

## APPLICATION FOR/WRIT OF SCIRE FACIAS TO REVIVE JUDGMENT

NOW COMES, Christina Westfall and Stefani Podvin, Counter-Defendants in the aboveentitled and numbered cause ("Counter-Defendants") and file this their *Application for Writ of Scire Facias to Revive Judgment* (hereinafter, the "Application") and in support thereof would show unto the Court as follows: No! was an "Order on Motion for Sanctions".

1. This Application is supported by the affidavit of Christina Westfall (the "Westfall Affidavit") attached hereto as **Exhibit "A"** and incorporated by reference herein for all purposes, and the affidavit of Stefani Podvin (the 'Podvin Affidavit") attached hereto as **Exhibit "B"** and incorporated herein by reference as if fully set forth at length.

2. On July 30, 2002, a judgment was rendered in favor of the Counter-Defendants on their Motion for Sanctions filed in the above-entitled and numbered cause against Udo Birnbaum in the total sum of \$62,885.00 (hereinafter, the "Judgment"). Post-judgment interest at the rate of ten Was a JURY case. All this stuff was done WITHOUT a jury!

All this was done www.OpenJustice.US WITHOUT a jury. Order Order This was a JURY cause! percent (10%) was awarded by the Judgment as well. A true and correct copy of the Judgment is attached hereto as Exhibit "1" to the Westfall Affidavit and attached hereto as Exhibit "1" to the Order Podvin Affidavit. Order Order 3. Based upon the date of the signing of the Judgment, the Judgment became dormant on August 8, 2012. This Application seeks to revive the Judgment as to the judgment debtor Udo Birnbaum ("Judgment Debtor") pursuant to TEX. CIV. PRAC. & REM. CODE § 31.006. Order 4. As of June 1, 2014, there remains due and owing on the Judgment by the Judgment Debtor, damages in the amount of \$62,885.00. Post-judgment interest has and continues to accrue Order from the original date of judgment at the rate of ten percent (10%) and remains unpaid as well Order Order 5. All payments made, credits, and offsets have been credited to the Judgment. Order 6. Order The Judgment has not been paid or otherwise settled or compromised.

7. Christina Westfall and Stefani Podvin bring this proceeding to revive the Judgment and to extend the enforcement of same. Order

 Christina Westfall and Stefani Podvin ask the Court to take Judicial Notice of the Judgment.

WHEREFORE, PREMISES CONSIDERED, Christina Westfall and Stefani Podvin request from this Court the following:

- 1. A Scire facias writ be issued as to defendant, Udo Birnbaum, in the manner and form
- Order prescribed by law, requiring defendant, Udo Birnbum, to appear and show cause why the Judgment should not be revived; Order
  - 2. The Judgment be revived in all respects and extended for the full period provided by law;
  - 3. The Court direct the issuance of execution on the Judgment; <----Order
  - 4. The Court award Christina Westfall and Stefani Podvin all costs; and

### APPLICATION FOR WRIT OF SCIRE FACIAS

5. The Court grant Christina Westfall and Stefani Podvin such other and further relief to which they may show themselves to be justly entitled.

Respectfully submitted,

FRANK C. FLEMING State Bar No. 00784057

Law Office of Frank C. Fleming 3326 Rosedale Ave, Dallas, Texas 75205-1462 (214) 373-1234 (fax) 1-469-327-2930

### ATTORNEY FOR CHRISTINA WESTFALL and STEFANI PODVIN

Even the Appeals Court "found" that this Order on Motion for Sanctions does NOT comply with the Rules - for it does give even a HINT for the reason for the SANCTION.

(the reason of course was for being "well-intentioned" and making a counterclaim - A FIRST AMENDMENT RIGHT! (was caught by the court reporter!)

And done in a JURY cause - without the JURY!

And Mr. Birnbaum was asking Judge Paul Banner for "FINDINGS OF FACT AND CONCLUSIONS OF LAW" upon this.

"Houston, we have a problem"! (Apollo 13)

That is how the "FINDINGS" came about - over a YEAR later - while this mess was in the APPEALS COURT - and lawyer FLEMING made up all this CRAP in the "Findings".

The KEY to EVERYTHING is in the "FINDINGS" - annoted later. The "Findings" is nothing more than a CYA for the unlawful "Order on Motion for Sanctions"!

www.OpenJustice.US	
No.	00-00619
THE LAW OFFICES OF	
G. DAVID WESTFALL, P.C. §	
§ Plaintiff §	
§	
v. §	
UDO BIRNBAUM §	
s s s s s s s s s s s s s s s s s s s	nowhere does it mention - that the
Defendant/Counter-Plaintiff §	supposed "judgment" they are
\$ v. \$	trying to REVIVE - is titled "ORDER ON MOTION FOR SANCTIONS"!
*• 3	
G. David Westfall, Christina Westfall, and§	
Stefani Podvin, §	
8 Counter-Defendants	VAN ZANDT COUNTY, TEXAS
	HRISTINA WESTFALL
	PPORT OF IRE FACIAS TO REVIVE J <mark>UDGMENT</mark>
<u></u>	;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;
STATE OF TEXAS §	
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COUNTY OF DALLAS

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BEFORE ME, the undersigned authority on this day personally appeared Christina Westfall, known by me to be a credible person and competent in all respects to make this Affidavit, and, who, being duly sworn, upon her oath stated:

1. "My name is Christina Westfall. I am over twenty-one (21) years of age, and have never been convicted of a crime and am fully competent to execute this Affidavit. I have personal knowledge of the facts set forth herein and each averment is, to the best of my knowledge, true and

FALSE!

#### correct.

2. "On July 30, 2002, a judgment on a Motion for Sanctions was rendered in favor of Stefani Podvin and me in the above-entitled and numbered cause against Udo Birnbaum in the total

Exhibit "A"

Westfall Affidavit

Page 1 of 2

## the supposed "judgment" is in fact titled "ORDER ON MOTION FOR SANCTIONS"!

Order

sum of \$62,885.00. Post-judgment interest at/the rate of ten percent (10%) was also awarded by the Judgment. A true and correct copy of the Judgment is attached hereto as **Exhibit "1"** to this affidavit and incorporated by reference herein for all purposes.

- 3. "There is no outstanding and unreturned execution on the Judgment."
- 4. "All payments made, credits, and offsets have been credited to the Judgment.
- 5. "The Judgment has not been paid or otherwise settled or compromised."
- 6. "There are no counterclaims or set-offs in favor of Judgment Debtor., \_\_\_Order
- 7. "As of June 1, 2014, there remains due and owing on the Judgment by the Judgment Debtor, damages in the amount of \$62,885.00. Post-judgment interest at the rate of ten percent (10%) was also awarded by the Judgment and remains due and owing.
- 8. "This Affidavit is made and filed for the purpose of reviving the Judgment in the manner and for the period prescribed by law."

FURTHER AFFIANT SAYEHT NOT.

SIGNED this \_ day of 2014.

Order

SUBSCRIBED AND SWORN TO BEFORE ME on this 20 day of June, 2014.

Notary Public, State of Texas



No. (	00-00619			
THE LAW OFFICES OF§G. DAVID WESTFALL, P.C.§§§	IN THE DISTRICT COURT			
Plaintiff §				
v. § UDO BIRNBAUM §	294 <sup>th</sup> JUDICIAL DISTRICT			
UDO BIRNBAUM §				
Defendant/Counter-Plaintiff § v. §	nowhere does it mention - that the supposed "judgment" they are trying to REVIVE - is titled "ORDER			
v. §	ON MOTION FOR SANCTIONS"!			
§ G. David Westfall, Christina Westfall, and§				
Stefani Podvin, §				
§				
Counter-Defendants §	VAN ZANDT COUNTY, TEXAS			
AFFIDAVIT OF STEFANI PODVIN IN SUPPORT OF				
APPLICATION FOR WRIT OF SC	<u>IRE FACIAS TO REVIVE JUDGMENT</u>			
STATE OF TEXAS §				

COUNTY OF DALLAS §

BEFORE ME, the undersigned authority on this day personally appeared Stefani Podvin, known by me to be a credible person and competent in all respects to make this Affidavit, and, who, being duly sworn, upon her oath stated:

1. "My name is Stefani Podvin. I am over twenty-one (21) years of age, and have never been convicted of a crime and am fully competent to execute this Affidavit. I have personal knowledge of the facts set forth herein and each averment is, to the best of my knowledge, true and

correct.

2. "On July 30, 2002, a judgment on a Motion for Sanctions was rendered in favor of Christina Westfall and me in the above-entitled and numbered cause against Udo Birnbaum in the

Fxhibit "R"

FALSE!

**Podvin Affidavit** 

Order

## the supposed "judgment" is in fact titled "ORDER ON MOTION FOR SANCTIONS"!

Order

total sum of \$62,885.00. Post-judgment interest at the rate of ten percent (10%) was also awarded by the Judgment. A true and correct copy of the Judgment is attached hereto as Exhibit "1" to this affidavit and incorporated by reference herein for all purposes.

- 3. "There is no outstanding and unreturned execution on the Judgment.
  - 4. "All payments made, credits, and offsets have been credited to the Judgment.
  - 5. "The Judgment has not been paid or otherwise settled or compromised. Order
  - 6. "There are no counterclaims or set-offs in favor of Judgment Debtor."
  - 7. "As of June 1, 2014, there remains due and owing on the Judgment by the Judgment

Debtor, damages in the amount of \$62,885.00. Post-judgment interest at the rate of ten percent (10%) was also awarded by the Judgment and remains due and owing.

8. "This Affidavit is made and filed for the purpose of reviving the Judgment in the manner and for the period prescribed by law."

FURTHER AFFIANT SAYEHT NOT.

SIGNED this 🚄 2014.

STEFANI PG

SUBSCRIBED AND SWORN TO BEFORE ME on this day of \_\_\_\_\_, 2014.



Notary Public, State of Texas

www.OpenJustice.US	I certify this to be a true and exact copy of the original on file in the District Clerk's Office, Van Zandt County, Texas.
	No. 00-00619
THE LAW OFFICES OF	S IN THE DISTRICT COURT Candi Sord
G. DAVID WESTFALL, P.C.	\$. \$.
	§.
Plaintiff	8
* **********	S.
<b>v.</b>	§ 294 <sup>th</sup> JUDICIAL DISTRICT
UDO BIRNBAUM	S Violates the Rule, that it HAS to state,
<b>Defendant/Counter-Plaintiff</b>	"with particularity" -
Delendant/Counter-1 laintin	s just WHAT the
	8 '
G. David Westfall, Christina Westfall	and§ punishment is for!
Stefani Podvin,	S
Counter-Defendants	§ VAN ZANDT COUNTY, TEXAS

#### **ORDER ON MOTIONS FOR SANCTIONS**

On July 30, 2002, came on to be heard, Motions for Sanctions filed by G. David Westfall, Christina Westfall, and Stefani Podvin, as well as to be heard Motions for Sanctions filed by Udo Birnbaum. The plaintiff, The Law Office of G. David Westfall, P.C. (the "Plaintiff"), appeared in person by representative and by attorney of record. The defendant, Udo Birnbaum, appeared in person, pro se. The counter-defendant, G. David Westfall, appeared by representative and by attorney of record. The counter-defendants, Christina Westfall and Stefani Podvin appeared in person and by attorney of record. All parties announced ready for a hearing on all the pending motions for sanctions currently on file in this matter at the time of the hearing.

Based upon the pleadings of the parties, the evidence presented at trial and the evidence presented at the sanctions hearing, and the arguments of counsel and by the pro se defendant, the Court is of the opinion that the Movants, Christina Westfall and Stefani Westfall are entitled to prevail on their claim for sanctions against the Defendant, Udo Birnbaum.

Order on Sanctions PAGE 1 of 2 Exhibit 11 10 156/834

It is therefore, ORDERED, ADJUDGED and DECREED that the Counter-Defendants, Christina Westfall and Stefani Podvin are awarded damages as a sanction against and to be paid by defendant, Udo Birnbaum, to Christina Westfall and Stefani Podvin as follows:

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A. Christina Westfall and Stefani Podvin are awarded jointly and severally the amount of \$50,085.00 as reimbursement for their joint attorney's fees.

**B.** Christina Westfall is awarded actual damages for her personal inconvenience in the amount of \$1,000.00, and she is further awarded punitive damages for the harassment caused to her in the amount of \$5,000.00.

C. Stefani Podvin is awarded actual damages for her personal inconvenience in the amount of \$1,800.00, and she is further awarded punitive damages for the harassment caused to her in the amount of \$5,000.00.

**D.** The Court denies the request for a finding of any sanctions to be awarded in favor of G. David Westfall, individually.

**E.** The Court denies the request for a finding of any sanctions to be awarded in favor of Udo Birnbaum.

IT IS FURTHER ORDERED THAT the judgment here rendered shall bear interest at the rate of ten percent (10%) from July 30, 2002, until paid.

All other relief regarding any motion	ns for sanctions on file in this matter not expressly grant	ted
	he FRAUD: cannot "award" judgment to e who is NOT a PLAINTIFF!!!	
THIS <mark>JUDGMENT</mark> RENDERED (	DN JULY 30, 2002, AND SIGNED THAS d	lay
of, 2002. Other FRAUD: this was a JURY	1 and 2	
cause. This was all done	JUDGE PRESIDING	
WITHOUT a JURY!	clearly all written up	
Order on Sanctions	Vestfatiludo)nlendingsborder op sandtiger	) ) /

www.OpenJustice.US	N. 00.0	0619 IN THE DISTRICT COURTE CO
	No. 00-0	
THE LAW OFFICES OF G. DAVID WESTFALL, P.C.	\$ \$	IN THE DISTRICT COURTE
Plaintiff ,	§ §	PED 14
<b>V.</b>	\$ \$ \$	294 <sup>th</sup> JUDICIAL DISTRICT ALL FRAUD!
UDO BIRNBAUM	\$ \$ \$	In a JURY case - "judgment" was done WITHOUT A JURY!
Defendant/Counter-Plaintiff	8 8 8	And "awarded" to someone who had been "out" by summary judgment long ago - and
	§	NEVER WAS A PLAINTIFF! Also plum UNLAWFUL punishment for
G. David Westfall, Christina Westfall Stefani Podvin,	l, and§ § §	exercising a First Amendment Right to make a COUNTER-CLAIM! (see "Findings") Official Oppression per se!
<b>Counter-Defendants</b>	8 §	VAN ZANDT COUNTY, TEXAS

#### **ORDER REVIVING JUDGMENT**

On this day, November 14, 2014, came on to be considered the *Application for Writ of Scire Facias to Revive Judgment* (the "Application") of Christina Westfall and Stefani Podvin (collectively "Movants"), judgment-creditors in the above-entitled and numbered case. The Court, having reviewed the pleadings and papers filed in this case finds that defendant/counter-plaintiff Udo Birnbaum has filed an answer to the Application and that Defendant was commanded to appear in this court to show cause why the judgment on sanctions (the "Sanctions Judgment") rendered by this court in the above-entitled and numbered cause on August 9, 2002 should not be revived on the what is this "stuff"? NEVER had

Application of the Movants.

what is this "stuff"? NEVER had "counsel". I was always Pro Se and PUNISHED for being such!

and PUNISHED for being such! On this day Christina Westfall and Steiani Podvin (Counter-Derendant/Judgment Creditor")  $b_{1} \Leftrightarrow vn set$ appeared by counsel and Udo Birnbaum ("Defendant/Judgment Debtor") personally appeared. After considering all the pleadings, evidence, and the testimony of witnesses, the Court finds that the

Order on Writ for Scire Facias PAGE 1 of 2 Application should be granted and that the Sanctions Judgment revived for the period of time proscribed by law.

IT IS HEREBY, ORDERED, ADJUDGED, AND DECREED, that the Sanctions Judgment (a true and exact copy of which is attached hereto as Exhibit 1 and made a part of this Order as if fully set forth at length) rendered in the above-entitled and numbered cause on July 30, 2002 and signed on August 9, 2002, is hereby revived in all respects against defendant/counterplaintiff Udo Birnbaum;

IT IS FURTHERED ORDERED that execution on the revived Sanctions Judgment may immediately issue; and

IT IS FURTHER ORDERED that all costs are taxed against the Defendant, Udo Birnbaum.

All relief requested, not granted herein, is expressly denied.

SIGNED this 14 day of November, 2014

JUDGE PAUL BANNER, PRESIDING

ALL FRAUD! In a JURY case - "judgment" was done WITHOUT A JURY! And "awarded" to someone who had been "out" by summary judgment long ago - and NEVER WAS A PLAINTIFF! Also plum UNLAWFUL punishment for exercising a First Amendment Right to make a COUNTER-CLAIM! (see "Findings") Official Oppression per se!

PAUL BANNER Senior Judge Presiding by Assignment

Order on Writ for Scire Facias PAGE 2 of 2 NOTE: This page is part of the Nov. 14, 2014 ORDER REVIVING JUDGMENT (above).



l certify this to be a true and exact copy of the original on file in the District Clerk's Office, Van Zandt County, Texas.

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	•	No. 0(	)-00619	T COULT (Andi Al	ra
	THE LAW OFFICES OF	\$ \$	IN THE DISTRIC	CT COURT Candi Sa	
	G. DAVID WESTFALL, P.C.	\$.			
	,	<b>§</b> .			
	Plaintiff	Ş			
		Ş	an the TIDICI AT	DIGEDICE	
	v.	§	294 <sup>th</sup> JUDICIAL	-	
			Was a JURY trial - wit		
	UDO BIRNBAUM			on April 11, 2002. Yet	
	Defendant/Counter-Plaintif			onths later - WITHOUT	
	Detendant/Counter-Hamth	1 8 8	A JURY!		
	G. David Westfall, Christina West	s fall, and			
	Stefani Podvin,		Also note - NOWHEF	<b>u</b>	
	Stelani i ouvinș	\$ \$	Banner state WHY h	e PUNISHED ME!	
	Counter-Defendants	ş	VAN ZANDT CO	UNTY. TEXAS	
		3		, , ,	

## ORDER ON MOTIONS FOR SANCTIONS

On July 30, 2002, came on to be heard, Motions for Sanctions filed by G. David Westfall, Christina Westfall, and Stefani Podvin, as well as to be heard Motions for Sanctions filed by Udo Birnbaum. The plaintiff, The Law Office of G. David Westfall, P.C. (the "Plaintiff"), appeared in person by representative and by attorney of record. The defendant, Udo Birnbaum, appeared in person, pro se. The counter-defendant, G. David Westfall, appeared by representative and by attorney of record. The counter-defendants, Christina Westfall and Stefani Podvin appeared in person and by attorney of record. All parties announced ready for a hearing on all the pending motions for sanctions currently on file in this matter at the time of the hearing.

Based upon the pleadings of the parties, the evidence presented at trial and the evidence presented at the sanctions hearing, and the arguments of counsel and by the pro se defendant, the Court is of the opinion that the Movants, Christina Westfall and Stefani Westfall are entitled to prevail on their claim for sanctions against the Defendant, Udo Birnbaum.

Order on Sanctions PAGE 1 of 2

156/834

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It is therefore, **ORDERED**, **ADJUDGED** and **DECREED** that the Counter-Defendants, Christina Westfall and Stefani Podvin are awarded damages as a sanction against and to be paid by defendant, Udo Birnbaum, to Christina Westfall and Stefani Podvin as follows:

A. Christina Westfall and Stefani Podvin are awarded jointly and severally the amount of \$50,085.00 as reimbursement for their joint attorney's fees.

**B.** Christina Westfall is awarded actual damages for her personal inconvenience in the amount of \$1,000.00, and she is further awarded punitive damages for the harassment caused to her in the amount

of <mark>\$5,000.00</mark>.

PAGE 2 of 2

Got to be a PLAINTIFF to get JUDGMENT!

C. Stefani Podvin is awarded actual damages for her personal inconvenience in the amount of \$1,800.00, and she is further awarded punitive damages for the harassment caused to her in the amount of \$5,000.00. Got to be a PLAINTIFF!

**D.** The Court denies the request for a finding of any sanctions to be awarded in favor of G. David Westfall, individually.

**E.** The Court denies the request for a finding of any sanctions to be awarded in favor of Udo Birnbaum.

**IT IS FURTHER ORDERED THAT** the judgment here rendered shall bear interest at the rate of ten percent (10%) from July 30, 2002, until paid.

All other relief regarding any motions for sanctions on file in this matter not expressly granted in this order is hereby denied.

THIS JUDGMENT RENDE	RED ON JULY 30, 2002, AND SIGN	ED / PFA	s		day
ofAugust, 2002.	Janl	1 a			A par
	JUDGE PRESIDING			го ~~,	····
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Order on Sanctions	$1 = 1 (1 \times 2)$		1.1	* inc.	- D

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westfall/udo/pleadings/order on sanctions