

William Brockman Sr.  
19504 Dovetail Court  
Tehachapi CA 93561  
661 822 7813  
Sui Juris

This brief is on the web at [www.lawyerdude.netfirms.com/5996.html](http://www.lawyerdude.netfirms.com/5996.html) and/or  
[www.lawyerdude.netfirms.com/5996.pdf](http://www.lawyerdude.netfirms.com/5996.pdf)

## This is a preliminary version

I must have more information.  
We need to ask for a continuance.

Hours invested in this brief: September 23, 2003: 6 hours.

Superior Court of California for Placer County  
101 Maple Street, Auburn 95603. 530-889-6550

In Re Marriage of:  
Petitioner Donald A. Brockman  
and  
Respondent: Debra D. Brockman

Case Number: 82246  
Document #5996 Version 0.1  
**Memorandum of Authorities in Support of Dismissal of  
Case or Modification of Void Judgment nunc pro  
tunc.**

Claimants:  
William Brockman - **not a claimant**;  
General Construction Engineers Inc. a suspended California  
Corporation hereinafter "GCE";  
Farr Developments, Ltd., a non-California corporation;  
James E. Mack;  
M. J. Hilyard;  
Daniel Brockman, an adult, the only child of this marriage.

**Proof of Service  
Demand for Court Reporter  
Proposed Order**

Date: Tuesday October 14, 2003  
Time: 9 a.m.  
Place: Dept. 11. Courtroom of Judge Gini

### **Memorandum of Authorities in Support of Dismissal of Case of Modification of Void Judgment nunc pro tunc. Statement of the Case**

I am William Brockman. I will be 89 in December. My Mom lived to be 104. My son and I have always lived in Los Angeles county until I moved to Kern county after my retirement. In 1979 my son, Donald Brockman, divorced his wife, Debra, after she ran off to Auburn with her former sexual partner. Donald and Debra were married only 5 years. They have one child, a son, age 24. The new husband, Dennis DeBerge, encouraged Debra to undo their marital property settlement. Debra found a lawyer who did that. He persuaded this court to set aside the property settlement. For 2 decades these former spouses litigated. Their lawyers, having churned up sufficiently fat bills encouraging the parties to litigate, now encouraged the parties to settle. On 1993 June 7, 1993, for \$300,000.00. Thereafter the bills of the lawyers remained unpaid because Donald either owned insufficient assets or he hid them.

The lawyers needed a deep pocket. Therefore on Dec 11, 1997 they maliciously named me as a claimant. I am not a claimant. Their action constitutes abuse of process. On July 3, 2002, the day before a holiday, I appeared at a critical hearing in Auburn. I said very little. I cannot put my hands on the transcript of that hearing. On 31 July, 2002, judgment nunc pro tunc was entered against me. This judgment carelessly and without evidence lumps me in with the other claimants. These lawyers have broken many rules to obtain this void judgment. It is an obvious violation of due process deny me any trial rights and then make me pay the bill. I was not even a party when the trials and hearing happened.

**Table of contents:**

**Tables of Authorities cited herein:** ..... [Page 3 of 13](#)  
**Table of Cases cited herein:** ..... [Page 3 of 13](#)  
**Table of Statutes cited herein:** ..... [Page 3 of 13](#)  
**Table of Constitutional Protections cited herein:** ..... [Page 3 of 13](#)  
**Table of Learned Treatises cited herein:** ..... [Page 3 of 13](#)  
**Rules of Procedure cited herein:** ..... [Page 3 of 13](#)

**Statement of the Case** ..... [Page 3 of 13](#)

**Argument and Authority** ..... [Page 4 of 13](#)

**A void judgment is void ab initio and it remains void until remedied** ..... [Page 4 of 13](#)

**My case is void for lack of jurisdiction, void for lack of factual basis, and was procured by abuse of process, a form of fraud.**  
..... [Page 4 of 13](#)

**This judgment against me can be attacked at any time.** ..... [Page 5 of 13](#)

The court has no jurisdiction over the property ..... [Page 8 of 13](#)

**Prevailing party on default judgment of liability must still prove damages.** ..... [Page 9 of 13](#)

**Complaint of want of subject matter jurisdiction does not have to be timely raised** ..... [Page 12 of 13](#)

***Laches is not defense to vacation of void judgment*** ..... [Page 12 of 13](#)

**Conclusion: This judgment against the Father of the Husband must be vacated.** ..... [Page 12 of 13](#)

**List of Exhibits Attached** ..... [Page 13 of 13](#)

**Tables of Authorities cited herein:**

**Table of Cases cited herein:**

*American Red Cross v. Community Blood Center of the Ozarks*, 257 F.3d 859 (8th Cir. 07/25/2001) . . . . . [Page 9 of 13](#)

*Hobbs v. U.S. Office of Personnel Management*, 485 F.Supp. 456 (M.D. Fla. 1980) . . . . . [Page 5 of 13](#)

*Holstein v. City of Chicago*, 803 F.Supp. 205, reconsideration denied 149 F.R.D. 147, affirmed 29 F.3d 1145 (N.D. Ill 1992) . . . . . [Page 5 of 13](#)

Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985) . . . . . [Page 5 of 13](#)

Long v. Shorebank Development Corp., 182 F.3d 548 ( C.A. 7 Ill. 1999) . . . . . [Page 5 of 13](#)

*Long v. Shorebank Development Corp.*, 182 F.3d 548 ( C.A. 7 Ill. 1999) . . . . . [Page 5 of 13](#)

*Lubben v. Selective Service System Local Bd. No. 27* 453 F.2d 645, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972) . . [Page 5 of 13](#)

*Milliken v. Meyer*, (1940) 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278 . . . . . [Page 5 of 13](#)

*Shaffer v. Jeffery* (1996) Okla., 915 P.2d 910 . . . . . [Page 12 of 13](#)

*Triad Energy Corp. v. McNell* 453 F.2d 645, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972) . . . . . [Page 5 of 13](#)

*Tube City Mining & Milling Co. v. Otterson*, (1914) 16 Ariz. 305, 146 P. 203 . . . . . [Page 5 of 13](#)

*U.S. v. Lovasco* (1977) 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2d 752 . . . . . [Page 8 of 13](#)

*Wahl v. Round Valley Bank* (1931) 38 Ariz. 411, 300 P. 955 . . . . . [Page 4 of 13](#)

**Table of Statutes cited herein:**

28 U.S.C.A. . . . . . [Page 5 of 13](#)

California family code section 1101. (a) A spouse has a claim against the other spouse for any breach of the fiduciary duty that results in impairment to the claimant spouse's present undivided one-half interest in the community estate, including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's undivided one-half interest in the community estate. (b) A court may order an accounting of the property and obligations of the parties to a marriage and may determine the rights of ownership in, the beneficial enjoyment of, or access to, community property, and the classification of all property of the parties to a marriage. . . . . [Page 4 of 13](#)

**Table of Constitutional Protections cited herein:**

5<sup>th</sup> amendment. Due process clause. . . . . [Page 5 of 13](#)

14<sup>th</sup> amendment . . . . . [Page 5 of 13](#)

**Table of Learned Treatises cited herein:**

U.S.C.A. Constitution: Amendment 5 . . . . . [Page 5 of 13](#)

**Rules of Procedure cited herein:**

Fed. Rules Civ. Proc., Rule 60(b)(4) . . . . . [Page 5 of 13](#)

**Argument and Authority**

1. A void judgment is void ab initio and it remains void until remedied. There is so much wrong with this judgment that it is hard to know where to begin.
  - a. There are at least 3 classes of void judgments

- i. Those where the court lacked jurisdiction.
- ii. Those where there is no evidence or factual basis to support the judgment.
- iii. Those procured by fraud; fraud vitiates the validity of the judgment.

2. I am not a claimant. In the family code, the word "claimant" appears in 4 sections. Three sections pertain to child support and are irrelevant. The following is the most pertinent.

California family code section 1101. (a) A spouse has a claim against the other spouse for any breach of the fiduciary duty that results in impairment to the claimant spouse's present undivided one-half interest in the community estate, including, but not limited to, a single transaction or a pattern or series of transactions, which transaction or transactions have caused or will cause a detrimental impact to the claimant spouse's undivided one-half interest in the community estate. (b) A court may order an accounting of the property and obligations of the parties to a marriage and may determine the rights of ownership in, the beneficial enjoyment of, or access to, community property, and the classification of all property of the parties to a marriage.

It appears that I was lumped in with the other claimants - maybe by a legal secretary who was in a hurry or wanted to be thorough.

Although the other "claimants" are accused of hiding assets and even making up fictitious parties to vex Debra, I have not been accused of being vexatious nor is there any evidence of my having participated in any hiding of assets. It is simply unfair to make me, the innocent party, pay the entire judgment plus attorney fees! I was not even a party when these attorney fees were incurred.

3. **My case is void for lack of jurisdiction, void for lack of factual basis, and was procured by abuse of process, a form of fraud.**

- a. A judgment rendered by a court lacking jurisdiction of the subject matter or the parties, is void. Authority:
  - i. ***Wahl v. Round Valley Bank*** (1931) 38 Ariz. 411, 300 P. 955;
  - ii. ***Tube City Mining & Milling Co. v. Otterson***, (1914) 16 Ariz. 305, 146 P. 203; and
  - iii. ***Milliken v. Meyer***, (1940) 311 U.S. 457, 61 S.Ct. 339, 85 L.Ed. 2d 278.

4. **This judgment against me can be attacked at any time.** In general, a void judgment which includes judgment entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment, or an order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court. Authority: ***Long v. Shorebank Development Corp.***, 182 F.3d 548 ( C.A. 7 Ill. 1999).

5. A void judgment from its inception is a complete nullity and without legal effect. Authority:

- a. ***Lubben v. Selective Service System Local Bd. No. 27***, 453 F.2d 645, 14 A.L.R. Fed. 298 (C.A. 1 Mass. 1972).
- b. ***Hobbs v. U.S. Office of Personnel Management***, 485 F.Supp. 456 (M.D. Fla. 1980).
- c. ***Holstein v. City of Chicago***, 803 F.Supp. 205, reconsideration denied 149 F.R.D. 147, affirmed 29 F.3d 1145 (N.D. Ill 1992).

6. The court rendering this judgment denied me due process. I was not even a party to most of the proceeding. The process of them adding me at the end under the pretext of some theory of conspiracy was a fraud and a sham. Where a judgment

is the product of a lack of personal or subject matter jurisdiction or otherwise violates due process that order is void as violative of the due process clauses of the 5<sup>th</sup> and 14<sup>th</sup> amendments. Authority: U.S.C.A. Const. Amend. 5 - **Triad Energy Corp. v. McNell** (1986) 110 F.R.D. 382 (S.D.N.Y.).

Judgment is a void judgment if court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const. Amend. 5 - **Klugh v. U.S.**, 620 F.Supp. 892 (D.S.C. 1985). A void judgment is one which, from its inception, was, was a complete nullity and without legal effect, Rubin v. Johns, 109 F.R.D. 174 (D. Virgin Islands 1985). A void judgment is one which, from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree - Lloyd v. Director, Dept. of Public Safety, 480 So. 2d 577 (Ala. Civ. App. 1985). A judgment shown by evidence to be invalid for want of jurisdiction is a void judgment or at all events has all attributes of a void judgment, City of Los Angeles v. Morgan, 234 P.2d 319 (Cal.App. 2 Dist. 1951). Void judgment which is subject to collateral attack, is simulated judgment devoid of any potency because of jurisdictional defects, Ward v. Terriere, 386 P.2d 352 (Colo. 1963). A void judgment is a simulated judgment devoid of any potency because of jurisdictional defects only, in the court rendering it and defect of jurisdiction may relate to a party or parties, the subject matter, the cause of action, the question to be determined, or relief to be granted, Davidson Chevrolet, Inc. v. City and County of Denver, 330 P.2d 1116, certiorari denied 79 S.Ct. 609, 359 U.S. 926, 3 L.Ed. 2d 629 (Colo. 1958). Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved and such a judgment may be attacked at any time, either directly or collaterally, People v. Wade, 506 N.W.2d 954 (Ill. 1987). Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction or acted in manner inconsistent with due process of law Eckel v. MacNeal, 628 N.E. 2d 741 (Ill. App. Dist. 1993). Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved; such judgment may be attacked at any time, either directly or collaterally People v. Sales, 551 N.E.2d 1359 (Ill.App. 2 Dist. 1990). Res judicata consequences will not be applied to a void judgment which is one which, from its inception, is a complete nullity and without legal effect, Allcock v. Allcock 437 N.E. 2d 392 (Ill. App. 3 Dist. 1982). Void judgment is one which, from its inception is complete nullity and without legal effect In re Marriage of Parks, 630 N.E. 2d 509 (Ill.App. 5 Dist. 1994). Void judgment is one entered by court that lacks the inherent power to make or enter the particular order involved, and it may be attacked at any time, either directly or collaterally; such a judgment would be a nullity People v. Rolland 581 N.E.2d 907, (Ill.App. 4 Dist. 1991). Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amendment. 5, Hays v. Louisiana Dock Co., 452 n.e.2D 1383 (Ill. App. 5 Dist. 1983). A void judgment has no effect whatsoever and is incapable of confirmation or ratification, Lucas v. Estate of Stavos, 609 N. E. 2d 1114, rehearing denied, and transfer denied (Ind. App. 1 dist. 1993). Void judgment is one that from its inception is a complete nullity and without legal effect Stidham V. Whelchel, 698 N.E.2d 1152 (Ind. 1998). Relief from void judgment is available when trial court lacked either personal or subject matter jurisdiction, Dusenberry v. Dusenberry, 625 N.E. 2d 458 (Ind.App. 1 Dist. 1993). Void judgment is one rendered by court which lacked personal or subject matter jurisdiction or acted in manner inconsistent with due process, U.S.C.A. Const. Amends. 5, 14 Matter of Marriage of Hampshire, 869 P.2d 58 ( Kansas. 1997). Judgment is void if court that rendered it lacked personal or subject matter jurisdiction; void judgment is nullity and may be vacated at any time, Matter of Marriage of Welliver, 869 P.2d 653 (Kansas. 1994). A void judgment is one rendered by a court which lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process In re Estate of Wells, 983 P.2d 279, (Kansas. App. 1999). Void judgment is one rendered in absence of jurisdiction over subject matter or parties 310 N.W. 2d 502, (Minn. 1981). A void judgment is one rendered in absence of jurisdiction over subject matter or parties, Lange v. Johnson, 204 N.W.2d 205 (Minn. 1973). A void

judgment is one which has merely semblance, without some essential element, as when court purporting to render is has no jurisdiction, *Mills v. Richardson*, 81 S.E. 2d 409, (N.C. 1954). A void judgment is one which has a mere semblance, but is lacking in some of the essential elements which would authorize the court to proceed to judgment, *Henderson v. Henderson*, 59 S.E. 2d 227, (N.C. 1950). Void judgment is one entered by court without jurisdiction to enter such judgment, *State v. Blankenship* 675 N.E. 2d 1303, (Ohio App. 9 Dist. 1996). Void judgment, such as may be vacated at any time is one whose invalidity appears on face of judgment roll, *Graff v. Kelly*, 814 P.2d 489 (Oklahoma 1991). A void judgment is one that is void on face of judgment roll, *Capital Federal Savings Bank v. Bewley*, 795 P.2d 1051 (Okl. 1990). Where condition of bail bond was that defendant would appear at present term of court, judgment forfeiting bond for defendant's bail to appear at subsequent term was a void judgment within rule that laches does not run against a void judgment *Com. V. Miller*, 150 A.2d 585 (Pa. Super. 1959). A void judgment is one in which the judgment is facially invalid because the court lacked jurisdiction or authority to render the judgment, *State v. Richie*, 20 S.W.3d 624 (Tenn. 2000). Void judgment is one which shows upon face of record want of jurisdiction in court assuming to render judgment, and want of jurisdiction may be either of person, subject matter generally, particular question to be decided or relief assumed to be given, *State ex rel. Dawson v. Bomar*, 354 S.W. 2d 763, certiorari denied, (Tenn. 1962). A void judgment is one which shows upon face of record a want of jurisdiction in court assuming to render the judgment, *Underwood v. Brown*, 244 S.W. 2d 168 (Tenn. 1951). A void judgment is one which shows on face of record the want of jurisdiction in court assuming to render judgment, which want of jurisdiction may be either of the person, or of the subject matter generally, or of the particular question attempted to decided or relief assumed to be given, *Richardson v. Mitchell*, 237 S.W. 2d 577, (Tenn.Ct. App. 1950). Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, *City of Lufkin v. McVicker*, 510 S.W. 2d 141 (Tex. Civ. App. - Beaumont 1973). A void judgment, insofar as it purports to be pronouncement of court, is an absolute nullity, *Thompson v. Thompson*, 238 S.W.2d 218 (Tex.Civ.App. - Waco 1951). A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did to have jurisdiction over subject matter or the parties, *Rook v. Rook*, 353 S.E. 2d 756, (Va. 1987). A void judgment is a judgment, decree, or order entered by a court which lacks jurisdiction of the parties or of the subject matter, or which lacks the inherent power to make or enter the particular order involved, *State ex rel. Turner v. Briggs*, 971 P.2d 581 (Wash. App. Div. 1999). A void judgment or order is one that is entered by a court lacking jurisdiction over the parties or the subject matter, or lacking the inherent power to enter the particular order or judgment, or where the order was procured by fraud, *In re Adoption of E.L.*, 733 N.E.2d 846, (Ill.App. 1 Dist. 2000). Void judgments are those rendered by court which lacked jurisdiction, either of subject matter or parties, *Cockerham v. Zikratch*, 619 P.2d 739 (Ariz. 1980). Void judgments generally fall into two classifications, that is, judgments where there is want of jurisdiction of person or subject matter, and judgments procured through fraud, and such judgments may be attacked directly or collaterally, *Irving v. Rodriguez*, 169 N.E.2d 145, (Ill.app. 2 Dist. 1960). Invalidity need to appear on face of judgment alone that judgment or order may be said to be intrinsically void or void on its face, if lack of jurisdiction appears from the record, *Crockett Oil Co. v. Effie*, 374 S.W.2d 154 ( Mo.App. 1964). Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of three elements of jurisdiction was absent: (1) jurisdiction over parties, (2) jurisdiction over subject matter, or (3) jurisdictional power to pronounce particular judgment hat was rendered, *B & C Investments, Inc. v. F & M Nat. Bank & Trust*, 903 P.2d 339 (Okla. App. Div. 3, 1995). Void order may be attacked, either directly or collaterally, at any time, *In re Estate of Steinfield*, 630 N.E.2d 801, certiorari denied, See also *Steinfeld v. Hoddick*, 513 U.S. 809, (Ill. 1994). Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court, *People ex rel. Brzica v. Village of Lake Barrington*, 644 N.E.2d 66 (Ill.App. 2 Dist. 1994). While voidable orders are readily appealable and must be attacked directly, void order may be circumvented by

collateral attack or remedied by mandamus, *Sanchez v. Hester*, 911 S.W.2d 173, (Tex.App. - Corpus Christi 1995). Arizona courts give great weight to federal courts' interpretations of Federal Rule of Civil Procedure governing motion for relief from judgment in interpreting identical text of Arizona Rule of Civil Procedure, *Estate of Page v. Litzenburg*, 852 P.2d 128, review denied (Ariz.App. Div. 1, 1998). When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, *Orner v. Shalala*, 30 F.3d 1307, (Colo. 1994). Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside, *Jaffe and Asher v. Van Brunt*, S.D.N.Y.1994. 158 F.R.D. 278.

The really big deal, the real issue in void judgments is, tah, dum, de dum, SUBJECT MATTER JURISDICTION!!!! Remember, subject matter can never be presumed, never be waived, and cannot be constructed even by mutual consent of the parties. Subject matter jurisdiction is two part: the statutory or common law authority for the court to hear the case and the appearance and testimony of a competent fact witness, in other words, sufficiency of pleadings.

Subject matter jurisdictional failings:

- (1) no Petition in the record of the case, *Brown v. VanKeuren*, 340 Ill. 118, 122 1930),
- (2) defective Petition filed, *Brown v. VanKeuren*, 340 Ill. 118, 122 1930),
- (3) fraud committed in the procurement of jurisdiction, *Fredman Brothers Furniture v Dept. of Revenue*, 109 Ill.2d 202, 486 N.E. 2d 893 (1985),
- (4) fraud upon the court, *In re Village of Willowbrook*, 37 Ill.App.3d 393 (1962)
- (5) a judge does not follow statutory procedure, *Armstrong v Obucino*, 300 Ill 140, 143 (1921),
- (6) unlawful activity of a judge, Code of Judicial Conduct,
- (7) violation of due process, *Johnson v Zerbst*, 304 U.S. 458, 58 S.Ct. 1019 (1938); *Pure Oil Co. v City of Northlake*, 10 Ill.2d 241, 245, 140 N.E.2d 289 (1956); *Hallberg v Goldblatt Bros.*, 363 Ill 25 (1936),
- (8) if the court exceeded its statutory authority, *Rosenstiel v Rosenstiel*, 278 F.Supp. 794 (S.D.N.Y. 1967),
- (9) any acts in violation of 11 U.S.C. 362(a), *In re Garcia*, 109 B.R. 335 (N.D. Illinois, 1989),
- (10) where no justiciable issue is presented to the court through proper pleadings, *Ligon v Williams*, 264 Ill.App.3d 701, 637 N.E.2d 633 (1st Dist. 1994),
- (11) where a complaint states no cognizable cause of action against that party, *Charles v Gore*, 248 Ill.App.3d 441, 618 N.E. 2d 554 (1st Dist 1993),
- (12) where any litigant was represented before a court by a person/law firm that is prohibited by law to practice law in that jurisdiction,
- (13) when the judge is involved in a scheme of bribery (the Alemann cases, *Bracey v Warden*, U.S. Supreme Court No. 96-6133 (June 9, 1997),
- (14) where a summons was not properly issued,
- (15) where service of process was not made pursuant to statute and Supreme Court Rules, *Janove v Bacon*, 6 Ill.2d 245, 249, 218 N.E.2d 706, 708 (1955),
- (16) when the Rules of the Circuit Court are not complied with,
- (17) when the Local Rules of the special court are not complied with,
- (18) where the judge does not act impartially, *Bracey v Warden*, U.S. Supreme Court No. 96-6133 (June 9, 1997),
- (19) where the statute is vague, *People v Williams*, 638 N.E.2d 207 (1st Dist. 1994),
- (20) when proper notice is not given to all parties by the movant, *Wilson v. Moore*, 13 Ill.App.3d 632, 301 N.E.2d 39 (1st Dist. 1973),
- (21) where an order/judgment is based on a void order/judgment, *Austin v. Smith*, 312 F.2d 337, 343 (1962); *English v English*, 72 Ill.App.3d 736, 393 N.E.2d 18 (1st Dist. 1979), or

(22) where the public policy of the State of Illinois is violated, *Martin-Tregona v Roderick*, 29 Ill.App.3d 553, 331 N.E.2d 100 (1st Dist. 1975).

Before a court (judge) can proceed judicially, jurisdiction must be complete consisting of two opposing parties (not their attorneys - although attorneys can enter an appearance on behalf of a party, only the parties can testify and until the plaintiff testifies the court has no basis upon which to rule judicially), and the two halves of subject matter jurisdiction = the statutory or common law authority the action is brought under (the theory of indemnity) and the testimony of a competent fact witness regarding the injury (the cause of action). If there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred

7. Many of the judgments in a divorce are equitable. It is not legal to stretch this flimsy equitable jurisdiction to outside parties merely for money - and even if it were, equity delights in justice and not in halves.

8. If somebody wants to sue a person in Kern county, they must generally do it there.

9. The court has no jurisdiction over William Brockman.

a. William is not a party to this divorce nor is he any sort of claimant.

10. The court has no jurisdiction over the property

a. Local action rule. This realty is not part of the marital estate and is subject to the local action rule.

11. Judge James D. Garbolino relied on unsworn testimony of the lawyers in the case. "Manifestly, [such statements] cannot be properly considered by us in the disposition of [a] case." - *U.S. v. Lovasco* (1977) 431 U.S. 783, 97 S. Ct. 2044, 52 L. Ed. 2d 752, Under no possible view, however, of the findings we are considering can they be held to constitute a compliance with the statute, since they merely embody conflicting statements of counsel concerning the facts as they suppose them to be and their appreciation of the law which they deem applicable, there being, therefore, no attempt whatever to state the ultimate facts by a consideration of which we would be able to conclude whether or not the judgment was warranted. *GONZALES v. BUIST*. (04/01/12) 224 U.S. 126, 56 L. Ed. 693, 32 S. Ct. 463. No instruction was asked, but, as we have said, the judge told the jury that they were to regard only the evidence admitted by him, not statements of counsel, *HOLT v. UNITED STATES*. (10/31/10) 218 U.S. 245, 54 L. Ed. 1021, 31 S. Ct. 2, Care has been taken, however, in summoning witnesses to testify, to call no man whose character or whose word could be successfully impeached by any methods known to the law. And it is remarkable, we submit, that in a case of this magnitude, with every means and resource at their command, the complainants, after years of effort and search in near and in the most remote paths, and in every collateral by-way, now rest the charges of conspiracy and of gullibility against these witnesses, only upon the bare statements of counsel. The lives of all the witnesses are clean, their characters for truth and veracity un-assailed, and the evidence of any attempt to influence the memory or the impressions of any man called, cannot be successfully pointed out in this record. *TELEPHONE CASES. DOLBEAR v. AMERICAN BELL TELEPHONE COMPANY. MOLECULAR TELEPHONE COMPANY V. AMERICAN BELL TELEPHONE COMPANY. AMERICAN BELL TELEPHONE COMPANY V. MOLECULAR TELEPHONE COMPANY. CLAY COMMERCIAL TELEPHONE COMPANY V. AMERICAN BELL TELEPHONE COMPANY. PEOPLE'S TELEPHONE COMPANY V. AMERICAN BELL TELEPHONE COMPANY. OVERLAND TELEPHONE COMPANY V. AMERICAN BELL TELEPHONE COMPANY. (PART TWO THREE) (03/19/88) 126 U.S. 1, 31 L. Ed. 863, 8 S. Ct. 778. Statements of counsel in brief or in argument are not sufficient for motion to dismiss or for summary judgment, *Trinsey v. Pagliaro*, D. C. Pa. 1964, 229 F. Supp. 647.*

12. **Prevailing party on default judgment of liability must still prove damages. *American Red Cross v. Community Blood Center of the Ozarks*, 257 F.3d 859 (8th Cir. 07/25/2001).**

13. *State v. Blankenship* 675 N.E. 2d 1303, (Ohio App. 9 Dist. 1996), *Graff v. Kelly*, 814 P.2d 489 (Okla. 1991), *Capital Federal*

Savings Bank v. Bewley, 795 P.2d 1051 (Okl. 1990), Com. V. Miller, 150 A.2d 585 (Pa. Super. 1959). and Reider v. The . . . nullity and without legal effect, Rubin v. Johns, 109 F.R.D. 174 (D. Virgin Islands 1985). A void judgment is one which, from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree - Loyd v. Director, Dept. of Public Safety, 480 So. 2d 577 (Ala. Civ. App. 1985). A judgment shown by evidence to be invalid for want of jurisdiction is a void judgment or at all events has all attributes of a void judgment, City of Los Angeles v. Morgan, 234 P.2d 319 (Cal.App. 2 Dist. 1951). Void judgment which is subject to collateral attack, is simulated judgment devoid of any potency because of jurisdictional defects, Ward v. Terriere, 386 P.2d 352 (Colo. 1963). A void judgment is a simulated judgment devoid of any potency because of jurisdictional defects only, in the court rendering it and defect of jurisdiction may relate to a party or parties, the subject matter, the cause of action, the question to be determined, or relief to be granted, Davidson Chevrolet, Inc. v. City and County of Denver, 330 P.2d 1116, certiorari denied 79 S.Ct. 609, 359 U.S. 926, 3 L.Ed. 2d 629 (Colo. 1958). Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved and such a judgment may be attacked at any time, either directly or collaterally, People v. Wade, 506 N.W.2d 954 (Ill. 1987). Void judgment may be defined as one in which rendering court lacked subject matter jurisdiction, lacked personal jurisdiction or acted in manner inconsistent with due process of law Eckel v. MacNeal, 628 N.E. 2d 741 (Ill. App. Dist. 1993). Void judgment is one entered by court without jurisdiction of parties or subject matter or that lacks inherent power to make or enter particular order involved; such judgment may be attacked at any time, either directly or collaterally People v. Sales, 551 N.E.2d 1359 (Ill.App. 2 Dist. 1990). Res judicata consequences will not be applied to a void judgment which is one which, from its inception, is a complete nullity and without legal effect Allcock v. Allcock 437 N.E. 2d 392 (Ill. App. 3 Dist. 1982). Void judgment is one which, from its inception is complete nullity and without legal effect In re Marriage of Parks, 630 N.E. 2d 509 (Ill.App. 5 Dist. 1994). Void judgment is one entered by court that lacks the inherent power to make or enter the particular order involved, and it may be attacked at any time, either directly or collaterally; such a judgment would be a nullity People v. Rolland 581 N.E.2d 907, (Ill.App. 4 Dist. 1991). Void judgment under federal law is one in which rendering court lacked subject matter jurisdiction over dispute or jurisdiction over parties, or acted in manner inconsistent with due process of law or otherwise acted unconstitutionally in entering judgment, U.S.C.A. Const. Amend. 5, Hays v. Louisiana Dock Co., 452 n.e.2D 1383 (Ill. App. 5 Dist. 1983). Void judgment is one that from its inception is a complete nullity and without legal effect Stidham V. Whelchel, 698 N.E.2d 1152 (Ind. 1998). Relief from void judgment is available when trial court lacked either personal or subject matter jurisdiction Dusenberry v. Dusenberry, 625 N.E. 2d 458 (Ind.App. 1 Dist. 1993). Void judgment has no effect whatsoever and is incapable of confirmation or ratification Lucas v. Estate of Stavos, 609 N.E. 2d 1114, rehearing denied, and transfer denied (Ind. App. 1 dist. 1993). Void judgment is one rendered by court which lacked personal or subject matter jurisdiction or acted in manner inconsistent with due process, U.S.C.A. Const. Amends. 5, 14 Matter of Marriage of Hampshire, 869 P.2d 58 ( Kan. 1997). Judgment is void if court that rendered it lacked personal or subject matter jurisdiction; void judgment is nullity and may be vacated at any time, Matter of Marriage of Welliver, 869 P.2d 653 (Kan. 1994). A void judgment is one rendered by a court which lacked personal or subject matter jurisdiction or acted in a manner inconsistent with due process In re Estate of Wells, 983 P.2d 279, (Kan. App. 1999). Void judgment is one rendered in absence of jurisdiction over subject matter or parties 310 N.W. 2d 502, (Minn. 1981). A void judgment is one rendered in absence of jurisdiction over subject matter or parties, Lange v. Johnson, 204 N.W.2d 205 (Minn. 1973). A void judgment is one which has merely semblance, without some essential element, as when court purporting to render is has no jurisdiction, Mills v. Richardson, 81 S.E. 2d 409, (N.C. 1954). A void judgment is one which has a mere semblance, but is lacking in some of the essential elements which would authorize the court to proceed to judgment, Henderson v. Henderson, 59 S.E. 2d 227, (N.C. 1950). Void judgment is one entered by court without jurisdiction to enter such judgment, State v. Blankenship 675 N.E. 2d

1303, (Ohio App. 9 Dist. 1996). Void judgment, such as may be vacated at any time is one whose invalidity appears on face of judgment roll, *Graff v. Kelly*, 814 P.2d 489 (Okla. 1991). A void judgment is one that is void on face of judgment roll, *Capital Federal Savings Bank v. Bewley*, 795 P.2d 1051 (Okla. 1990). Where condition of bail bond was that defendant would appear at present term of court, judgment forfeiting bond for defendant's bail to appear at subsequent term was a void judgment within rule that laches does not run against a void judgment *Com. V. Miller*, 150 A.2d 585 (Pa. Super. 1959). A void judgment is one in which the judgment is facially invalid because the court lacked jurisdiction or authority to render the judgment, *State v. Richie*, 20 S.W.3d 624 (Tenn. 2000). Void judgment is one which shows upon face of record want of jurisdiction in court assuming to render judgment, and want of jurisdiction may be either of person, subject matter generally, particular question to be decided or relief assumed to be given, *State ex rel. Dawson v. Bomar*, 354 S.W. 2d 763, certiorari denied, (Tenn. 1962). A void judgment is one which shows upon face of record a want of jurisdiction in court assuming to render the judgment, *Underwood v. Brown*, 244 S.W. 2d 168 (Tenn. 1951). A void judgment is one which shows on face of record the want of jurisdiction in court assuming to render judgment, which want of jurisdiction may be either of the person, or of the subject matter generally, or of the particular question attempted to be decided or relief assumed to be given, *Richardson v. Mitchell*, 237 S.W. 2d 577, (Tenn.Ct. App. 1950). Void judgment is one which has no legal force or effect whatever, it is an absolute nullity, its invalidity may be asserted by any person whose rights are affected at any time and at any place and it need not be attacked directly but may be attacked collaterally whenever and wherever it is interposed, *City of Lufkin v. McVicker*, 510 S.W. 2d 141 (Tex. Civ. App. - Beaumont 1973). A void judgment, insofar as it purports to be pronouncement of court, is an absolute nullity, *Thompson v. Thompson*, 238 S.W. 2d 218 (Tex.Civ.App. - Waco 1951). A void judgment is one that has been procured by extrinsic or collateral fraud, or entered by court that did not have jurisdiction over subject matter or the parties, *Rook v. Rook*, 353 S.E. 2d 756, (Va. 1987). A void judgment is a judgment, decree, or order entered by a court which lacks jurisdiction of the parties or of the subject matter, or which lacks the inherent power to make or enter the particular order involved, *State ex rel. Turner v. Briggs*, 971 P.2d 581 (Wash. App. Div. 1999). A void judgment or order is one that is entered by a court lacking jurisdiction over the parties or the subject matter, or lacking the inherent power to enter the particular order or judgment, or where the order was procured by fraud, *In re Adoption of E.L.*, 733 N.E.2d 846, (Ill.App. 1 Dist. 2000). Void judgments are those rendered by court which lacked jurisdiction, either of subject matter or parties, *Cockerham v. Zikratch*, 619 P.2d 739 (Ariz. 1980). Void judgments generally fall into two classifications, that is, judgments where there is want of jurisdiction of person or subject matter, and judgments procured through fraud, and such judgments may be attacked directly or collaterally, *Irving v. Rodriguez*, 169 N.E.2d 145, (Ill.app. 2 Dist. 1960). Invalidity need to appear on face of judgment alone that judgment or order may be said to be intrinsically void or void on its face, if lack of jurisdiction appears from the record, *Crockett Oil Co. v. Effie*, 374 S.W.2d 154 ( Mo.App. 1964). Decision is void on the face of the judgment roll when from four corners of that roll, it may be determined that at least one of three elements of jurisdiction was absent: (1) jurisdiction over parties, (2) jurisdiction over subject matter, or (3) jurisdictional power to pronounce particular judgment that was rendered, *B & C Investments, Inc. v. F & M Nat. Bank & Trust*, 903 P.2d 339 (Okla. App. Div. 3, 1995). Void order may be attacked, either directly or collaterally, at any time, *In re Estate of Steinfield*, 630 N.E.2d 801, certiorari denied, See also *Steinfeld v. Hoddick*, 513 U.S. 809, (Ill. 1994). Void order which is one entered by court which lacks jurisdiction over parties or subject matter, or lacks inherent power to enter judgment, or order procured by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that party is properly before court, *People ex rel. Brzica v. Village of Lake Barrington*, 644 N.E.2d 66 (Ill.App. 2 Dist. 1994). While voidable orders are readily appealable and must be attacked directly, void order may be circumvented by collateral attack or remedied by mandamus, *Sanchez v. Hester*, 911 S.W.2d 173, (Tex.App. - Corpus Christi 1995). Arizona courts give great weight to federal courts' interpretations of Federal Rule of Civil Procedure governing motion for relief from judgment in interpreting identical text of Arizona Rule of Civil Procedure, *Estate of Page v. Litzenburg*, 852 P.2d 128, review denied (Ariz.App. Div. 1, 1998). When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory,

Orner v. Shalala, 30 F.3d 1307, (Colo. 1994). Judgments entered where court lacked either subject matter or personal jurisdiction, or that were otherwise entered in violation of due process of law, must be set aside, Jaffe and Asher v. Van Brunt, S.D.N.Y. 1994. 158 F.R.D. 278. Joint and several liability has been abolished in Arizona excepting where degrees of fault have been apportioned. Each defendant is liable only for the amount of damages allocated to that defendant in direct proportion to that defendant's percentage of fault, and a separate judgment shall be entered against the defendant for that amount. To determine the amount of judgment to be entered against each defendant, the trier of fact shall multiply the total amount of damages recoverable by the plaintiff by the percentage of each defendant's fault, and that amount is the maximum recoverable against the defendant. The relative degree of fault of the claimant, and the relative degrees of fault of all defendants and non-parties, shall be determined and apportioned as a whole at one time by the trier of fact. If two or more claimants have independent claims, a separate determination and apportionment of the relative degrees of fault of the respective parties, and any non-parties at fault, shall be made with respect to each of the independent claims.

The liability of each defendant is several only and is not joint. Abolition of joint and several liability applies to all actions pending on the effective date of the act. In Arizona, tortfeasors are to pay for the damages they cause, but no more. Each defendant is liable only for amount of damages allocated to that defendant's percentage of fault, Pooley v. National Hole-In-One Ass'n, D. Ariz. 2000, 89 F.Supp.2d 1108. In an indivisible injury case, the fact finder is to compute the total amount of damage sustained by the plaintiff and the percentage of fault of each tortfeasor; multiplying the first figure by the second gives the maximum recoverable against each tortfeasor, Larsen v. Nissan Motor Corp. in U.S.A. (App. Div.2 1998) 194 Ariz. 142, 978 P.2d 119, review denied. The court is required to allocate responsibility among all parties who caused the injury, with each such party's liability several but not joint, to cure the deep pocket problem of a defendant, Piner v. Superior Court In and For County of Maricopa (1998) 192 Ariz.182, 962 P.2d 909. The trier of fact must determine and apportion relative degrees of fault of all parties and non-parties, Zuern By and Through Zuern v. Ford Motor Co. (App. div.2 1996) 188 Ariz. 486, 937 P.2d 676, review granted, review dismissed, motion denied 190 Ariz. 574, 951 P.2d 449. The court must apportion fault between all wrongdoers, Hutcherson v. City of Phoenix (App. div. 1 1996) 188 Ariz. 183, 933 P.2d 1251, review granted in part, denied in part, vacated 192 Ariz. 51, 961 P.2d 449. A judgment is void on its face and is subject to collateral attack unless court has jurisdiction of the subject matter, of the persons involved in the litigation, and to render the particular judgment given, Hallford v. Industrial Commission (1945) 63 Ariz. 40, 159 P.2d 305. A court must have jurisdiction of the subject matter and if it has not jurisdiction, court's judgment may be collaterally attacked, Vargus v. Greer (1943) 60 Ariz. 110, 131 P.2d 818. Lack of jurisdiction over subject matter can be raised at any time, Kelly v. Kelly (1975) 24 Ariz. App. 582, 540 P.2d 201. to demand or even ask for money in respect of a claim which Robert M. Frisbee knows is false.

3. Statements of counsel in their briefs or arguments are not sufficient for purposes of granting a motion to dismiss or for summary judgment, Trinsey v. Pagliaro, D.C. Pa. 1964, 229 F. Supp. 647. Unsupported contentions of material fact are not sufficient on motion for summary judgment, but rather, material facts must be supported by affidavits and other testimony and documents that would be admissible in evidence at trial, Cinco Enterprises, Ins. V. Benso, Okla., 890 P2d 866 (1994). Where there were no depositions, admissions, answers to interrogatories, or affidavits, plaintiffs motion for summary judgment could not be considered under district court rule (O.S. title 12, Chapter 12, Rule 13) providing for judgment where facts are not controverted, inasmuch as there was a complete absence of any of requisite basis for a proper determination that no substantial controversy existed. Oklahoma Statutes Annotated, Supp. pg. 113. Any ruling on motion for summary adjudication must be made on record parties have actually made and not upon one that is theoretically possible, State ex rel. Macy v. Thirty Thousand Seven Hundred Eighty One Dollars & No / 100, Okla. App. Div. 1, 865 P.2d 1262 (1993).

14. **Complaint of want of subject matter jurisdiction does not have to be timely raised.** See O.S. title 12, 2012 B. Subject

matter jurisdiction is not dependent on consent or waiver of a party, and challenge to subject matter jurisdiction may be raised at any time in the course of proceedings. **Shaffer v. Jeffery**, (1996) Okla., 915 P.2d 910 .

15. **Laches is not defense to vacation of void judgment. B & C. Investments, Inc. v. F. & M. Nat. Bank & Trust**,(1996) Okla. App. Div. 903 P.2d 339. Defendant who delayed more than eight years before attacking void default judgment would not be precluded from having the judgment vacated on ground that he was guilty of laches, in view of statute expressly providing that a void judgment may be vacated any time by a party or person affected thereby. **Chaney v. Reddin**, (1949) Okla., 201 Okla. 264, 205 P.2d 310 .

**Conclusion: This judgment against the Father of the Husband must be vacated.**

Submitted \_\_\_\_\_ William Brockman, Father of Donald Brockman - not a party to this case.

Date:

## **List of Exhibits Attached**

1. Transcript of the hearing at which William said very little.
2. Transcript of the deposition.
3. Copy of the 11 December 1997 complaint.

Additional cases:

1. Motion to void judgment successful:

U.S. Supreme Court

SCHLESINGER, v. COUNCILMAN, 420 U.S. 738 (1975)

420 U.S. 738

SCHLESINGER, SECRETARY OF DEFENSE, ET AL. v. COUNCILMAN.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH

CIRCUIT.

No. 73-662.

Argued December 10, 1974.

Decided March 25, 1975.

After court-martial charges were preferred against respondent Army captain for the sale, transfer, and possession of marihuana, he brought suit in Federal District Court to enjoin petitioner military authorities from proceeding with the court-martial. The District Court granted a permanent injunction, and the Court of Appeals affirmed, on the ground that the offenses charged were not "service connected" and hence were not within court-martial jurisdiction. Petitioners contend in this Court (1) that any federal-question jurisdiction that the District Court might have had under 28 U.S.C. 1331 had been removed by Art. 76 of the Uniform Code of Military Justice (UCMJ), which provides that court-martial proceedings "are final and conclusive" and that "all action taken pursuant to those proceedings [is] binding upon all . . . courts . . . of the United States,"

2. Successful void judgment motion.

U.S. Supreme Court

1. IRVIN v. DOWD, 366 U.S. 717 (1961)

366 U.S. 717

IRVIN v. DOWD, WARDEN.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH

CIRCUIT.

No. 41.

Argued November 9, 1960.

Decided June 5, 1961.

Petitioner was tried in an Indiana State Court, convicted of murder, and sentenced to death. Six murders had been committed in the vicinity of Evansville, Ind., and they were extensively covered by news media in the locality, which aroused great excitement and indignation throughout Vanderburgh County, where Evansville is located, and adjoining Gibson County. Shortly after petitioner was arrested, the Prosecutor of Vanderburgh County and Evansville police officials issued press releases, which were intensively publicized, stating that petitioner had confessed to

List of Exhibits

Exhibit 1: 23 page transcript of unconstitutional fraudulent evidentiary hearing of 2 July 2002.

# Transcript of 3 July 2002

Donald Brockman, Petitioner-Appellant

Appellate Court No. C042136

v

Trial court Case No. SDR82246

Debra D. Brockman

Contents:

Page 1 of 23 ..... [-iii-](#)

Page 2 of 23 ..... [Page 2 of 24](#)

Page 3? of 23 ..... [Page 3 of 24](#)

Your Honor, Mr. Brockman is waving his hand.  
..... [Page 4 of 24](#)

**He said he can't hear.** ..... [Page 4 of 24](#)

Page 4 of 23 ..... [Page 4 of 24](#)

Page 5 of 23 ..... [Page 5 of 24](#)

Page 6 of 23 follows: ..... [Page 6 of 24](#)

Page 7 of 23 ..... [Page 7 of 24](#)

we received a hundred thousand dollars for 15 years work. .... [Page 8 of 24](#)

I'm summing up now the last paragraph of 2 ..... [Page 8 of 24](#)

bankruptcy lawyers and proceedings collected a million \$200,000 of Donald Brockman's properties. .... [Page 8 of 24](#)

**setting aside the earlier judgment**

**27 which had given Debra only ten thousand as a share.** ..... [Page 8 of 24](#)

**As far as the factual representations are**

**23 concerned concerning the numbers that were recited by**

**24 Mr. Lurvey earlier, are these numbers true and correct to**

**25 the best of your knowledge?**

**26 MS. DEBERGE: Yes, they are, Your Honor.** ..... [Page 9 of 24](#)

over this aggregate sum of \$549,984. We ask damages be awarded jointly and severally against William Brockman, General Construction Engineers, Inc., Farr Development Limited, and James D. Mack. With respect to the last two named plaintiffs, Mary Jane Hilyard and Daniel Brockman, Ms. DeBerge has requested and she is here to reaffirm that she does not desire that there be an order including any damages. Ms. Hilyard has filed a declaration explaining that she is ill with cancer and has no assets. And Ms. DeBerge recognizes that and has asked me to recite to the Court she has no desire to pursue those two claimants and is dismissing that to that effect. . . . . [Page 10 of 24](#)

page 10 of 23

. . . . . [Page 10 of 24](#)

**Let's see your papers that you wrote for this Donald!**

. . . . . [Page 10 of 24](#)

**Page 11, Line 1: Okay, there is your evidence under section 473, "surprise" or under denial of due process. Lets see some more facts about that conference. It should have been hammered out on paper beforehand. Who is Patrick Murphy? Did you have a lawyer at the time? . . . . . [Page 11 of 24](#)**

Page 12 of 23

. . . . . [Page 12 of 24](#)

**opposition even know they came before you and you  
17 awarded her a hundred percent of the stock in the  
18 corporation? . . . . . [Page 13 of 24](#)**

**he fails to tell you one judge down there  
( end of page 13 ) said, "Lurvey, you're a liar." In court . . . . . [Page 13 of 24](#)**

Page 14 of 23

. . . . . [Page 14 of 24](#)

Page 17 of 23

. . . . . [Page 17 of 24](#)

I would like to hear Debbie's story, why do you think I owe you \$125,000. Would you mind letting her tell us that?

. . . . . [Page 18 of 24](#)

Page 18 of 23

. . . . . [Page 18 of 24](#)

**but I don't think you can demand that she make a statement. . . . . [Page 19 of 24](#)**

**. Ended up costing about 4 million dollars. . . . . [Page 19 of 24](#)**

**Garbolino is way wrong. Of course Bill has a right to cross examine her! Big time mistake of law when Gabolino did not**

**permit William to cross examine Debra – or even the testilying lawyer Lurvey!! William has a right to cross examine her at an evidentiary hearing! Especially considering that they are asking him to pay for a judgment that was obtained before he entered the case! . . . . . [Page 19 of 24](#)**

page 20 of 23 . . . . . [Page 20 of 24](#)

Atty Harrison Goodwin: **One final thing, Your Honor, if I just may close. We're concerned too about Mr. Brockman's, the elder Mr. Brockman's position. I do want to read from page 65 of his deposition as to why we're asking for the additional naming of him as a co-defendant . . . . . [Page 21 of 24](#)**

Page 21 of 23 . . . . . [Page 21 of 24](#)

**Page 22 of 23 . . . . . [Page 22 of 24](#)**

Page 23 of 23 . . . . . [Page 23 of 24](#)

REPORTER'S TRANSCRIPT OF PROCEEDINGS ON APPEAL APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT  
OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF PLACER

THE HONORABLE JAMES D. GARBOLINO, JUDGE

Appearances:

FOR THE PETITIONER: Don Brockman

In Propria Persona

9209 Lower Azusa Rd.

Rosemead, CA 91770

FOR THE RESPONDENT: IRA H. LURVEY, Esq.

1333 Beverly Green Drive Los Angeles, CA 90035

HARRISON GOODWIN, Esq. 400 Auburn Folsom Road Auburn, CA 95603

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF PLACER DEPARTMENT NUMBER  
TWO HONORABLE JAMES D. GARBOLINO, JUDGE

Donald Brockman, Petitioner

Case sdr 82246

v

Debra Brockman, Respondent

(Palaschak add: and moving party)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 July 3, 2002

Appearances (why is this written a 2<sup>nd</sup> time?)

FOR THE PETITIONER: Don Brockman In Propria Persona, 9209 Lower Azusa Rd. Rosemead, CA 91770

FOR RESPONDENT: IRA H. LURVEY, Esq. 1333 Beverly Green Drive Los Angeles, CA 90035

HARRISON GOODWIN, Esq. 400 Auburn Folsom Road Auburn, CA 95603

REPORTED BY: SHARON LEININGER, CSR #6113 Pages 1 - 23

Page 1 of 23

1 Auburn, California July 3, 2002

2 P R O C E E D I N G S

3 **Judge James Garbolino:** Brockman.

4 May I have appearances for the record.

5 Atty Ira Lurvey: Good morning, Your Honor. Ira Lurvey and  
Harrison Goodwin for the moving party/Respondent, Debra  
Brockman. Ms. Brockman, also known as Ms. Debra DeBerge,  
is present also.

9 Don Brockman: Donald and William Brockman, pro  
10 per.

11 **Judge James Garbolino:** I have not followed the  
course of these proceedings and I have not examined this  
file. What I do see in the file is an Order to Show Cause or a  
notice of motion to set filed on December 17, 2001 requesting  
an evidentiary hearing. Is that what brings us here today?

16 Atty Ira Lurvey: Yes, Your Honor.

17 **Judge James Garbolino:** Let me read it. (Reading.) Mr.  
Lurvey, you're the moving party.

**Atty Ira Lurvey:** Thank you, Your Honor. May I please, with the  
Court's permission, just to clarify a bit. There are a  
number of parties who have notice to be here. There is,  
in addition to the petitioner in the case, Donald

23 Brockman, who is present, there is also a General

24 Construction Engineers, Inc. that has been given notice and

25 has been alleged is the company of Donald Brockman, and

26 he's present. Whether he's here individually or on behalf

27 of the company or both is left open, but they also are a party.

**The judge admits that he has not read the file - so then his  
order that Lurvey wrote before this hearing, well that order is  
void because it is based on the papers in the file plus the  
fiction that Lurvey alluded to. This Judge Garbolino merely  
rubber-stamped an order.**

Page 2 of 23

1 There is a gentleman, James Mack, whose default has  
2 been taken here and who is not present today, but was given  
notice. There is an attorney, Mary Jane Queeter [phonetic,] who  
also has been given notice, who

5 filed a recent declaration the Court may have seen and  
6 examined, who is not present here today.

7 There is also William Brockman, who is a claimant, who  
8 is present. The record will reflect earlier, I believe,  
9 Your Honor, that William Brockman had an attorney, Gunner  
10 Bodneck, B-O-D-N-E-C-K, who filed a substitution of  
11 attorney on behalf of William Brockman. Earlier when the  
12 matter was first called before, the Court reset it for this  
13 date. And I understand now that there is a new  
14 substitution of attorney delivered today in which William  
15 Brockman restores himself in pro per and Gunner Bodneck  
16 withdraws. If I may inquire of the Court if that document  
17 has been filed.

18 Judge James Garbolino: It has.

19 Atty Ira Lurvey: Thank you, Your Honor. The status is  
20 that William Brockman is present in pro per and Gunner  
21 Bodneck no longer is involved in the case. I think that  
22 brings us -- except for Daniel Brockman, who initially was  
23 represented in a corollary action here by an attorney,  
24 Mr. Redding, who also filed a dismissal of that other  
25 action -- so that brings all the people who are before the  
26 matter.

27 What's at issue here, Your Honor, today is relatively  
28 simply I believe an attempt to bring closure to a divorce

Page 3? of 23

1 action that's been pending --

Atty Harrison Goodwin: Your Honor, Mr. Brockman is waving his hand.

4 **Judge James Garbolino:** Yes, I see him over there, and as soon as Mr. Lurvey gets through, I'll call him.

6 Atty Harrison Goodwin: **He said he can't hear.**

7 Atty Ira Lurvey: Let me just do it again. What I

8 attempted to do is clarify who is present of record for

9 today. I would indicate that all the parties named as

10 claimants have been given notice and are here either in

11 person or have defaulted previously, and therefore,

12 everyone who is listed on the heading of this case, either

13 Petitioner, Respondent or Claimants, is either present

14 today or has been given notice much earlier and hasn't

15 appeared.

16 There was one question of an attorney appearing when

17 this case earlier was set for call named Gunner Bodneck,

18 B-O-D-N-E-C-K. Mr. Bodneck apparently has withdrawn.

19 There's a substitution of attorney that I understood,

20 though I have not seen it, was delivered to the Court and I

21 believe the Court has it, replacing Mr. Bodneck with

22 William Brockman in pro per today.

23 That was a summary of what I have done.

24 Judge James Garbolino: All right.

25 Atty Ira Lurvey: I'm moving on to simply recite that I

26 believe what's before the Court today by way of this Order

27 to Show Cause is for essentially enforcement of a 1993

28 judgment to the extent that Debra Brockman DeBerge suffered

Page 4 of 23

1 particular damages as provided under that judgment, and  
2 simply ask the Court to do the best it can to try and make  
3 her whole.

4 And in summary of that, Your Honor, and the Court has  
5 been most indulgent in examining a lot of papers, **the**  
**6 purpose is to bring closure to this divorce action which**  
**in**  
**7 essence has been pending since December of 1984**  
**8 continuously and has been before this county court since**  
**9 1988. The issue then is to make Debra as whole as**  
**possible**

10 under a judgment of June 7th, 1993.

11 To cut quickly to the conclusion, Your Honor, that  
12 judgment provided a money judgment. It was a stipulated  
13 judgment entered into with this Court's oversight and  
14 review in an attempt to bring closure to a marital  
15 dissolution matter which had already been up twice to the  
16 Courts of Appeal and was being returned for a proper  
17 disposition of the marital property.

18 In that judgment Mr. Donald Brockman provided that he  
19 pay the sum that became \$345,000 as amended nunc pro  
tunc.

20 So Debra was owed \$345,000 as of June 7th, 1993.

21 Through 2001, none of that had been paid. **And the**  
**22 judgment provided that to the extent that any**  
**party was**

**23 required -- and this is all expressly set forth in**  
**various**

24 pleadings for joinder that are of record in bringing the  
25 claimant before the Court -- the judgment provided that to  
26 the extent that any party was required to incur direct  
27 expenses to enforce the judgment, those expenses could be  
28 brought before the Court for an ultimate order to cause

Page 5 of 23

This is fraud: Closure has nothing to do with it. The purpose of  
the hearing is fraud. This Lurvey wants to take all his life earnings  
from William who is not even a party to this divorce!

**At a time when William Senior was not even a party!!**  
**Therefore he cannot be bound by that judgment!**

Line 22 page 5: July 3 2002 hearing: Let's see that judgment that  
Lurvey alludes to! William was not a party

Page 6 of 23 follows:

1 their payment. There was a right to recover costs incurred  
2 in having to enforce the judgment.  
3 So the amounts of money being looked to today to make  
4 Debra whole simply relate from that judgment of June 1993.  
5 And what occurred, in brief summary, is that after  
6 June of 1993, after a period of about a year of trying to  
7 attempt to obtain voluntary enforcement of Mr. Brockman to  
8 make that payment, Mr. Brockman declares bankruptcy. That  
9 bankruptcy recited that virtually all of Mr. Brockman's  
10 properties were no longer owned by him; they had been  
11 transferred away. Those transfers were ultimately all  
12 rescinded through a bankruptcy court as being improper for  
13 various reasons.  
14 Many of them were to appear to be a nonexistent entity  
15 called Farr, F-A-R-R, Development, Inc. which has never  
16 been located anywhere and alleged that it was offshore in  
17 some British island. And we have a declaration of Mary  
18 Jane Hilyard, whose law firm made that transfer. But as  
19 far as she knows, that's a fraud. That all expressly is  
20 recited in Ms. Hilyard's declaration as the only attorney  
21 in that firm overseeing what had been a disbarred lawyer  
22 who was working as an office administrator who purportedly  
expedited these activities without Ms. Hilyard's knowledge or  
consent, she alleges.

In any event, the bottom line of the numbers is the following:

27 If you simply attach a statutory interest to what  
28 Debra was entitled to receive, the \$345,000, for the next 9  
page 6 of 23

But not a right to recover from William because he was not a party when the costs were incurred but more important he was not a party when the judgment was rendered.

But we have that problem of William not being a party at that time.

On the phone Goodwin told me that the sum against William was not based on the \$345,000. I will read further.

1 (Lurvey continues to talk for this entire page). . years,  
bringing us to current, it would be an additional  
2 \$310,500, which is 10 percent over 9 years of the original  
3 \$345,000. That brings the total of \$655,500 that would be  
4 owed to Debra under the judgment; simply statutory  
5 interest.  
6 From the bankruptcy in 2001 and of the amounts  
7 recovered by the bankruptcy incident to its setting aside  
8 of wrongful transfers and denying Donald discharge, Debra  
9 received \$311,024. And we have here -- and there was a  
10 dismissal of the bankruptcy. And we have here a schedule  
11 of that that I've marked as Exhibit 1, which is a notice of  
12 filing of the trustee's final report and hearing of  
13 application for approval of professional fees and expenses  
14 that I have marked as Exhibit 1.  
15 I have a copy for Mr. Donald and Mr. William Brockman.  
16 Mr. Goodwin has handed it to them.  
17 Therefore, under simply the mathematics of what Debra  
18 would be entitled to receive with the proper statutory  
19 interest and what she actually received, there would be a  
20 deficit of \$344,476 to Debra simply to be made whole for  
21 when she was supposed to have been paid the stipulated  
22 judgment entered on June 7th, 1993.  
23 In addition, Debra was required simply to get that  
24 bankruptcy money to pay counsel fees and basic costs that  
25 were in excess of, but documented [indicating] up here, of  
26 \$205,508. So that rather than receive a full \$344,406, she  
27 really only received 105,000.  
28 That would mean, Your Honor, that for Debra to be made

Page 7 of 23

1 even relatively whole under the judgment, she would be  
2 entitled to a recoupment of that \$205,508. And when added  
3 to the \$344,476, which was her main deficit, it comes to a  
4 total of \$549,984.

5 So the request -- and that does not include additional  
6 amounts owed to either Mr. Goodwin or my firm, which we  
7 estimate is perhaps up to \$200,000, which Mr. Goodwin and  
I are both simply not pursuing. I'm advising the Court of  
9 that with Mr. Goodwin's consent.

10 **Attorney Goodwin:** That's correct.

11 Atty Ira Lurvey: And he rightfully is twitching up his  
12 face as he says it. But that's our contribution to close  
13 this matter once and for all. We're closing it simply on a  
14 recital that **we received a hundred thousand dollars for 15**  
**years work.** And this case is a travesty in every regard.

16 I'm summing up now the last paragraph of 2, Your  
17 Honor.

18 What has occurred here is what occurs when one party  
19 is so adamant against accepting any court proceeding and  
20 will go to such lengths to defeat it, no matter what, that  
21 the party will destroy their own property to prevent the  
22 other spouse from receiving anything.

23 The bankruptcy summary, Exhibit 1, shows that the  
24 **bankruptcy lawyers and proceedings collected a million**  
**\$200,000 of Donald Brockman's properties.** Which further  
26 shows the credibility of **setting aside the earlier judgment**  
**27 which had given Debra only ten thousand as a share.**

And

28 that the bankruptcy lawyers directly took from the estate

page 8 of 23

Major factor toward void judgment: This lawyer should have  
taken the stand and been sworn! His fake testimony was used  
by the judge. Therefore the judgment is void. One of the 3  
factors that make a judgment void are:

1. Failure of evidence - such as unsworn testimony of a non-witness.
2. Lack of jurisdiction. We have that also.
3. Fraud. We have that.
4. Denial of due process or other constitutional right: we have that by virtue of their having tacked on William after it was all over thereby denying him his right to be heard on the merits.

He is reading this into the record from his pleadings.

Line 27 page 8 I want to see the judgment that they set aside. If  
they set aside one they can set aside another

1 in excess of \$300,000 between the trustee and his law firm;  
2 took money on the premise that they were entitled to those  
3 fees and the bankruptcy court awarded. None of that should  
4 have occurred, no bankruptcy should have occurred.

5 Your Honor, if I may, I'd like to submit my comments  
6 as an offer of proof. Debra, would you come forward to  
7 recite those numbers.

8 The record reflects the fact of the bankruptcy. Ask  
9 the Court take judicial notice of the bankruptcy and  
10 dismissals and of its recoupment and of its rulings.

11 Judge James Garbolino: Thank you.

12 Swear in Ms. DeBerge

13 DEBRA DEBERGE,

14 called as a witness, was sworn, examined, and

15 testified as follows:

16 THE CLERK: Would you state and also spell your name.

17 THE WITNESS: Debra, D-E-B-R-A; DeBerge,

18 D-E-B-E-R-G-E.

19 Sorry, I'm nervous.

20 Judge James Garbolino: Ms. DeBerge, you heard the  
statements that

21 have been made by Mr. Lurvey and Mr. Goodwin in this

22 matter. **As far as the factual representations are**

**23 concerned concerning the numbers that were recited by**

**24 Mr. Lurvey earlier, are these numbers true and correct to**

**25 the best of your knowledge?**

**26 MS. DEBERGE: Yes, they are, Your Honor.**

27 Judge James Garbolino: Thank you.

28 Anything further?

Page 9 of 23

This is a leading question with a one word answer!! They can't do that!!!!

1 Atty Ira Lurvey: No, Your Honor. Except that in the order we would request that we go **over this aggregate sum of \$549,984. We ask damages be awarded jointly and severally against William Brockman, General Construction Engineers, Inc., Farr Development Limited, and James D. Mack. With respect to the last two named plaintiffs, Mary Jane Hilyard and Daniel Brockman, Ms. DeBerge has requested and she is here to reaffirm that she does not desire that there be an order including any damages. Ms. Hilyard has filed a declaration explaining that she is ill with cancer and has no assets. And Ms. DeBerge recognizes that and has asked me to recite to the Court she has no desire to pursue those two claimants and is dismissing that to that effect.**

14 Though Ms. Hilyard's declaration acknowledging liability  
15 would be of record. But Ms. DeBerge does not want to  
16 pursue that.

17 Thank you, Your Honor, I have nothing further. I have  
18 tried to be concise.

19 **Judge James Garbolino:** Thank you. Mr. Donald Brockman. I have read the documents that you have submitted, and now is the time for you to give me anything else that you determine is relevant to these issues.

24 **Donald Brockman:** I believe, sir, if you have read my documents of 13, 14 pages, there's not one lie in it. Mr. Paulsen offered the opposition that I would sign over that Cliff Drive house, which was worth at the status conference of which I came to, that was converted into a

page 10 of 23

Somebody better be jumping up here and objecting that William is simply not culpable. The judge already said that he has not been following the case to with: **Judge James Garbolino at page 1, line 1: "I have not followed the course of these proceedings and I have not examined this file. "**

**Let's see your papers that you wrote for this Donald!**

1 settlement conference which I was, per my paper, completely  
2 unready for. I stated, because I had no knowledge really  
3 of -- I said, both the two pieces of property which they  
4 said which was community property, which I had a quitclaim  
5 deed for right after she left, after everything was  
6 settled, a month after the divorce was signed, she gave me  
7 a quitclaim deed, okay, as administered by Patrick Murphy.  
8 Now I don't know if those become -- they vaporize  
9 after a while. But then sometime later, 20 years later, or  
10 10 years later when the property has gone up, I have since  
11 paid it off. When she left, the property was worth what  
12 was owed on it; when she left. Okay.  
13 Then the yard was a vacant shell of a building. Now  
14 the yard instead of selling for what I thought -- you know,  
15 I'd like to think it's worth a jillion dollars, sir, but  
16 it's not. It sold not for three hundred sixty, as I told  
17 the Court, it sold for \$254,000. The house sold for three  
18 hundred and twelve, if I recall, and I said it was worth  
19 three sixty. The yard also had a hundred 50 or 60 thousand  
20 dollar note on it. At the time of this moved-up status  
21 or -- settlement conference, I was not prepared for any of  
22 that. Okay. I had driven 500 miles to come attend this  
23 thing, per direction.  
24 Being unprepared, I said wrongful things. Later I  
25 told Mr. Paulsen, just tell them I'll give them the Cliff  
26 Drive house; sign it over to them. They refused that. I  
27 could not -- I could not come up with a loan on a piece of  
28 property that was paid for. The loan people in the area  
Page 11 of 23.

**Page 11, Line 1: Okay, there is your evidence under section 473, "surprise" or under denial of due process. Lets see some more facts about that conference. It should have been hammered out on paper beforehand. Who is Patrick Murphy? Did you have a lawyer at the time?**

1 laughed at the address: We're not touching this.  
2 The opposition has taken certain stands. They failed  
3 to tell you that Mr. Paulsen, he knew I couldn't afford him  
4 anymore because I had lost my bond. The bond which allows  
5 you to operate as a contractor and not compete with a  
6 gentleman standing in front of Home Depo.  
7 So he wanted to get rid of me. He never once  
8 mentioned that Debby Brockman was living in a country  
9 estate over here purchased virtually the day she left; the  
10 Cliff Drive house. Purchased for \$25,000. All right.  
11 And then what about her retirement? I didn't get any  
12 of her retirement. Women get part of the men's retirement;  
13 don't I get part of her state retirement?  
14 None of this was brought up. My wife who -- this has  
15 destroyed my wife's life. Okay. A very well educated  
16 person who it has destroyed. And without her, this whole  
17 thing -- the main crux of even coming to court was about  
18 the child. The reason it was transferred up here was so  
19 the mother wouldn't have to get a babysitter.  
20 The fraud in front of this Court -- my attorneys down  
21 there originally (indicating) were -- they took on this  
22 street fight. And all these -- I found out over the last  
23 twenty years if you don't correct a lie, it becomes the  
24 truth, okay. And the lies that have gone on here, it's  
25 disgusting, okay.  
26 This whole thing was about the son. The minute -- as  
27 soon as the thing was signed, signed, the thing all of a  
28 sudden, hey, you need the kid? Here's the kid. After four

Page 12 of 23

1 visits by the mother to the son, is what this whole  
2 travesty is about. Okay. Since he got out of the 5th  
3 grade, a day later he come down and has been back in this  
4 area twice or three times. The last time I'm sure it was  
5 at the order of a D-I in the Marines.  
6 It's such a travesty. If you knew -- I don't know how  
7 to express this enough. There's not a lie in here  
8 (indicating). Okay. And I'm not going to say it under  
9 penalty of perjury, because that means nothing. It means  
10 nothing. Okay.  
11 So I'm sitting here without a thing. I couldn't even  
12 afford to educate my own son, so that's why he joined the  
13 Marines. Okay. My whole life has been ate up feeding  
14 attorneys. You want to talk -- I'm supposed to be the  
15 representative of General Construction Engineers? Doesn't  
16 the **opposition even know they came before you**  
**and you**  
**17 awarded her a hundred percent of the stock in the**  
**18 corporation?** I don't own it; she owns it. Why am I being  
19 held --  
20 My dear old father here, who he (indicating) and they  
21 in concert were going to go ahead and sell the house that  
22 my son grew up in. Throw us on the street. Just so they  
23 could get their dinero so that they could drive their Rolls  
24 Royces. Okay. My dad stepped in, hocked the house that he  
25 owned and gave it to me so I could pay the balance to  
26 this -- person (indicating). Okay. So that they wouldn't  
27 sell the house. And this was just about attorneys fees.  
28 You know, **he fails to tell you one judge down there**  
**( end of page 13 ) said, "Lurvey, you're a liar." In court.** And  
he recused himself. He doesn't tell you that.

3 This whole thing has gained a life of its own and it's  
4 destroyed a lot of people. Made a bunch of attorneys.  
5 I've painted a lot of rental houses on weekends to  
6 have it thrown away. My son would be somebody today, but  
7 he's nothing; he's a jar head in the Marines, trying to  
8 learn something. Because I can't afford to educate him.  
9 Okay.  
10 And it's all true. It's factual. They called up,  
11 I'll get Ben VandeVord in here. They own Blue Carpet  
12 Realty. They called that gentleman over there sitting in  
13 [indicating] the shoulder, they called and tried to  
14 intimidate Ben VandeVord about the house in Sierra Madre.  
15 They caused the tenant to move out of the Fontana house.  
16 They caused the tenants in the Saugas house to move out.  
17 And the lady across the street, her being an astute lady,  
18 said document every phone call. They called and  
19 intimidated her so bad, she moved out. Trying to get the  
20 rents.  
21 And it's like, if this is the legal system, I feel  
22 like we're really in trouble. But if he feels that he can  
23 get by and pull this thing on the Court so thoroughly,  
24 okay. And it's true about my son trying to -- he thought  
25 if he "offed" himself, this whole thing would go away.  
26 Okay.  
27 I mean, Mr. Lurvey, he sits there, he's feeling good  
28 about himself, okay. He's not going to tell you my son

Page 14 of 23

1 loathes his stepfather over there. Loathes him, okay. Big  
2 time. And that's not what I wish. I feel sorry for that.  
3 This whole thing, okay, he doesn't tell --  
4 They came back and said, the lot had disagreement.  
5 Well, here, take this lot. They took it, okay. I have  
6 escrow papers that show I had it sold for 40 some thousand  
7 bucks. It recently sold. I sent them the deed,  
8 Mr. Paulsen forwarded the deed to them. I don't know what  
9 they do with it. Okay. It sold at a tax sale for \$41,000.  
10 So there it goes -- it's worthless, at a tax sale. Had 400  
11 bucks due on. It's not mine, so. My corporation isn't  
12 mine; it's theirs. I mean, you gave it to them and they're  
13 still saying it's mine; it's not. Okay.  
14 Back then, I said, here, dad, if you're going to hand  
15 me a hundred and fifty thousand bucks -- Mr. Brockman here  
16 has worked weekends and during the week since he retired  
17 from Lockheed, helping me, helping the corporation.  
18 When she was there, my dear father was actually doing  
19 it to better "me". Within the same time, "her". How do  
20 you marry somebody and not -- when you buy something, I  
had  
21 money in the bank, well, she contributed nothing other than  
22 having a child and 7 bucks an hour or whatever it was at  
23 the time, to the marriage. She brought nothing to it.  
24 Whatever she had would fit in the back of a trunk of a car.  
25 Okay.  
26 So here we are -- this whole thing is wrong. Now,  
27 it's very, very difficult to unweave 18 years of crap.  
28 Okay. I mean, distortions and lies; it's amazing. My

Page 15 of 23

1 first attorneys approached this as Corinthian law.  
2 Extrinsic versus intrinsic, whatever. But didn't win  
3 because, "street fight". Let's go up there.  
4 If you read -- my opinion, as a layman, as a  
5 quasi-educated person, if you read the -- if you read the  
6 public version of Brockman versus Brockman, if you know  
7 what really happened and what's going on, okay, as far as  
8 I'm concerned they should burn all the legal libraries  
9 because it's all built on mis-truths and personal  
10 inflection. Law libraries are useless. They're valueless  
11 because it's all a library of distortions. Okay.  
12 A lot of this stemmed out of, I think, a choreographed  
13 evening where she came, begged me, practically begged me  
14 after calling eight times in one day, okay. I can recall  
15 the day just like that. (Snaps fingers.) Because I was  
16 putting a football goal post in.  
17 **Judge James Garbolino:** Let me reign you in, Mr.  
Brockman. You're going back --  
19 **Donald Brockman:** I know that, but how do you --  
20 **Judge James Garbolino:** Excuse me; I'm talking. You're  
going back and you're trying to bring up old issues and  
issues that are settled and no longer relevant to what  
we're talking about here. Here we're talking about what  
is the total amount of the judgment to which Ms.  
DeBerge is entitled. So I'm seeing you get wound up on  
your own rhetoric here and you are getting more excited  
as you go along reliving all of these injustices that you  
perceive.  
28 **Donald Brockman:** Upon you, sir!

Page 16 of 23

1 **Judge James Garbolino:** And I can see that it's happening.

What I would like you to do is direct your remarks to the motion before the Court the best that you can. Realizing that I don't want to limit legitimate argument in this case, but also realizing that I don't want you to get wrapped up to the point that you miss what the point of this proceeding is because of the depth of your disagreement with what has transpired for the last 18 years. So don't get sidetracked from what the issues are.

10 **Don Brockman:** I have nothing to say about whatever they want to say. Let them perpetuate the fraud upon you and the legal system.

13 **Judge James Garbolino:** Mr. William Brockman, do you have anything that you would like to say to the Court?

15 **William Brockman, age 88, last to speak, yet this whole hearing is about his money!:** Yes, I would; quite a few. You know, Debbie I know has the wrong opinion. She calls me a conspirator, which I never conspired to defraud her of anything. I spent a lot of time working with Don, about the time they got married, for Debbie and Don. Now, I can understand where she got the idea of suing me for \$25,000 (note by Palaschak: this amount is wrong) because she says I was a conspirator. That is the farthest thing in the world from the truth. I'm not a liar; never have been. Don can verify that. But I guess a lot of people can. You know, I have stacks of stuff, I have a bunch of it in the car; I was ashamed to bring it in here. About this high (indicating). You know, all this legal stuff about this. I read everything that's ever been printed about . . .

Well you should have brought some of them up to the hearing.

1 (William Brockman speaking) . . .this, but I still don't know nothing about it. You see, I never -- when I loaned Don \$130,000, he come to me and he says, I need \$130,000 right quick. I said, well, I think I can get you that pretty quick. I never asked him even what he was going to do with it; never even thought about it. I never -- for two or three years later I believe when Mr. Lurvey took my -- I don't know what you call it -- deposition under oath, he asked a question in there. He has it; you should hear it. What did Don do with the money? Oh, I said, I don't know; I think he give it to you. That's on the record. Now, you know, I have nothing against Debbie. But I can understand how she got the wrong idea because I loaned Don \$130,000, that I was doing that against her. That's not true at all. I didn't even know what he was going to do with it. I thought it had something to do with this case, but I never did ever ask him. Later years he told me. I don't think even when I gave a deposition, I don't think he's ever told me before what he did with that money. Fact, I still owe the money. I've been paying interest on that \$130,000 for about 10 years. Don paid it for four or five years. After you broke him so bad, he couldn't no longer pay me any interest on it. See. So he hasn't paid it for, I don't know, 10 years, something like that. Anyway, I suppose you want to know why I think that she shouldn't get a judgment against **me. I would like to hear Debbie's story, why do you think I owe you \$125,000. Would you mind letting her tell us that?**

Page 18 of 23

2 **Judge James Garbolino:** She is going through counsel, and at this point in time I'll listen to your particular points on this, **but I don't think you can demand that she make a statement.**

6 **William Brockman, age 88:** Okay. I don't hardly know how to start to do that. But I never did anything against Debbie in my life. I don't think I've ever even said anything against her to Don after all these years. You know, this whole thing I think, if I remember right, Don tells me it started over a \$25 vacuum cleaner. **Ended up costing about 4 million dollars.** You know, it's hard to believe that. But, anyway. But I don't owe Debbie anything. Or her husband. See, she couldn't prove that I owe her any money in any way. If she could, I'd like to hear it.

17 **Judge James Garbolino:** Thank you.

**William Brockman, age 88:** You see, you know, it's already cost me, oh, about \$5,000 just -- I've been up here twice on this -- this makes my fourth time here. And I paid the other attorney \$3700 cash; that's \$200 an hour. That's pretty good. I told him that I think he's a nice guy, really, but I said, I can't afford you. You know. I said, you know, when you get to Heaven, you're going to have a hell of a lot of money; how you going to take care of that? He said, I got it all figured out. He's a pretty smart guy. You know, because they won't let him take it there. I don't . . . (next page)

Page 19 of 23

**Garbolino is way wrong. Of course Bill has a right to cross examine her! Big time mistake of law when Gabolino did not permit William to cross examine Debra – or even the testilying lawyer Lurvey!! William has a right to cross examine her at an evidentiary hearing! Especially considering that they are asking him to pay for a judgment that was obtained before he entered the case!**

I wanna see some itemization on that \$4 million. Did they waste some by selling at below market value?

Who was that attorney mentioned at page 19, line20?

1 **(William continues)** know for sure, I haven't been there, but -- probably never will get there. But, you know, I'm not a liar. I have all kinds of recommendations from people like -- what do you call 'em -- What the hell do you call 'em?

Character references is what you call them. Commendations.

6 **Don Brockman:** What he's trying to tell you, sir, is he's a Webelos and he is an Eagle Scout with double-double-triple eagles palms. He was a district commissioner in Boy Scouts for 30 years. So he needs to be extricated. And as far as Ms. Hilyard, I've got lymphoma, too. So I have no money, so I guess what we need to do is lock me up. I think I get credit for what, 7 dollars a day picking up weeds on the freeway? So at this current rate, nobody wins.

15 **Judge James Garbolino:** I don't think we do that for civil judgments, Mr. Brockman.

17 **William Brockman, age 88:** You know, you can lock me up, too, as far as that's concerned. Because I don't want to pay any money; I don't have it to pay anyway, so. Accommodation, that's the word I'm thinking, you know. I had accommodated for several years. I never thoroughly read it. They had me look at a bunch of pictures. You probably all heard of Kelly Johnson, airplane designer; famous all over the world. And I happened to look at this, and I never met the man, I never seen him, I don't think. I worked in his department for 8 months one time. Anyway, when I retired he wrote this accommodation [sic], he said things in there that I could (continued next page)

page 20 of 23

1 (William continues) hardly believe myself. Somehow, they knew who I was. And I don't know, I got a lot of others, several others. Oh, I also served on the Grand Jury for a year, Kern County. About '95, '96. Good experience. I'm the one that helped put the men that killed the two young girls, I believe it was girls, put them in the prison. And several other things. But that's another story.

9 **Judge James Garbolino:** All right.

10 **William Brockman, age 88:** Anything you want to ask me, I'd be --

12 **Judge James Garbolino:** It's not my place to ask, sir.

13 **William Brockman, age 88:** Mr. Lurvey has a tape when I gave him a deposition.

15 **Judge James Garbolino:** All right. Thank you. Matter submitted?

16 Atty Harrison Goodwin: **One final thing, Your Honor, if I just may close. We're concerned too about Mr. Brockman's, the elder Mr. Brockman's position. I do want to read from page 65 of his deposition as to why we're asking for the additional naming of him as a co-defendant** as to the damages here. On Page 65, line 18, Mr. Lurvey asked in a deposition regarding Donald, during the period of time that Donald was maneuvering various businesses around that got it ultimately dismissed and thrown out of bankruptcy. Question: And have you, sir, ever had any conversations with Donald about any ownership of businesses between you and Donald?

They did not name William as **co-defendant**. There is no defendant! There is petitioner and respondent.

Page 21 of 23

1 (Atty Goodwin is now testifying without taking the stand and without being cross examined and without being directly examined): One time -- Mr. William Brockman responds -- one time Donald told me, I think -- I don't know what year that was. He said, I put all this business and all this building in your name, but I never seen anything, so I never paid any attention to it -- I didn't pay no attention to it. I didn't want the building or I didn't want anything. Mr. Lurvey: That was the -- that's -- What are you telling me, sir? Answer: That's all he said about that, yeah. Did you ever see any writing on that? Never saw any writing. Well, what did you tell Donald? Did you tell him, for example, "I don't want that" or for example, "I don't want to do anything like that? Did you say anything at all to Donald when he said that to you? Best that you recall, sir. I doubt if I did. Gee, I don't remember. You didn't pay any attention, sir? Something like, I probably said, well, Don, I don't want it. What do you remember about that? Well, I just ignored it. That's the problem. And they certainly want to re-argue parts and re-argue the Peloponnesian wars and go back to 1984 in the Brockman versus Brockman case. Mr. Lurvey launched one-handed by himself, back in the extrinsic-intrinsic days. The problem with that is that we have chased this (continued on next page)

**Page 22 of 23**

On Line 1 at page 22 Goodwin takes his turn at fake testimony. This is another reversible error - a mistake that makes this judgment void.

Objection : Best Evidence rule!

(Atty Goodwin continues to testify without having been sworn) . . . thing, I can't imagine any two lawyers doing it pro bono as long as we've done it, and we want to finish it up. I think the depositions of both Mr. William Brockman, James Mack the other co-defendant, and Mary Hilyard who tells the story much like her deposition that Mr. Lurvey lodged in the file were all consistent, that, by omission of just ignoring the rules. And I think we have seen that on their side here today, rules don't mean anything, law libraries don't mean anything, law books don't mean anything. We think they do mean something. We'd ask for a judgment as prayed. And as evidence of that, we would lodge the depositions that show exactly the story that we have tried to bring to the Court, if you want to see them.

As prayed? What about a jury?

14 **Judge James Garbolino:** You can lodge the depositions with the Court with the understanding that those will be returned to you upon entry of judgment.

17 **Atty Harrison Goodwin:** Thank you very much.

18 **Judge James Garbolino:** Matter submitted?

19 Atty Ira Lurvey: Yes, Your Honor.

20 Atty Harrison Goodwin: Yes.

21 **Judge James Garbolino:** All right. What I'd like to do is have the proposed judgment sent to the Court within ten days. You may each send a proposed judgment to the Court which recites how you would like the Court to rule and what judgment you would like the Court to enter. I will review those judgments at the conclusion of ten days and I will enter an appropriate judgment at that time. Thank you all very much. ///

Page 23 of 23

I, SHARON LEININGER, HEREBY CERTIFY:

That I am a Freelance Certified Shorthand Reporter in the County of Placer; that I reported the same in stenotype and thereafter transcribed the same into typewriting as appears by the foregoing transcription, pp. 1-23; that said transcript is a full, true and correct statement of the proceedings in the matter of Don Brockman vs. DEBRA BROCKMAN, Case No. SDR82246.

19 Dated this 24th day of November, 2002.

21 \_\_\_\_\_

22 Sharon Leininger, CSR No. \_\_\_\_\_