither had any employees in South Carolina (or anywhere else).
- 25 • Neither had ever sought any business from anyone in South Carolina.
- 26 • Neither had ever sought any business from anyone in South Carolina.
- 27 • Neither had ever sought any business from anyone in South Carolina.
- 28 • Neither had made reference to any South Carolina resident named Steve Gratzer.

1 In *Thomas E. Malone v. Equitas Reinsurance Limited*, 84 Cal.App. 4th 1430 (2000), the court
2 held that personal jurisdiction does not exist when foreign company does not solicit business or
3 has sufficient contacts in California.

4 Personal jurisdiction is of two types: general jurisdiction exists when the activities of a non-
5 resident in the forum state are substantial, continuous, and systematic, or extensive and wide-
6 ranging. (*Boaz v. Boyle & Co.*, supra, 40 Cal.App.4th at p. 717.) In such circumstances, it is
7 not necessary that the cause of action be related to the defendant's forum activities. (Ibid.) In
8 contrast, under "specific jurisdiction," the lawsuit must arise out of, or be related to, the de-
9 fendant's contacts with the forum. (Id. At pp.716-717.) In the present case, plaintiffs do not
10 contend that California had general jurisdiction over defendants.

11 As the United States Supreme Court explained in *Burger King Corp. v. Rudzewicz* (1985)
12 471 U.S. 462: "The Due Process Clause protects an individual's liberty interest in not being
13 subject to the binding judgments of a forum with which he has established no meaningful
14 'contacts, ties, or relations.' ... By requiring that individuals have 'fair warning that a par-
15 ticular activity may subject [them] to the jurisdiction of a foreign sovereign,' ... the Due
16 Process Clause 'gives a degree of predictability to the legal system that allows potential de-
17 fendants to structure their primary conduct with some minimum assurance as to where that
18 conduct will and will not render them liable to suit,' ...

19 The constitutional touchstone remains whether the defendant purposefully established
20 'minimum contacts' in the forum state. ... In defining when it is that a potential defendant
21 should 'reasonably anticipate' out-of-state litigation, the Court frequently has drawn from the
22 reasoning of *Hanson v. Denckla*, 357 U.S. 235, 253 (1958): 'The unilateral activity of those
23 who claim some relationship with a nonresident defendant cannot satisfy the requirement of
24 contact with the forum State. The application of that rule will vary with the quality and na-
25 ture of the defendant's activity, but it is essential in each case that there be some act by which
26 the defendant purposefully avails itself of the privilege of conducting activities within the fo-
27 rum State, thus invoking the benefits and protections of its law.'

28 The 'purposeful availment' requirement ensures that a defendant will not be hauled into a
jurisdiction solely as a result of 'random,' 'fortuitous,' or 'attenuated' contacts, ... or of the
'unilateral activity of another party or a third person,' ... Jurisdiction is proper, however,
where the contacts proximately result from actions by the defendant himself that create a
'substantial connection' with the forum State. ... Thus where the defendant 'deliberately' has
engaged in significant activities within a State, ... or has created "'continuing obligations' be-
tween himself and residents of the forum, ... he manifestly has availed himself of the privi-
lege of conducting business there, and because his activities are shielded by 'the benefits and
protections' of the forum's laws it is presumptively not unreasonable to require him to submit
to the burdens of litigation in that forum as well." (*Burger King Corp. v. Rudzewicz*, supra,
471 U.S. at pp.471-475, citations, fns. And original italics omitted.)

Once it has been decided that a defendant purposefully established minimum contacts
within the forum State, these contacts may be considered in light of other factors to deter-
mine whether the assertion of personal jurisdiction would comport with 'fair play and sub-
stantial justice.' ... Thus courts in appropriate cases may evaluate the burden on the defen-
dant, the forum State's interest in adjudicating the dispute, the plaintiff's interest in obtaining
convenient and effective relief, the interstate judicial system's interest in obtaining the most

1 efficient resolution of controversies, and the shared interest of the several States in furthering
2 fundamental substantive social policies.

3 **The required “Systematic and Continuous” Activity Never Existed**

4 A person, to be subject to the jurisdiction of a particular state, must be engaged in “system-
5 atic and continuous” activities with the forum state for personal jurisdiction to be acquired. *Heli-*
6 *copteros*, 466 U.S. at 414-416. Neither Stich nor Diablo were engaged in “systematic and con-
7 tinuous” activities with the state of South Carolina, or any other state.
8

9
10 **6. Personal Jurisdiction Did Not Arise On Basis Of Internet Site**

11 The South Carolina Master-In-Equity sought to exercise personal jurisdiction on the basis of
12 an Internet site that made reference to the book, *Drugging America*. As a matter of common
13 sense and constitutional due process, an Internet site on the World Wide Web does not give any
14 Master-In-Equity anywhere in the United States or the world personal jurisdiction over the par-
15 ties associated with the Internet site.
16

17 The South Carolina Master-In-Equity held that the ability to order a book on the World Wide
18 Web invokes his personal jurisdiction over Stich and Diablo. Using that reasoning, a judge in
19 Iran, Afghanistan, or any other locations from which the book, *Drugging America*, could be or-
20 dered, would impose personal jurisdiction upon authors in California and mom-and-pop small
21 publishers and distributors.
22

23 The Ninth Circuit Court of Appeals held that a passive website was insufficient to establish
24 jurisdiction. An alleged injury related to the operation of the Web site is insufficient to create
25 jurisdiction where the Web site operation is not directed at the forum state and no other contacts
26 with the forum state are found. *Cybersell, Inc. v. Cybersell, Inc.*, 130 F.3d 414 (9th Cir. 1997).
27

28 In *Cybersell*, the Arizona plaintiff that advertised for commercial services over the Internet

1 sued a Florida corporation that offered Web site construction services over the Internet under the
2 name “*Cybersell*.” The court found that no part of the defendant’s business in Florida was sought
3 or achieved in Arizona. The only contact with Arizona was the fact that the defendant’s Web site
4 was accessible over the Internet by Arizona residents. The court held that this contact was insuf-
5 ficient to provide a basis for jurisdiction. *Cybersell* held that “no court has ever held that an
6 Internet advertisement alone is sufficient to subject the advertiser to jurisdiction in the plaintiff’s
7 home state.”

8
9 In *Weber v. Jolly Hotels*, 977 F. Supp. 327 (D.N.J. 1997), the New Jersey district court held
10 that maintaining a web site as an advertisement is comparable to advertising in a national maga-
11 zine and is insufficient to allow the forum court to establish personal jurisdiction over the defen-
12 dant. Because the defendant’s sole contact with New Jersey was its Web site, and because the
13 injury was not related to the Web site, the court declined to exercise jurisdiction over the Italian
14 defendant.

15 In *IDS Life Insurance Company v. SunAmerica, Inc.*, 958 F.Supp. 1258 (N.D. Ill. 1997), the
16 court held that advertising in nationally circulated newspapers and magazines and on national
17 television, and maintaining an Internet site, did not involve the required systematic and continu-
18 ous contact with the form state, Illinois, and therefore there could not exist personal jurisdiction.

19 In *Gaingolo v. Walt Disney World Co*, 753 F.Supp. 148 (D.N.J. 1990), the court held that al-
20 lowing national advertising to make a defendant subject to suit wherever the advertisement ap-
21 peared would “substantially undermine the law of personal jurisdiction.” Where a web site pas-
22 sively provides information or an advertisement on a Web site, without other contacts existing
23 with the forum state, the forum state cannot exercise personal jurisdiction over the defendant.

24 In *Rannoch, Inc. v. Rannoch Corporation*, 52 F.Supp. 2d 6811 (E.D. Va. 1999), the court
25 held that an interactive Web site accessible in Virginia was an insufficient basis upon which to
26 base personal jurisdiction where there was no evidence that the Internet activities were directed
27 at Virginia.

28 Before the Internet became a viable entity, the Supreme Court held in *Calder v. Jones*, 465

1 U.S. 783, 788 (1984), that the alleged harm must be focused on a resident of that state. No one in
2 South Carolina was quoted in any way by defendants.

3 Jurisdiction cannot be obtained by Internet presence. *Rubbercraft Corp. of California v. Rub-*
4 *bercraft, Inc.*, CV 97-4070-WDK, 1997 WL 835442 (C.D. Ca. 1997) (not reported in F. Supp.)

6 **7. Supreme Court Criteria Makes the South Carolina Judgment A Void Judgment**

7 Landmark decisions of the U.S. Supreme Court provide that orders that violate due process
8 are void orders, remaining forever void, and their void nature can be raised at any time in any
9 proceeding. Orders Violating Clear and Settled Law and Constitutional Protections Are Void
10

11 The limitations inherent in the requirements of due process and equal protection of the law
12 extend to judicial as well as political branches of government, so that a judgment may not be
13 rendered in violation of those constitutional limitations and guarantees. *Hanson v Denckla*, 357
14 US 235, 2 L Ed 2d 1283, 78 S Ct 1228.

15 The validity of a judgment may be affected by fraud in the obtainment thereof. *Nudd v. Bur-*
16 *rows*, 91 US 26, 23 L Ed 286; *Wyman v. Newhouse* (CA2d) 93 F2d 313, 115 ALR 460, cert den
17 303 US 664, 82 L Ed 1122, 58 S Ct 831; or by collusion between the parties. *Branan v. Feldman*,
18 158 Ga 377, 123 SE 710, especially where the complaining party was prevented from having his
19 interest fairly presented or fully considered by the court, and the court was imposed upon. *Harjo*
20 *v. Johnston*, 187 Okla 561, 104 P2d 985.

21 Denial of due process arose from exercising personal jurisdiction to render the \$4 million de-
22 fault judgment when there was no personal jurisdiction. Fraud was obvious from the clear word-
23 ing in the book that no reasonable person knowledgeable in law would consider defaming any-
24 one by the name of Steve Gratzner, and certainly not a South Carolina resident with that name.

25 **8. Threat To U.S. Interests By Silencing Patriotic Americans** 26 **Seeking To Expose Corruption In Government Offices**

27 The tactics used by Gratzner and his cooperating lawyers constitutes a threat to U.S. interests.
28 Patriotic Americans seeking to expose corruption in government offices, using the Internet to cir-
cumvent cover-ups by government and non-government checks and balances, can be silenced

1 through sham defamation lawsuits in distant jurisdictions which require funds that are not avail-
2 able and where local judicial misconduct defeats any semblance of due process.

3 **9. Additional Defenses Bar Entry Of the South Carolina Judgment**
4 **As A Local Judgment**

5 **a. Truth Is Defense To Libel Or Slander**

6 The book, *Drugging America*, quoted word-for-word what was written by a Nevada physi-
7 cian and Lt. Colonel in the Idaho Air National Guard relating to what one of his patient's stated
8 to him. A publication, such as a non-fiction book, reporting the truth cannot support a defamation
9 action. If there had been any defamation against Gratzner in the book, which there was not, the
10 truth of what was written would bar such action.
11

12 **b. Abuse of legal process**

13 Exercising personal jurisdiction over Stich and Diablo when there was no basis for doing so,
14 when constitutional due process prevented such exercise, was an abuse of due process.
15

16 **c. Malicious prosecution as part of a scheme to obstruct justice**

17 A lawsuit that is instituted on the basis of defamation when there clearly is no defamation,
18 meets the definition of a malicious civil action. Where it is intended to inflict great harm as part
19 of a scheme to halt a person's exposure of corruption in key government offices, the malicious
20 prosecution takes on criminal aspects.
21

22 **d. Bias, Hostility, and Fabrications by South Carolina Master-In-Equity**

23 Bias, hostility, and fabrications of facts in the default judgment show the involvement of the
24 South Carolina judge in the conspiracy. A reasonable person would easily reach the conclusion
25 that the South Carolina judge was blatantly biased and played an active role in the scheme.
26

27 **e. Whistleblower Laws Provide Additional Protection**

28 Numerous state and federal whistleblower laws act to protect whistleblowers against retalia-

1 tion. Even though many apply to federal employees, the same protection should apply to a for-
2 mer federal employee seeking to report misconduct having grave national consequences. Several
3 U.S. Supreme Court decisions address the matter of anyone reporting criminal activities. See
4 e.g., *Silkwood v. Kerr-McGee Corp.* 464 U.S. 238 (1984); *Farmer v. Carpenters*, 430 U.S. 290
5 (1977); *Olguin v. Inspiration Consolidated Copper Company*, 740 F.2d 1468 (9th Cir. 1984);
6 *Garibaldi v. Lucky Food Stores, Inc.*, 726 F.2d 1367 (9th Cir. 1984); *Stokes v. Bechtel North*
7 *American Power Corp.*, 614 F.Supp. 732 (N.D. Cal. 1985); “The exercise of his right to speak on
8 issues of public importance may not furnish the basis for his dismissal from public employment.”
9 *Pickering v. Board of Education*, 391 U.S. 563, 574 (1968); *Bartel v. Federal Aviation Admini-*
10 *stration*, 725 F.2d 1402, 1415 (D.C.Cir. 1984).

13 Stich resorted to authoring books as part of his whistleblower activities to circumvent the
14 massive cover-ups that he encountered. See *William Bush v. William Lucas*, 462 US 367, 76 L
15 Ed 2d 648, 103 S Ct 2404, for the right to free speech and public policy requirement to report
16 corrupt and criminal activities in government. Under the first and fourteenth amendments to the
17 U.S. Constitution, state and federal governments are prohibited from retaliating against whistle-
18 blowers. See *Pickering v. Board of Education*, 391 U.S. 563 (1968).

20 **f. Statute of limitations**

21 The statute of limitations for filing a defamation action starts from the date that the book is
22 made known to the public. The book was printed and its availability made known to the public in
23 December 1988. The lawsuit was filed in South Carolina on June 29, 2000. The statute of limita-
24 tions on defamation actions in California, under Code of Civil Procedure § 340(3), is one year.

26 **g. Reference To The Book In Official Proceedings** 27 **Made the Book and Its Contents Privileged**

28 Reference was made to the book, *Drugging America*, and included as part of prior federal

1 judicial proceedings, seeking to report to a federal judge, as part of his ministerial duties under
2 the federal crime reporting statute, Title 18 U.S.C. § 4. The contents are therefore protected
3 against liability.

4 **h. Absence of malice**

5
6 The clear wording in the brief passage shows absence of any malice. Stich even added state-
7 ments made by the hospital staff that questioned the credibility of Doris Gratzner who made the
8 statements.

9 **10. Serious National Consequences Of Recognizing South Carolina SLAPP Judgment**

10
11 If this court were to recognize and allow the entry of that South Carolina default judgment as
12 a local judgment, serious national ramifications would arise. It would:

- 13
- 14 • Invalidate and makes meaningless the intent and the specifics of California's anti-SLAPP
15 statute. The seriousness of that effect would arise from the fact that the South Carolina
16 SLAPP lawsuit sought to halt Stich's exposure of documented corrupt activities that con-
17 tinue to inflict catastrophic harm upon the United States.
 - 18 • Aid and abet the latest scheme using the courts to block the reporting of major corrupt
19 and criminal activities.
 - 20 • Invalidate constitutional due process rights as it relates to personal jurisdiction, protection
21 against violation of the right to petition government, protection against the right and the
22 responsibility to report corruption and criminal activities in government offices.
 - 23 • Expose other residents of California to sham lawsuits filed in distant courts, knowing that
24 funds would not be available to defend in such remote areas.
 - 25 • Hinder or halt the patriotic actions by Stich and his group of government agents seeking
26 to make known corrupt and criminal activities that they discovered as part of their official
27
28

1 duties.

- 2 • Provide a legal scheme to block people from exposing corrupt government officials.
- 3 • Aid and abet corrupt and criminal activities, including the type that encouraged and in-
- 4 sured the success of the four groups of hijackers on September 11, 2001.

6 **III. CONCLUSION**

7 The South Carolina lawsuit and default judgment is a thinly disguised scheme and conspiracy
8 to prevent Stich and his group of other former and present government agents from reporting
9 corrupt and criminal activities in government offices. Everyone should realize that this matter
10 will not end with this filing. The key points supporting this motion to deny entry of the South
11 Carolina default judgment as a local judgment includes the following:
12

- 13 • Violates the Anti-SLAPP statute, doctrine and laws.
- 14 • In what may be the first such scheme ever reported, the South Carolina lawsuit and de-
15 fault judgment involves a scheme to block the reporting of documented corrupt, criminal,
16 and subversive activities against the United States.
- 17 • Violates the right of the public to know, and violates the right to petition government via
18 a book.
- 19 • Absence of personal jurisdiction by the South Carolina judge over Stich and Diablo on
20 the basis of constitutional protections.
- 21 • Violation of due process when personal jurisdiction was sought on the basis of an Internet
22 presence.
- 23 • Fraud by the plaintiff and legal counsel, as shown by the false allegations in the South
24 Carolina complaint and the clear wording in the book *Drugging America*, that was used
25 as the basis for the sham defamation allegations.
26
27
28

- 1 • Fraud in the default order by the South Carolina judge.
- 2 • Denial of due process, arising from failure to notify Stich of the judgment until many
- 3 months later, after the time for appeal had passed.

4 **IV. REQUESTED RELIEF**

- 5 • Refuse to enter the South Carolina default judgment as a local judgment, or vacate the its
- 6 entry.
- 7 • Order Gratzner to pay financial sanctions to Stich upon the basis that he used the facilities
- 8 of the state of California, invoking this court's jurisdiction over him, and provide for a
- 9 trial to determine the amount of damages that he is to pay, along with legal fees and
- 10 costs.
- 11 • In the alternative, since the defendants have invoked the benefits of the courts of the state
- 12 of California, order a new trial on Gratzner's defamation claims, as provided by CCP §
- 13 425.16 and CCP § 1710.40. The misuse of the California courts to carry out a scheme
- 14 that has criminal ramifications and grave efforts upon national issues, and lives, justifies
- 15 this consideration. Time should be allotted for discovery.
- 16 • Because of Stich's poor hearing (excessive exposure to high noise levels as a military and
- 17 airline pilot) Stich requests that consideration be given to have motions and judicial ac-
- 18 tions relating to motions addressed through briefs rather than court appearances.
- 19 • Request that this court issue findings of facts and conclusions of law related to each of
- 20 the issues raised in this opposition to entry of the South Carolina default judgment as a
- 21 local judgment.
- 22
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27 I, Rodney F. Stich, declare that the statements in this motion are true and correct to the
28 best of my knowledge and belief.

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Date: April 14, 2002.

Rodney F. Stich
For himself and Diablo Western Press, Inc