

The Honorable Thomas S. Zilly

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GLEN A. STOLL; STOLL FAMILY TRUST;  
DIRECTOR OF THE FAMILY DEFENSE  
LEAGUE a.k.a. FAMILY DEFENSE  
LEAGUE a.k.a. FAMILY DEFENSE  
NETWORK a.k.a. FAMILY DEFENSE  
FUND; and SNOHOMISH COUNTY,

Defendants.

Case No. 2:22-cv-01130-TSZ

**UNITED STATES' RESPONSE TO  
DEFENDANT STOLL'S "FOREIGN  
PLEA IN ABATEMENT" AND  
"MEMORANDUM OF FACT,  
AGREEMENT, AND LAW"**

Plaintiff the United States of America ("United States"), by and through its undersigned counsels, hereby submit its Response to the "Foreign Plea in Abatement" ("Plea") and "Memorandum of Fact, Agreement, and Law" ("Memorandum") in support of the Plea filed on November 25, 2022 by Defendant Glen A. Stoll. Dkt. ## 18 (Plea) - 19 (Memorandum). While not styled as a motion to dismiss, Stoll's filings challenge jurisdiction, Dkt. # 18 at 2; 19 at 1-2, and say that the Complaint "should be voluntarily withdrawn or summarily dismissed." Dkt. # 19 at 6. As such, Stoll's filings are the functional equivalent of a motion to dismiss.<sup>1</sup> See Fed. R. Civ. P. 12(b). However, the Court should deny Stoll's apparent motion to dismiss because this

<sup>1</sup> Under the Federal Rules of Civil Procedure, "[a] motion asserting [12(b) defenses] must be made before pleading if a responsive pleading is allowed." Fed. R. Civ. P. 12(b)(flush language). Because the Plea and Memorandum constitute a Rule 12(b) motion to dismiss, the "Rebuttal to the Complaint" contained in the Memorandum is not an "Answer" under the Federal Rules.

1 Court has jurisdiction over this action under Title 28 and Title 26 of the United States Code.  
 2 Additionally, to the extent any of Stoll's pleadings pertain to Defendant the Director of the  
 3 Family Defense League ("Family Defense League"), they should be stricken, as Stoll is not  
 4 authorized to practice law in the State of Washington and therefore cannot represent the Family  
 5 Defense League. Lastly, to the extent the Plea contains counterclaims against Department of  
 6 Justice ("DOJ") attorneys, none of whom are plaintiffs in this case, they are not permitted and  
 7 should also be stricken. In support of its Response, the United States submits the following  
 8 memorandum.

### 9 INTRODUCTION

10 In this action, the United States seeks to: (i) reduce to judgment the outstanding federal  
 11 tax assessments against Glen A. Stoll; (ii) find a parcel of improved property located in  
 12 Snohomish County, Washington ("Subject Property" described in paragraph 11 in the  
 13 Complaint) is held by a nominee and/or alter ego of Stoll; and (iii) foreclose federal tax liens on  
 14 the Subject Property. Dkt. # 1. As alleged in the Complaint, this Court has jurisdiction over the  
 15 Government's claims pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. §§ 7402 and 7403.  
 16 See Dkt. # 1 at ¶ 3. Stoll's Plea and Memorandum contain nothing more than general claims that  
 17 the Court does not have jurisdiction over this action and appear to argue that the Complaint  
 18 should be dismissed for lack of subject matter jurisdiction. See Dkt. ## 18 at 2, 19 at 1-2. Stoll  
 19 fails to address the jurisdictional statutes pled in the Complaint and presents no valid reason to  
 20 support his contention that this Court lacks jurisdiction to hear the Government's claims.

21 Additionally, to the extent Stoll's Plea or Memorandum pertain to the Family Defense  
 22 League, they should be stricken. The Family Defense League is an artificial entity and its  
 23 interests in a court proceeding must be represented by a person acting on its behalf. Stoll admits  
 24 he is not a lawyer, Dkt. # 19 at 8, and thus he cannot represent the Family Defense League.  
 25 Therefore, any of Stoll's arguments pertaining to the Family Defense League, including his  
 26 assertion that the Family Defense League has not been served, should be stricken. But even if  
 27 Stoll were permitted to represent the Family Defense League, his contentions regarding defective

1 service on the Family Defense League are without merit because service on Stoll as the  
 2 “Governor” or “Director” of the Family Defense League is valid under the Federal Rules of Civil  
 3 Procedure and Washington law.

4 Lastly, to the extent Stoll’s Plea pleads counterclaims against DOJ attorneys, Dkt. # 18 at  
 5 1, it should be stricken because they are not parties in the suit. Furthermore, Stoll’s claims  
 6 against DOJ attorneys are barred for many other reasons including lack of subject matter  
 7 jurisdiction, insufficient service of process, and failure to state a claim.

### 8 **ARGUMENT**

#### 9 **I. This Court Has Subject Matter Jurisdiction over this Action under 28 U.S.C. §§** 10 **1340 and 1345, and 26 U.S.C. §§ 7402 and 7403**

11 As the United States alleged in the complaint filed to initiate this action, this Court has  
 12 jurisdiction under 28 U.S.C. §§ 1340 and 1345, as well as 26 U.S.C. §§ 7402 and 7403. All four  
 13 statutes provide a basis for this Court to have jurisdiction over this action. *See United States v.*  
 14 *Bigley*, No. 2:14-CV-0729-HRH, 2016 WL 6873292, at \*1 (D. Ariz. Nov. 22, 2016); *United*  
 15 *States v. Carter*, No. 3:16CV674, 2017 WL 4124181, at \*7 (E.D. Va. Sept. 18, 2017). First, 28  
 16 U.S.C. § 1340 grants federal district courts “original jurisdiction of any civil action arising under  
 17 any Act of Congress providing for internal revenue.” 28 U.S.C. § 1340. Thus, the United States’  
 18 claims regarding Stoll’s unpaid federal income tax assessments directly fall within the “original  
 19 jurisdiction” described in 28 U.S.C. § 1340.

20 Second, 28 U.S.C. § 1345 grants federal district courts “original jurisdiction of all civil  
 21 actions, suits or proceedings commenced by the United States.” 28 U.S.C. § 1345. Section 1345  
 22 serves as a basis for this Court to exercise subject matter jurisdiction. *See United States v.*  
 23 *Carter*, No. 3:16CV674, 2017 WL 4124181, at \*7 (E.D. Va. Sept. 18, 2017). Here, the United  
 24 States is the plaintiff and brought this suit against Stoll and others.

25 Third, 26 U.S.C. § 7402 grants district courts “jurisdiction to make and issue in civil  
 26 actions ... such other orders and processes, and to render such judgments and decrees as may be  
 27 necessary or appropriate for the enforcement of the internal revenue laws.” 26 U.S.C. § 7402(a).

1 Section 7402(a) also clarifies that “[t]he remedies hereby provided are in addition to and not  
 2 exclusive of any and all other remedies of the United States in such courts or otherwise to  
 3 enforce such laws.” *Id.* Here, the United States seeks to: reduce assessments to judgment against  
 4 Stoll; obtain a finding that the Subject Property is held by a nominee and/or alter ego of Stoll;  
 5 and foreclose federal tax liens against the Subject Property to satisfy Stoll’s outstanding tax debt.  
 6 Therefore, this action is clearly “necessary or appropriate for the enforcement of internal revenue  
 7 laws.”

8 Fourth, 26 U.S.C. § 7403 provides that the United States may file an action in district  
 9 court to enforce a tax lien against any property in which the taxpayer has an interest. *See* 28  
 10 U.S.C. § 7403(a). Further, Section 7403(c) also empowers the court to “proceed to adjudicate all  
 11 matters involved therein and finally determine the merits of all claims to and liens upon the  
 12 property, and, in all cases where a claim or interest of the United States therein is established,  
 13 may decree a sale of such property ... and a distribution of the proceeds of sale according to the  
 14 findings of the court in respect to the interests of the parties and of the United States.” 28 U.S.C.  
 15 § 7403(c). Section 7403 “contemplate[s], not merely the sale of the delinquent taxpayer’s own  
 16 interest, but the sale of the entire property (as long as the United States has any ‘claim or  
 17 interest’ in it), and the recognition of third-party interests through the mechanism of judicial  
 18 valuation and distribution.” *United States v. Rodgers*, 461 U.S. 677, 694 (2002). Thus, the  
 19 district court may order the sale of a property with an attached federal tax lien even if that  
 20 property’s ownership is shared by third parties or people other than the delinquent taxpayer. *Id.*  
 21 Here, the United States seeks to enforce a tax lien by foreclosing on the Subject Property in  
 22 which Stoll has an interest.

23 Accordingly, this action falls squarely within 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C.  
 24 §§ 7402 and 7403. Stoll must have recognized this as he failed to address any of the  
 25 jurisdictional statutes alleged by the United States. Therefore, the Court has subject matter  
 26 jurisdiction over the Government’s claims and Stoll’s apparent motion to dismiss should be  
 27 denied.

## II. Stoll's Argument Regarding the Family Defense League Should be Stricken

To the extent any of Stoll's pleadings pertain to the Family Defense League, they should be stricken pursuant to Fed. R. Civ. P. 12(f) because Stoll is not authorized to act on its behalf. Courts have the inherent authority to "fashion an appropriate sanction for conduct which abuses the judicial process," *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44-45 (1991), which includes "the power to strike items from the docket as a sanction for litigation conduct," *Ready Transp., Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010). The Family Defense League is an artificial entity and its interests in a court proceeding must be represented by a person acting on its behalf. Representing another person or entity in court is the practice of law. To practice law, one must be an attorney. *See* R.C.W. 2.48.170. Thus, the Family Defense League appearing in court proceedings must be represented by an attorney. Stoll admittedly is not an attorney, Dkt. # 19 at 8, and therefore cannot represent the Family Defense League.

But even if Stoll were permitted to represent the Family Defense League, his contention that the Family Defense League has not been served is without merit. Stoll states in his Memorandum that the Family Defense League has not been served. Dkt. # 19 at 6. Rule 4(h) of the Federal Rules of Civil Procedure provides that service may be effected on corporations and associations pursuant to the service rules of the state in which the district court is located, *see* Fed. R. Civ. P. 4(h)(1)(A), 4(e)(1), or by delivering a copy of the summons and complaint "to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process...." *See* Fed R. Civ. P. 4(h)(1)(B). Washington State provides that service on a domestic corporation is made by delivering a copy of the summons and complaint to "the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof...." *See* R.C.W. 4.28.080(9).

In this case, the Family Defense League was properly served by personal service on Stoll on behalf of the Family Defense League. *See* Dkt. # 16 (Affidavit of Service). Stoll is listed as a "Governor" of the Family Defense League with the Washington State Secretary of State.

Attached hereto as **Exhibit A** is a true and correct copy of the Business Information for the

1 Family Defense League, retrieved from the publicly-available website for the Washington State  
 2 Secretary of State, on December 8, 2022, using the “Corporation Search” function, found at  
 3 <https://ccfs.sos.wa.gov/#/>. Stoll also admittedly holds himself out as the “Director” of the  
 4 Family Defense League. Dkt. # 19 at 5, 30. Therefore, Stoll was properly served on behalf of the  
 5 Family Defense League as a “Governor” or “Director” of the Family Defense League.

6 **III. Any Alleged Counterclaims against Department of Justice Attorneys are Not**  
 7 **Permitted and Should be Stricken**

8 Stoll’s Plea states a “common law commercial claim for damages” and “counter-  
 9 forfeiture claim for damages” against DOJ attorneys. Dkt. # 18 at 1. To the extent these bare  
 10 statements can be construed as counterclaims against DOJ attorneys, they should be stricken.  
 11 Though courts broadly construe pleadings filed by pro se litigants and give such plaintiffs “the  
 12 benefit of any doubt,” *Bretz v. Kelman*, 773 F.2d 1026, 1027 n.1 (9th Cir. 1985), even pro se  
 13 litigants must comply with the Federal Rules of Civil Procedure. *See Carter v. Comm’r of*  
 14 *Internal Revenue*, 784 F.2d 1006, 1008 (9th Cir. 1986) (“Although pro se, [plaintiff] is expected  
 15 to abide by the rules of the court in which he litigates”). Counterclaims are not permitted against  
 16 non-parties. If Stoll intends to sue third parties as part of this suit, he must file a third-party  
 17 complaint, request summonses, and serve those summonses on each of the parties so named as  
 18 required by the Federal Rules. *See Fed. R. Civ. P. 4, 14*. Moreover, even if the Plea was  
 19 construed as a valid third-party complaint, Stoll has not properly served the third parties. Stoll  
 20 simply mailed his Plea to the undersigned counsels, and that is not sufficient to effect service  
 21 under Federal Rules of Civil Procedure.

22 Furthermore, any attempt by Stoll to file a third-party complaint for damages against the  
 23 attorneys handling this case would be futile as those claims should be dismissed pursuant to  
 24 Federal Rules of Civil Procedure 12(b)(1) and (6). First, there is no subject matter jurisdiction for  
 25 any damages claim against DOJ attorneys in this matter. Indeed, Stoll fails to allege any statute  
 26 or law conferring jurisdiction over his alleged claims. Moreover, any claims against the attorneys  
 27 for the United States for filing documents or making other statements in relation to this suit

1 should be barred by the litigation privilege. *See, e.g., Steffes v. Stepan Co.*, 144 F.3d 1070, 1075  
 2 (7th Cir. 1998) (stating that the federal common law litigation privilege “traditionally  
 3 understood, applies to attorneys, witnesses, judges, and other participants in judicial  
 4 proceedings”). *See also Graham-Sult v. Clainos*, 756 F.3d 724, 748 (9th Cir. 2013) (claims based  
 5 on communications with some relation to judicial proceedings fall within litigation privilege and  
 6 are absolutely immune from tort liability). Additionally, Washington state litigation privilege  
 7 bars most claims against attorneys for litigation-related communications. *See Jeckle v. Crotty*, 85  
 8 P.3d 931 (Ct. App. Wash. 2004) (litigation privilege bars tortious interference, outrage, infliction  
 9 of emotional distress, and civil conspiracy claims against attorneys for their conduct related to  
 10 litigation); *McNeal v. Allen*, 621 P.2d 1285 (Wash. 1980) (allegedly libelous statements made by  
 11 counsel during the course of a judicial proceeding “are absolutely privileged if they are pertinent  
 12 or material to the redress or relief sought”). Thus, any claim for damages against DOJ attorneys  
 13 in this matter lacks subject matter jurisdiction.

14 Second, Stoll’s statements alleging a claim for damages with nothing more are  
 15 insufficient to plead an actionable claim. Federal Rule of Civil Procedure 8(a)(2) provides: “A  
 16 pleading that states a claim for relief must contain . . . a short and plain statement of the claim  
 17 showing that the pleader is entitled to relief.” Here, Stoll’s alleged claims are simply bare  
 18 statements alleging damages against DOJ attorneys. He has pled neither a cognizable legal  
 19 theory nor sufficient facts to support a cognizable legal theory. *See Balistreri v. Pacifica Police*  
 20 *Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). Therefore, Stoll has failed to state a claim upon which  
 21 relief can be granted.

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**CONCLUSION**

For the foregoing reasons, Stoll's apparent motion to dismiss should be denied, and his pleadings pertaining to the Family Defense League and counterclaims against non-parties stricken.

Respectfully submitted this 8th day of December, 2022.

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Deputy Assistant Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 8th day of December, 2022, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Rebecca J. Guadamud (Rebecca.Guadamud@snoco.org)  
*Attorneys for Snohomish County*

I further certify that on the same date, I caused a true and complete copy of the foregoing document to be served by first-class mail, postage prepaid, to the following at the following addresses:

Glen A Stoll  
c/o Director of the Family Defense League  
16910 – 59th Avenue NE, Ste. 210  
Arlington, WA 98223

/s/ Yen Jeannette Tran  
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U.S. Department of Justice