

Cause No: 14-00266

UDO BIRNBAUM
Plaintiff

vs.

CHRISTINA WESTFALL, STEFANI
PODVIN and FRANK FLEMING
Defendants

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IN THE DISTRICT COURT
294th DISTRICT COURT
VAN ZANDT COUNTY, TX

CLERK OF DISTRICT COURT
JUL 16 PM 2:24
BY KATHY WILSON
JUL 16 2015
DEP

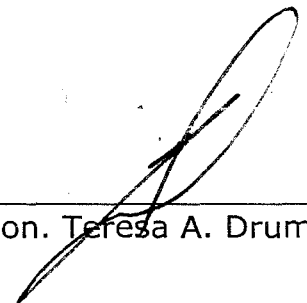
ORDER OF VOLUNTARY RECUSAL

On January 1, 2003, I, Teresa A. Drum, was sworn in as Judge of 294th District Court. Defendant, UDO BIRNBAUM, was and still is a personal friend of mine. In addition, for several years Mr. Birnbaum attended a Sunday School class which I taught at Lakeside Baptist Church. Upon taking the bench, I voluntarily recused myself from all matters regarding Mr. Udo Birnbaum because my impartiality might reasonably be questioned.

Accordingly, I, Judge Teresa A. Drum, voluntarily recuse myself from any and all rulings in this cause.

IT IS, THEREFORE, ORDERED that proceedings in the above entitled and numbered cause are stayed until the 1st Administrative Judge may assign another judge.

SIGNED this 9th day of July, 2015.



Hon. Teresa A. Drum

NOTE: It is HIGHLY CUSTOMARY - upon a motion for recusal - to send a judge - to the court that REQUESTED assignment of a judge! ADMINISTRATIVE Judge Murphy cannot TRANSFER a case. TRANSFER has to be done by a judge IN the case - and with AGREEMENT of the judge of the OTHER court! See next document.

FILED FOR RECORDS
15 JUL 16 PM 2:24
CLERK VAN ZANDT CO. TX
DEP

UDO BIRNBAUM

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IN THE DISTRICT COURT

V.

294th JUDICIAL DISTRICT

CHRISTINA WESTFALL, STEFANI
PODVIN, AND FRANK FLEMING

VAN ZANDT COUNTY, TEXAS

ORDER TRANSFERRING

Based on a **recusal**, this case is **transferred** to the County **Court at Law** of Van Zandt County, Texas.

IT IS SO ORDERED.

Signed this 14 day of July, 2015.

Mary Murphy
MARY MURPHY, Presiding Judge
First Administrative Judicial Region

UDO BIRNBAUM,
Plaintiff

v.

CHRISTINA WESTFALL, et al

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THE COUNTY COURT

AT LAW OF

VAN ZANDT COUNTY, TEXAS

FILED FOR RECORD
15 JUL 17 PM 3:52

FILED FOR RECORD


2015 AUG - 6 AM 11:17

PAH PEARMAN
COUNTY CLERK, VAN ZANDT CO., TX
DEP.

ORDER OF VOLUNTARY RECUSAL

The undersigned, sua sponte, recuses himself in the above referenced matter.

Signed the 17th day of July, 2015.



JUDGE PRESIDING

THE STATE OF TEXAS
FIRST ADMINISTRATIVE JUDICIAL REGION
ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE

Pursuant to Section 74.056, Texas Government Code, I assign the

Honorable Joe M. Leonard

Senior Judge of The 196th District Court

to the

County Court at Law of Van Zandt County, Texas

BY _____
ORDER

PAM PEARMAN
COUNTY CLERK, VAN ZANDT CO., TX

2015 AUG -6 AM 11:17

FILED FOR RECORD

This assignment is for the cause(s) and style(s) as stated in the conditions of assignment from this date until plenary power has expired or the undersigned Presiding Judge has terminated this assignment in writing, whichever occurs first.

CONDITION(S) OF ASSIGNMENT

Cause No. 14-00266; Udo Birnbaum v. Christina Westfall, Stefani Podvin, and Frank Fleming

In addition, whenever the assigned Judge is present in the county of assignment for a hearing in the above cause(s), the Judge is also assigned and empowered to hear, at that time, any other matters presented for hearing.

It is ordered that the Clerk of the court to which this assignment is made, if it is reasonable and practicable and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned Judge.

SIGNED: July 20, 2015
Date

Mary Murphy
Mary Murphy, Presiding Judge
First Administrative Judicial Region of Texas

FILED FOR RECORD

Assign# 25672

JUL 21 2015

PAM PEARMAN
COUNTY CLERK, VAN ZANDT CO., TX
BY Pearman DEP

No. 14-00266

UDO BIRNBAUM
Plaintiff

v.

Christina Westfall, Stefani Podvin, and
Frank C Fleming
"The Westfall Bunch", reference only

THREE PIECES OF PAPER
At Issue ("defendants"?)

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IN THE
VAN ZANDT COUNTY
COURT AT LAW,
TEXAS

FILED FOR RECORDS
15 JUL 27 AM 9:21
CLERK OF DISTRICT COURT
VAN ZANDT COUNTY TEXAS
DEP

Synopsis upon Transfer

TO THIS COURT:

This matter is now before THIS court. (Order of Voluntary Recusal, Order Transferring)

Here is what they did – to this old man – in America:

1. Started over a beaver dam on Steve’s Creek, a natural stream on my farm in South Van Zandt County – with Canton Lawyer Richard Ray seeking damages for me being the one who was building that dam – and that I was in violation of Section 11.086 of the Texas Water Code - by “unlawfully constructing and maintaining” said dam. All-week jury trial on that – and despite a unanimous verdict of zero damages – “visiting judge” James B. Zimmermann had hearing after hearing after hearing as to what the jury “meant”, to impose a perpetual mandatory injunction and \$10,000 in attorney’s fees upon me. Enough said.

2. Along comes another shyster lawyer, G. David Westfall (deceased), and cons me into paying him a \$20,000 up-front non-refundable retainer –

promising to clear up this mess – by suing the whole bunch – including then District Judge Tommy Wallace, Judge Zimmermann, that time District Attorney Leslie Dixon, etc. etc. – under “civil RICO” - for a “pattern of racketeering activity” – and telling me, “you have a very good case”.
Enough said.

3. And after I finally fired Westfall – he then fabricates a “bill” of \$38,000 (\$18,000 above the \$20,000) – and sues me claiming the existence of an unpaid “open account” – which is of course a total fraud - and filed suit in Tommy Wallace’s 294th District Court – to collect on “legal fees” – and “legal fees” – for collecting on “legal fees” - for having sued this very same judge!

4. Then somehow appeared “visiting judge” Paul Banner, and with unconscionable jury instructions – and unconscionable process in general - they imposed a \$85,000 judgment – plus a sanction judgment of \$62,000 – plus an additional sanction judgment of \$125,000 – for my having made a counter-claim - - a First Amendment Right! Also to impose unconditional “relief which the Court seeks” (the STATE seeks!) “to stop Birnbaum and others like him – from filing lawsuits”, and, as a finding of law – a finding of “a delusional belief held only inside the mind of Birnbaum”. Enough said.

5. I have, at this time, a detailed sworn criminal complaint before our District Attorney upon this matter – and have been complaining to that Office – and others – ever since the days of Leslie Dixon – way back in 1995. And at my last visit with the FBI and Justice Department in Tyler –

believe it or not – they actually suggested that I “just shoot them”. (I do have proof).

6. In Review of File and Voluntary Order of Recusal (upon the Judge Paul Banner matter, no. 00-00619) – 294th District Judge Teresa Drum gives the reason for removing herself from that cause – as she states, because “Defendant, UDO BIRNBAUM, was and still is a personal friend of mine” – and “my impartiality might reasonably be questioned”.

7. And upon my July 9, 2015 filing (in THIS cause, no. 14-00266) of Notice of Concurrent Criminal Complaint upon this Matter, Judge Drum on same July 9, 2015 signed her Order of Voluntary Recusal regarding THIS cause (no. 14-00266) – with the subsequent July 14, 2015 Order Transferring bringing this matter into THIS court. And again, “Defendant, UDO BIRNBAUM, was and still is a personal friend of mine.” And, “because my impartiality might reasonably be questioned.”

8. So, I guess, I am blessed, that with this transfer to this Van Zandt County Court at Law, my complaint UPON the 294th – is finally OUT OF the 294th – and that with this court and me not knowing each other – this court is under no such handicap.

PRAYER

9. With this said, I request a timely hearing upon my First Amended Original Petition to Declare three judgments as inconsistent with due process, unlawful, criminal, and void and my Notice of Concurrent Criminal Complaint upon this Matter.

Udo Birnbaum

Udo Birnbaum, Pro Se
540 VZ County Road 2916
Eustace, TX 75124
903-479-3929
brnbn@aol.com

attached – this cause no. 14-00266 - physical:

- Order of Voluntary Recusal – re this cause no. 14-00266
- Order Transferring – re this cause no. 14-00266
- Review of File and Order of Voluntary Recusal – re no. 00-00619

attached – this cause no. 14-00266 - by reference:

- First Amended Original Petition to Declare three judgments as inconsistent with due process, unlawful, criminal, and void
- Notice of Concurrent Criminal Complaint upon this Matter

Attached – no. 00-00619 (Westfall case) – as reference - for details

- FIRST Judgment – “Final Judgment” - annotated
- SECOND Judgment – “Order on Motion for Sanctions” - annotated
- SECOND Judgment – “Findings of Fact and Conclusions of Law” – annotated
- THIRD Judgment – “Order on Motion for Sanctions” - annotated
- “Securing Execution of Documents by Deception”
- “Complaint of Official Oppression”
- “Cease and Desist”
- “Motion for Recusal of Judge Banner” – latest, same subject matter
- ALSO – all that fraudulent BEAVER DAM SCHEME stuff
- ALSO - EVERYTHING ELSE openly available at www.OpenJustice.US

FILED FOR RECORD

2015 AUG 13 AM 9:45

PAM PEARMAN
COUNTY CLERK, VAN ZANDT CO., TX

BY _____ DEP.

No. 14-00266

UDO BIRNBAUM	\$	
Plaintiff	\$	THE COUNTY COURT
v.	\$	
	\$	
Christina Westfall, Stefani Podvin, and	\$	AT LAW
Frank C Fleming	\$	
“The Westfall Bunch”, reference only	\$	
	\$	
THREE PIECES OF PAPER	\$	VAN ZANDT COUNTY, TEXAS
At Issue (“defendants”?)	\$	

Plea to the Jurisdiction and Sanity

“transfer” to this inferior court - is pure MADNESS

TO THIS HONORABLE COURT:

Background to “transfer”

Mere reading of title of Plaintiff’s cause - **First Amended Petition to Declare three judgments [in the 294th] as inconsistent with due process, unlawful, criminal, and void** – is as good an introduction as any as to what his cause [in the 294th] was all about.

The whole IDEA of transferring this matter – of whether what occurred in the 294th was lawful – into an inferior court, this Van Zandt County Court at Law – to rule on the lawfulness of what its superior sister, the 294th did – is PURE MADNESS – when looked at “in light most favorable” – and at the other extreme – **inconsistent with due process, unlawful, criminal, and void**” – in modus operandi alleged in this complaint in the first place!

Furthermore, the relief sought - \$85,000 + \$67,000 + \$125,000 – such without the 10 year interest thereon – is clearly outside the \$200,000 jurisdictional limit of this County Court at Law.

Furthermore, there was NO REQUEST whatsoever - out of the 294th – for this transfer. The Order of Transfer just suddenly “arose out of” the First Administrative Judicial Region – Judge Mary Murphy – who has NO AUTHORITY to order such transfer in the name of the 294th – lest she duly assigned her very SELF into the 294th – which she did NOT.

at issue

At issue is nothing less than – upon the lawfulness of the 294th - of having imposed \$85,000 - plus punishment of \$67,000 + \$125,000 – for the “crime” of having made a counter-claim in a court of law – a FIRST AMENDMENT RIGHT.

At issue is nothing less than –upon the lawfulness of the 294th – by mere **civil process** – having imposed unconditional **punishment** (“unconditional”, not “coercive”, no “keys to own release”, as **punishment** for “past conduct” – the “judgments” so state).

Unconditional punishment – of course - requires **full criminal process** – including of a finding of “beyond a reasonable doubt” – by a **JURY**. (US Supreme Court, no less)

The issue of “lawfulness” is of course also “inextricably intertwined” with the issue of unlawful – by SOMEONE or SOMEONES.

Details at www.OpenJustice.US - else can just google on “damn courthouse”, “damn courthouse criminals”, “beaver dam scheme”, “van zandt beaver dam case”, - or just for fun – “judge poopi poopcicle”, “presiding pumpkin”, “district judge abcde”, or just “beavers lawyers fire ants”. I cannot understand how we ever did without google – or how even google seems to understand.

Prayer

294th District Judge Teresa Drum recused herself off this “tar baby”, as also did Van Zandt County Court at Law Judge Randall McDonald. Such, however, falls far short of “curing” this matter.

This circus is still in full swing. It is time to once and forever put a stop to this nonsense. (See Cease and Desist and Notice of Concurrent Criminal Complaint upon this Matter, and of course **First Amended, etc**)

Let there be a timely and honest setting. Time is of the essence in stopping these “damn courthouse criminals” – starting with simply declaring their handiwork (three “judgments”) – for what these pieces of paper truly are – mere “pieces of paper”.

Enough said for now.



Udo Birnbaum, Pro Se
540 VZ County Road 2916
Eustace, TX 75124
903-479-3929
brnbn@aol.com

attached – this cause no. 14-00266 – by reference:

- LATEST: Order of Voluntary Recusal – Judge Randy McDonald
- LATEST: Order assigning Judge Joe M. Leonard
- Synopsis upon Transfer – finally “on file”
- Order of Voluntary Recusal – re this cause no. 14-00266
- Order Transferring – re this cause no. 14-00266
- Review of File and Order of Voluntary Recusal – re no. 00-00619
- First Amended Original Petition to Declare three judgments as inconsistent with due process, unlawful, criminal, and void
- Notice of Concurrent Criminal Complaint upon this Matter

Attached – no. 00-00619 (Westfall case) – as reference - for details

- FIRST Judgment – “Final Judgment” - annotated
- SECOND Judgment – “Order on Motion for Sanctions” - annotated
- SECOND Judgment – “Findings of Fact and Conclusions of Law” – annotated
- THIRD Judgment – “Order on Motion for Sanctions” - annotated
- “Securing Execution of Documents by Deception”
- “Complaint of Official Oppression”
- “Cease and Desist”
- “Motion for Recusal of Judge Banner” – latest, same subject matter
- ALSO – all that fraudulent BEAVER DAM SCHEME stuff
- ALSO - EVERYTHING ELSE openly available at www.OpenJustice.US

Subj: **RE: 14-00266 - MS BARKER - PLEASE SET HEARING!**
 Date: 9/25/2015 11:54:58 A.M. Central Daylight Time
 From: judgedrum@vanzandtcounty.org
 To: mbarker@vanzandtcounty.org
 CC: mmurphy@firstadmin.com, Brnbm@aol.com, ppearman@vanzandtcounty.org,
karen@vanzandtcounty.org, kathyj@vanzandtcounty.org

Ms. Barker: I am sorry for any confusion. I sent this email to Ms. Jackson prior to speaking with you. Since it appears to be **Mr. Birnbaum's second request for a setting**, I just wanted to make sure his request got forwarded to Judge Leonard. Thank you.

Judge Teresa Drum

294th District Court

NOTICE: All email correspondence relating to pending cases will be filed with the District Clerk for inclusion in the record of the case. Any communication to the Court or staff via email must comply with Rules 21 and 21A, T.R.C.P., and to do so by the fastest means available to the other affected parties or counsel. The provisions of Canon 3B.(8) of the Code of Judicial Conduct should be carefully reviewed before any person connected with a case attempts any communication with the Judge or court personnel.

CONFIDENTIALITY NOTICE: This email message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please destroy all copies of the original message.

From: Mary Barker
Sent: Friday, September 25, 2015 11:53 AM
To: Judge Teresa Drum; Kathy Jackson
Cc: Judge Mary Murphy; Brnbm@aol.com; Pam Pearman; Karen Wilson
Subject: RE: 14-00266 - MS BARKER - PLEASE SET HEARING!

Judge Drum,

I am unsure as to why you felt the need to send this email to me after you had already called me about it and I had already told you that I had received it and was in communication the judge handling this case about a setting date.

Respectfully,
Mary

Mary E. Barker, Court Manager
 Van Zandt County Court At Law
 121 East Dallas Street, Room 201
 Canton, Texas 75103
 Voice: (903) 567-7988
 Fax: (903) 567-6854
 Email: mbarker@vanzandtcounty.org

Randal Lee McDonald, Judge

Diana Pereira, Official Court Reporter

Micah 6:8

From: Judge Teresa Drum
Sent: Friday, September 25, 2015 11:11 AM
To: Kathy Jackson
Cc: Judge Mary Murphy; Brnbm@aol.com; Mary Barker; Pam Pearman; Karen Wilson
Subject: RE: 14-00266 - MS BARKER - PLEASE SET HEARING!

Ms. Jackson: Please forward this email to the Hon. Joe Leonard's coordinator per Mr. Birnbaum's request. It is my understanding that Ms. Barker has also contacted Judge Leonard about a setting.

Judge Teresa Drum

294th District Court

NOTICE: All email correspondence relating to pending cases will be filed with the District Clerk for inclusion in the record of the case. Any communication to the Court or staff via email must comply with Rules 21 and 21A, T.R.C.P., and to do so by the fastest means available to the other affected parties or counsel. The provisions of Canon 3B.(8) of the Code of Judicial Conduct should be carefully reviewed before any person connected with a case attempts any communication with the Judge or court personnel.

CONFIDENTIALITY NOTICE: This email message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please destroy all copies of the original message.

From: Brnbm@aol.com [<mailto:Brnbm@aol.com>]
Sent: Friday, September 25, 2015 10:43 AM
To: Mary Barker; Pam Pearman; Karen Wilson; Judge Teresa Drum
Cc: brnbm@aol.com
Subject: Re: 14-00266 - MS BARKER - PLEASE SET HEARING!

THIS IS A REPEAT SEND - of my 9-9-2015 - except more specific request **to SET HEARINGS:**

Attach: same as with 9-9-2015 "send"

(Text of 9-9-2015 "send" - is below)

PLEASE SET HEARINGS!

9-25-2015

To: Judge Joe M. Leonard
c/o: Mary Barker, Van Zandt County Court at Law
mbarker@vanzandtcounty.org
copy: Pam Pearman, Van Zandt County Clerk
countyclerk@vanzandtcounty.org
copy: Karen Wilson, 294th District Court Clerk

Saturday, September 26, 2015 AOL

districtclerk@vanzandtcounty.org

copy: Teresa Drum, 294th District Judge
[judgedrum@vanzandtcounty.org](mailto:judgetrum@vanzandtcounty.org)

from: Udo Birnbaum
brnbn@aol.com

PLEASE SET HEARINGS!

for: "**Plea to the Jurisdiction and Sanity**", etc - **pretty much sets the tone and tenor.**

As for a little of the law on transfer of cases - and I hate to have to do this -

- to have to get right down to tutorial:

Texas Government Code:

Sec. 24.002 ASSIGNMENT OF JUDGE OR TRANSFER OF CASE ON RECUSAL. If a district judge determines on the judge's own motion that the judge should not sit in a case pending in the judge's court because the judge is disqualified or otherwise should recuse himself or herself, the judge shall enter a recusal order, request the presiding judge of that administrative judicial region to assign another judge to sit, and take no further action in the case except for good cause stated in the order in which the action is taken. **A change of venue is not necessary because of the disqualification of a district judge in a case or proceeding pending in the judge's court.**

Sec. 24.471. 294TH JUDICIAL DISTRICT (VAN ZANDT COUNTY). (a) The 294th Judicial District is composed of Van Zandt County.

(b) The **294th** District Court has concurrent jurisdiction with the county court in Van Zandt County over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters and proceedings in the concurrent jurisdiction of the 294th District Court and the county court may be filed in either court and all cases of concurrent jurisdiction **may be transferred between the 294th District Court and the county court. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred,** and a case may **not be transferred unless it is within the jurisdiction of the court to which it is transferred.**

Note: “may be transferred between” – by agreement of BOTH judges! And **AFTER** the 294th judge has **recused – has NO AUTHORITY** to “agree to” a transfer!

Note: The Van Zandt County Court at Law – has the same jurisdiction as the “county court” referred to in the above.

* * * * *

In a message dated 9/9/2015 2:28:45 P.M. Central Daylight Time, Brnbm@aol.com writes:

att: File 14-00266

9-9-2015

To: Judge Joe M. Leonard

c/o: Mary Barker, Van Zandt County Court at Law
mbarker@vanzandtcountry.org

copy: Pam Pearman, Van Zandt County Clerk
countyclerk@vanzandtcountry.org

copy: Karen Wilson, 294th District Court Clerk
districtclerk@vanzandtcountry.org

from: Udo Birnbaum
brnbm@aol.com

Re: General inquiry - No. 14-00266
Birnbaum vs. Three Pieces of Paper
(still carries only the 294th case number)

Before this Court

- First Amended Original Petition to Declare three judgments as inconsistent with due process, unlawful, criminal, and void
-
- Notice of Concurrent Criminal Complaint upon this Matter
-
- Synopsis upon Transfer
-
- Plea to the Jurisdiction and Sanity
-
- Complaint and Affidavit of Official Oppression and Abuse of Official Capacity upon Udo Birnbaum – (another, different complaint)

a modest proposal

This is NOT a garden variety matter.

Because of the strange arrival of this cause - originally filed in the 294th District Court – still with their cause number - into this Van Zandt County Court at Law – via voluntary recusal of 294th District Judge Teresa Drum – and First Administrative Judicial Region Presiding Judge Mary Murphy’s curious “assignment” thereon - **not to send a judge to the 294th at all** – but instead to send (“transfer”) the whole cause into this Court at Law – immediately followed by the voluntary recusal of this court’s Judge Randy McDonald – followed by Judge Mary Murphy’s assignment of Judge Joe M. Leonard – into this court at law - and the delay in actually getting the file of this cause - out of the 294th – and into this Court at Law -

- Like the people upstairs telling me that I could not file anything there – “because it has been transferred”

- and the people downstairs telling me I could not file there – “because it has not yet been transferred” –

- then the people upstairs telling me that **the people downstairs** would still be using the **upstairs cause number** – but that the file would be kept upstairs -

- then the file – both the paper and the electronic filings in the 294th – was reduced to paper (I think) – and physically moved downstairs – but still under the upstairs cause number -

So, in light of the above:

I am not at all certain that Judge Joe M. Leonard has actually been informed that he is “on” this case, whether anything or what has been forwarded to him – or even whether he may also already have voluntarily recused himself, another judge assigned, the cause sent (“transferred”) back upstairs again, somebody finally called the cops, or whatever -

- I therefore suggest that you just relay this inquiry – with the attached PDF document – File No. 14-00266 (this cause) - and kindly keep me informed.

Sincerely,

UDO BIRNBAUM
540 Van Zandt CR 2916
Eustace, TX 75124
(903) 479-3929
email: brnbm@aol.com

Att:

- Single PDF document, File 014-00266 (this cause) – in simple chronological order (without separations between documents)

Subj: **CV05297 BIRNBAUM vs CHRISTINA WESTFALL, ET AL - Notice of Court Setting 10-8-15 at 10:30am**
Date: 9/25/2015 5:44:16 P.M. Central Daylight Time
From: mbarker@vanzandtcounty.org
To: Brnbm@aol.com, jdc@emafirm.com

Gentlemen,

Attached is a copy of the Notice of Court Setting in the above referenced cause **CV05297 BIRNBAUM vs CHRISTINA WESTFALL, ET AL**. You are set for hearing on **Thursday, October 8, 2015 at 10:30 A.M.** The Honorable Judge Joe Leonard will preside over this hearing, which will be held in the Van Zandt County Court courtroom, 121 E Dallas Street, Room 204, Canton, Texas 75103.

Respectfully,

Diana Pereira, CSR
Official Court Reporter
Van Zandt County Court At Law
121 East Dallas Street, Room 201
Canton, Texas 75103
Voice: (903) 567-7988
Fax: (903) 567-6854
Email: dpereira@vanzandtcounty.org

Randal Lee McDonald, Judge

Micah 6:8



JUDGE RANDAL L. McDONALD
COUNTY COURT AT LAW
121 EAST DALLAS STREET, ROOM 201
CANTON, TEXAS 75103
Voice: (903) 567-7988 ★ Fax: (903) 567-6854

MARY BARKER
COURT MANAGER

DIANA PEREIRA
OFFICIAL COURT REPORTER

September 25, 2015

NOTICE OF COURT SETTING

CAUSE NO. CV05297

UDO BIRNBAUM
Plaintiff

VS

CHRISTINA WESTFALL
STEFANI PODVIN
FRANK C FLEMING
Defendants


The above referenced civil matter is SET for hearing before the Court on the following action:

PLEA TO THE JURISDICTION AND SANITY: Thursday, October 8, 2015, at 10:30 A.M.

The Honorable Judge Joe Leonard will preside over this hearing, which will be held in the Van Zandt County Court courtroom, 121 E Dallas Street, Room 204, Canton, Texas 75103.

By copy of this notice, I am notifying all parties listed below.

Respectfully,


Mary E. Barker
Court Manager

Via Email: brnbm@aol.com
UDO BIRNBAUM, *Plaintiff, Pro Se*
540 VZCR 2916
EUSTACE, TX 75124

Via Email: jdc@emafirm.com
JASON CASSEL, *Attorney Pro Tem*
111 WEST TYLER STREET
LONGVIEW, TX 75606

Via Facsimile: (469) 327-2930
FRANK C FLEMING, *Defendant*
Attorney for Christina Westfall
& Stefani Podvin, Defendants
3326 ROSEDALE
DALLAS, TX 75205

Subj: **Cause No. CV05297**
Date: 9/28/2015 4:17:53 P.M. Central Daylight Time
From: lawyerfcf@gmail.com
To: mbarker@vanzandtcounty.org
CC: brnbm@aol.com

Please see attached letter and forward as you deem appropriate.

Frank C. Fleming

Attorney at Law
3326 Rosedale
Dallas, TX 75205

214/373-1234

FRANK C. FLEMING

ATTORNEY AT LAW

3326 Rosedale Dallas, Texas 75205
(214) 373-1234 Fax: 1-469-327-2930
lawyerfcf@gmail.com

September 28, 2015

VIA FAX: 903-567-6854

Mary Barker, Court Manager
District Court, Van Zandt County
121 East Dallas Street
Canton, TX 75103

Re: Cause No.: CV05297
 Udo Birnbaum
 v.
 Christina Westfall
 Stefani Podvin
 Frank C. Fleming

Dear Ms. Barker:

On Friday, September 25, 2015, you faxed me a Notice of Court Setting in the above referenced matter. However, I am not familiar with this matter. To my knowledge, neither I, nor my two clients, have ever been served with citation in this matter. I have never received any pleadings and I do not know anything about the issues that will be the subject of the hearing set for Thursday, October 8, 2015 at 10:30 A.M. I respectfully request that the hearing be postponed until such time as the plaintiff abides by the Texas Rules of Civil Procedure in bringing this action.

Please note that this plaintiff, Udo Birnbaum has been sanctioned on two separate occasions with respect to other legal matters he has attempted to bring against me and my clients. He has been deemed by two separate visiting judges in this court of being a vexatious litigant that brings forth frivolous claims. He has been sanctioned under Chapter 9 of the Civil Practices and Remedies Code in excess of \$150,000 for bringing unfounded and trumped up charges in an attempt to gain advantage in litigation.

I would welcome the opportunity to put Mr. Birnbaum's sanity at issue in court. However, based upon prior experiences with him, he is no doubt attempting to put Judge Banner's sanity on trial and not his own. At any rate, as much as I would enjoy the opportunity to be in court with Mr. Birnbaum and to see him make a complete fool of himself one more time, I would appreciate being relieved of the obligation to appear in your court next week until such time as Mr. Birnbaum follows the rules of court. Please forward my message to Judge Leonard as you deem appropriate.

If you have any questions do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Frank C. Fleming". The signature is written in a cursive style with some loops and flourishes.

FRANK C. FLEMING

Subj: **PLEA TO THE JURISDICTION AND SANITY - CV05297**
Date: 9/30/2015 3:02:58 P.M. Central Daylight Time
From: Brnbm@aol.com
To: jdc@emafirm.com, mbarker@vanzandtcounty.org
CC: judgetrum@vanzandtcounty.org, kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org,
mmurphy@firstadmin.com, karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org,
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org,
chrismartin@vanzandtcounty.org, Lray@vanzandtcounty.org, vzsoadmin@vanzandtcounty.org,
Mbates@vanzandtcounty.org, mking@cantontex.com

9-30-2015

To: **JASON CASSEL, Attorney Pro Tem** – jdc@emafirm.com
Copy: MARY BARKER, Court Manager, Van Zandt County Court at Law
mbarker@vanzandtcounty.org

Re: No. CV05297 Van Zandt County Court at Law
Hearing for Oct. 8, 10:30 a.m.
“Plea to the Jurisdiction and Sanity”

Copy: TERESA DRUM – 294th District Judge - judgetrum@vanzandtcounty.org
kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

MARY MURPHY – Presiding Judge, First Administrative Judicial Region
mmurphy@firstadmin.com

KAREN WILSON - 294th District Clerk
karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

PAM PEARMAN – Van Zandt County Clerk
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

CHRIS MARTIN – Van Zandt County District Attorney
chrismartin@vanzandtcounty.org

LINDSAY RAY – Van Zandt County Sheriff
Lray@vanzandtcounty.org, vzsoadmin@vanzandtcounty.org

MICHAEL BATES – Van Zandt County Sheriff’s Office
Mbates@vanzandtcounty.org

MICHAEL KING – Canton Police – mking@cantontex.com

Mr. Jason Cassel,

So that you may act fully informed, herewith a copy of the ENTIRE FILE in CV05297 - as a single PDF document - no separation between documents.

I call particular attention - at the very end of the PDF - to the recent letter to Ms. Barker, Court Administrator, by a Frank C. Fleming - and also to my sworn complaints regarding him – and others - somewhere in the pile.

And as a Pro Tem – I assume you were appointed to represent the State – as this cause - is essentially that what the State (the court) did upon me is unlawful.

For your information, this stuff has been going on upon me for TWENTY years – starting in 1995 when I was sued - for ME violating Section 11.086 of the Texas Water Code – because of a natural dam - built by natural BEAVERS - on a natural creek.

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- for just a small measure of this cancer in this court.

Sincerely,

UDO BIRNBAUM, *Pro Se*
540 VZCR 2916
Eustace, TX 751241
(903) 479-3929
brnbn@aol.com

Attach: File CV05297 – as single PDF – no separation between the documents

9-30-2015

To: JASON CASSEL, *Attorney Pro Tem* – jdc@emafirm.com
Copy: MARY BARKER, Court Manager, Van Zandt County Court at Law
mbarker@vanzandtcountry.org

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Hearing for Oct. 8, 10:30 a.m.

“Plea to the Jurisdiction and Sanity”

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kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

MARY MURPHY – Presiding Judge, First Administrative Judicial Region
mmurphy@firstadmin.com, shughes@firstadmin.com

KAREN WILSON - 294th District Clerk
karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

PAM PEARMAN – Van Zandt County Clerk
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

CHRIS MARTIN – Van Zandt County District Attorney
chrismartin@vanzandtcounty.org

LINDSAY RAY – Van Zandt County Sheriff
Lray@vanzandtcounty.org, vzsoadmin@vanzandtcounty.org

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Mbates@vanzandtcounty.org

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Eustace, TX 751241
(903) 479-3929
brnbn@aol.com

Attach: File CV05297 – as single PDF – no separation between the documents

Subj: **Re: PLEA TO THE JURISDICTION AND SANITY - CV05297**
 Date: 9/30/2015 3:09:51 P.M. Central Daylight Time
 From: jdc@emafirm.com
 To: Brnbn@aol.com
 CC: amw@emafirm.com

Mr. Birnbaum,

I was appointed to investigate the complaints alleging official oppression you have made against Chris Martin and Judge Paul Banner.

I'm in the middle of a death penalty trial in Smith County. I have reviewed a substantial amount of paperwork in your case. As soon as my trial is over, I will get in touch with you to ensure I understand your position. Thank you.

Jason D. Cassel,
 Sent from my iPhone

> On Sep 30, 2015, at 3:04 PM, "Brnbn@aol.com" <Brnbn@aol.com> wrote:

>

>

> 9-30-2015

>

> To: JASON CASSEL, Attorney Pro Tem – jdc@emafirm.com

> Copy: MARY BARKER, Court Manager, Van Zandt County Court at Law
 > mbarker@vanzandtcounty.org

>

>

> Re: No. CV05297 Van Zandt County Court at Law

> Hearing for Oct. 8, 10:30 a.m.

> "Plea to the Jurisdiction and Sanity"

>

>

> Copy: TERESA DRUM – 294th District Judge - judgetrum@vanzandtcounty.org

> kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

>

> MARY MURPHY – Presiding Judge, First Administrative Judicial Region

> mmurphy@firstadmin.comtadmin.com

>

> KAREN WILSON - 294th District Clerk

> karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

>

> PAM PEARMAN – Van Zandt County Clerk

> ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

>

> CHRIS MARTIN – Van Zandt County District Attorney

> chrismartin@vanzandtcounty.org

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> LINDSAY RAY – Van Zandt County Sheriff

> Lray@vanzandtcounty.org, vzsoadmin@vanzandtcounty.org

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> MICHAEL BATES – Van Zandt County Sheriff's Office

> Mbates@vanzandtcounty.org

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> MICHAEL KING – Canton Police – mking@cantontex.com

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 > 540 VZCR 2916
 > Eustace, TX 751241
 > (903) 479-3929
 > brnbm@aol.com
 >
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 > 9-30-2015
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 > To: JASON CASSEL, Attorney Pro Tem – jdc@emafirm.com
 > Copy: MARY BARKER, Court Manager, Van Zandt County Court at Law
 > mbarker@vanzandtcounty.org
 >
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 > Hearing for Oct. 8, 10:30 a.m.
 > “Plea to the Jurisdiction and Sanity”
 >
 >
 > Copy: TERESA DRUM – 294th District Judge - judgetrum@vanzandtcounty.org
 > kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org
 >
 > MARY MURPHY – Presiding Judge, First Administrative Judicial Region
 > mmurphy@firstadmin.com, shughes@firstadmin.com
 >
 > KAREN WILSON - 294th District Clerk

> karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org
>
> PAM PEARMAN – Van Zandt County Clerk
> ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org
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> Sincerely,
>
>
> UDO BIRNBAUM, Pro Se
> 540 VZCR 2916
> Eustace, TX 751241
> (903) 479-3929
> brnbm@aol.com
>
>
> Attach: File CV05297 – as single PDF – no separation between the documents
>
> <150930_CV05297_FILE_Van_Zandt_Court_at_Law.pdf>

CAUSE NO. CV05297

FILED FOR RECORD

2015 OCT -8 AM 11:56

PAM PEARMAN
CLERK, VAN ZANDT CO. T

DEP.

UDO BIRNBAUM
Plaintiff

§ IN THE COUNTY COURT

§

§

§

§

§

§

§

§

§

§

VS.

CHRISTINA WESTFALL, STEFANI
PODVIN, AND FRANK C. FLEMING
"The Westfall Bunch", reference only

AT LAW OF

THREE PIECES OF PAPER
At Issue ("defendants"?)

VAN ZANDT COUNTY, TEXAS

PREFILING ORDER

The Court enters a finding that there is no reasonable probability that Plaintiff will prevail as a pro se litigant and enters the following order: Plaintiff, Udo Birnbaum, is prohibited from filing pro se any new litigation in the 294th District Court and County Court at Law of Van Zandt County without permission of the Local Administrative Judge of the First Administrative Region. The District Clerk and County Clerk are prohibited from filing litigation, original proceedings, appeals, or other claims pro se made by Udo Birnbaum, vexatious litigant, unless Udo Birnbaum obtains an order giving permission entered by the Honorable Administrative Judge for the First Administrative Region. Additionally, the District Clerk and County Clerk shall provide notice to the Office of Court Administration of the Texas Judicial System in Austin, Texas, by sending a copy of this Prefiling Order not later than 30 days from this date.

SIGNED AND ENTERED ON THIS 8th day of October 2015.



HON. JOE M. LEONARD,
JUDGE SITTING BY ASSIGNMENT

Subj: **Re: VEXATIOUS LITIGANT, re required ORDER**
Date: 10/18/2015 6:51:45 P.M. Central Daylight Time
From: Brnbm@aol.com
To: mmurphy@firstadmin.com, mbarker@vanzandtcounty.org, judgetrum@vanzandtcounty.org,
jdc@emafirm.com
CC: kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org, karen@vanzandtcounty.org,
districtclerk@vanzandtcounty.org, ppearman@vanzandtcounty.org,
countyclerk@vanzandtcounty.org

10-19-2015

Re: VEXATIOUS LITIGANT, re required ORDER

TO: JUDGE MARY MURPHY – First Administrative Judicial Region
mmurphy@firstadmin.com

copy: JUDGE RANDAL MCDONALD – Van Zandt County Court at Law
c/o MARY BARKER, Court Manager, Van Zandt County Court at Law
mbarker@vanzandtcounty.org

JUDGE TERESA DRUM – 294th District Judge of Van Zandt County
judgetrum@vanzandtcounty.org
kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

KAREN WILSON - 294th District Clerk
karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

PAM PEARMAN – Van Zandt County Clerk, Van Zandt Court at Law Clerk
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

JASON CASSEL, *Attorney Pro Tem* – jdc@emafirm.com

**Dear “Honorable Administrative Judge
for the First Administrative Region”
(titled per the Prefiling Order, attached)**

My name is UDO BIRNBAUM. I am 78 years old. I have never been found to be a “vexatious litigant” – not by anybody - never, at least as far as I know – but there is this Oct. 8, 2015 “**Prefiling Order**” against me, by “visiting” Judge Joe M. Leonard, referring to me as “Udo Birnbaum, vexatious litigant” – that as I read that Order, prohibits me from entering anything in the Court – or any Texas court, for that matter - under penalty of contempt – **lest I get some kind of “release” Order from you.**

Hence my communicating directly with you to get such an Order from you – rather than risk entering anything - through the Clerk of the court.

What evidence or other do I have to bring to you – to get such Order?

And where would such record exist – that I may show you – that I am indeed NOT a “vexatious litigant”? Where should I even start looking?

PLEASE HELP ME

Lest I hear from you, I would have to presume this message did not reach you, and I would just have to continue trying.

I really do not want to have to go to the nuisance of Certified Mail, Restricted Delivery, or such.

AGAIN, **PLEASE ADVISE.**

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
EUSTACE, TX 75124
(903) 479-3929
BRNBM@AOL.COM

Attach: **PREFILING ORDER** – by "visiting" Judge Joe M. Leonard, Oct. 8, 2015

CAUSE NO. CV05297

FILED FOR RECORD
2015 OCT 21 PM 4: 59

PAM PEARMAN
CLERK, VAN ZANDT CO., TEXAS

UDO BIRNBAUM
Plaintiff

§ IN THE COUNTY COURT

VS.

§ AT LAW OF

CHRISTINA WESTFALL, STEFANI
PODVIN, AND FRANK C. FLEMING
"The Westfall Bunch", reference only

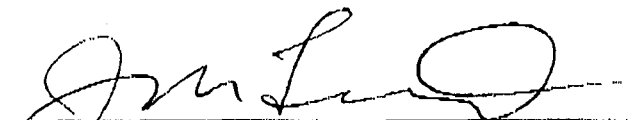
§ VAN ZANDT COUNTY, TEXAS

THREE PIECES OF PAPER
At Issue ("defendants"?)

AMENDED PREFILING ORDER

The Court enters a finding that there is no reasonable probability that Plaintiff will prevail as a pro se litigant and enters the following order: Plaintiff, Udo Birnbaum, is prohibited from filing pro se any new litigation in the 294th District Court and County Court at Law of Van Zandt County without permission of the Local Administrative Judge. The District Clerk and County Clerk are prohibited from filing litigation, original proceedings, appeals, or other claims pro se made by Udo Birnbaum, vexatious litigant, unless Udo Birnbaum obtains an order giving permission entered by the Local Administrative Judge of the type of court in which the vexatious litigant intends to file. Additionally, the District Clerk and County Clerk shall provide notice to the Office of Court Administration of the Texas Judicial System in Austin, Texas, by sending a copy of this Prefiling Order not later than 30 days from this date.

SIGNED AND ENTERED AS AMENED ON THIS ^D 19th day of October 2015.


HON. JOE M. LEONARD,
JUDGE SITTING BY ASSIGNMENT

Subj: **RE: VEXATIOUS LITIGANT, re required ORDER**
 Date: 10/19/2015 9:24:55 A.M. Central Daylight Time
 From: mmurphy@firstadmin.com
 To: Brnbm@aol.com, mbarker@vanzandtcounty.org, judgetrum@vanzandtcounty.org, jdc@emafirm.com
 CC: kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org, karen@vanzandtcounty.org,
districtclerk@vanzandtcounty.org, ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org,
Alisa.Frame@firstadmin.com, cshiver@firstadmin.com, mmurphy@firstadmin.com

Dear Mr. Birnbaum:

I am not the "Local Administrative Judge" and have no authority to approve requests to file under the Vexatious Litigants statute. The Local Administrative Judges for the District Judges and for the Statutory County Court Judges are referenced in sections 74.91 and 74.0911 of the Texas Government Code. Specifically, section 11.102 of the Texas Civil Practice & Remedies Code, titled Permission by Local Administrative Judge, requires a litigant to seek permission from "the local administrative judge of the type of court in which the vexatious litigant intends to file." You may need to seek clarification from Judge Leonard or the Clerk regarding the appropriate Local Administrative Judge in Van Zandt County.

Sincerely,

Mary Murphy
 Presiding Judge
 First Administrative Judicial Region
 133 North Riverfront Blvd. LB 50
 Dallas, TX 75207
 214-653-2947
 214-653-2957 (fax)
www.txcourts.gov/1ajr

From: Brnbm@aol.com [mailto:Brnbm@aol.com]
Sent: Sunday, October 18, 2015 6:52 PM
To: Judge Mary Murphy; mbarker@vanzandtcounty.org; judgetrum@vanzandtcounty.org; jdc@emafirm.com
Cc: kathyj@vanzandtcounty.org; kjackson@vanzandtcounty.org; karen@vanzandtcounty.org; districtclerk@vanzandtcounty.org; ppearman@vanzandtcounty.org; countyclerk@vanzandtcounty.org
Subject: Re: VEXATIOUS LITIGANT, re required ORDER

10-19-2015

Re: VEXATIOUS LITIGANT, re required ORDER

TO: JUDGE MARY MURPHY – First Administrative Judicial Region
mmurphy@firstadmin.com

copy: JUDGE RANDAL MCDONALD – Van Zandt County Court at Law
 c/o MARY BARKER, Court Manager, Van Zandt County Court at Law
mbarker@vanzandtcounty.org

JUDGE TERESA DRUM – 294th District Judge of Van Zandt County

Monday, October 19, 2015 AOL

judgedrum@vanzandtcounty.org

kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

KAREN WILSON - 294th District Clerk

karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

PAM PEARMAN – Van Zandt County Clerk, Van Zandt Court at Law Clerk

ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

JASON CASSEL, *Attorney Pro Tem* – jdc@emafirm.com

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(titled per the Prefiling Order, attached)**

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Monday, October 19, 2015 AOL

UDO BIRNBAUM
540 VZ County Road 2916
EUSTACE, TX 75124
(903) 479-3929
BRNBM@AOL.COM

Attach: **PREFILING ORDER** – by "visiting" Judge Joe M. Leonard, Oct. 8, 2015

Subj: **RE: VEXATIOUS LITIGANT, re required ORDER**
 Date: 10/19/2015 12:36:28 P.M. Central Daylight Time
 From: judgedrum@vanzandtcounty.org
 To: mmurphy@firstadmin.com
 CC: karen@vanzandtcounty.org, ppearman@vanzandtcounty.org, Alisa.Frame@firstadmin.com,
cshiver@firstadmin.com, Brnbn@aol.com, rmcdonald@vanzandtcounty.org

Judge Murphy:

I am also confused with regards to Judge Leonard's "Prefiling Order" in CV05297.

I am the Local Administrative Judge for the District Courts in Van Zandt County, I am the ONLY District Court in Van Zandt County and I have filed a voluntarily recusal from this cause.

Judge McDonald is the Local Administrative Judge for the county courts at law in Van Zandt County, he is the ONLY County Court at Law in Van Zandt County and he has filed a voluntarily recusal in this cause.

Judge Teresa Drum

294th District Court

NOTICE: All email correspondence relating to pending cases will be filed with the District Clerk for inclusion in the record of the case. Any communication to the Court or staff via email must comply with Rules 21 and 21A, T.R.C.P., and to do so by the fastest means available to the other affected parties or counsel. The provisions of Canon 3B.(8) of the Code of Judicial Conduct should be carefully reviewed before any person connected with a case attempts any communication with the Judge or court personnel.

CONFIDENTIALITY NOTICE: This email message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please destroy all copies of the original message.

From: Judge Mary Murphy [mailto:mmurphy@firstadmin.com]
Sent: Monday, October 19, 2015 9:25 AM
To: 'Brnbn@aol.com'; Mary Barker; Judge Teresa Drum; jdc@emafirm.com
Cc: Kathy Jackson; Kathy Jackson; Karen Wilson; Karen Wilson; Pam Pearman; Pam Pearman; Alisa Frame; Candy Shiver; Judge Mary Murphy
Subject: RE: VEXATIOUS LITIGANT, re required ORDER

Dear Mr. Birnbaum:

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Sincerely,

Mary Murphy
 Presiding Judge
 First Administrative Judicial Region

Monday, October 19, 2015 AOL

133 North Riverfront Blvd. LB 50
Dallas, TX 75207
214-653-2947
214-653-2957 (fax)
www.txcourts.gov/1ajr

From: Brnbm@aol.com [<mailto:Brnbm@aol.com>]

Sent: Sunday, October 18, 2015 6:52 PM

To: Judge Mary Murphy; mbarker@vanzandtcounty.org; judgetrum@vanzandtcounty.org; jdc@emafirm.com

Cc: kathyj@vanzandtcounty.org; kjackson@vanzandtcounty.org; karen@vanzandtcounty.org; districtclerk@vanzandtcounty.org; ppearman@vanzandtcounty.org; countyclerk@vanzandtcounty.org

Subject: Re: VEXATIOUS LITIGANT, re required ORDER

10-19-2015

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mmurphy@firstadmin.com

copy: JUDGE RANDAL MCDONALD – Van Zandt County Court at Law
c/o MARY BARKER, Court Manager, Van Zandt County Court at Law
mbarker@vanzandtcounty.org

JUDGE TERESA DRUM – 294th District Judge of Van Zandt County
judgetrum@vanzandtcounty.org
kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

KAREN WILSON - 294th District Clerk
karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

PAM PEARMAN – Van Zandt County Clerk, Van Zandt Court at Law Clerk
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

JASON CASSEL, *Attorney Pro Tem* – jdc@emafirm.com

**Dear “Honorable Administrative Judge
for the First Administrative Region”
(titled per the Prefiling Order, attached)**

My name is UDO BIRNBAUM. I am 78 years old. I have never been found to be a “vexatious litigant” – not by anybody - never, at least as far as I know – but there is this Oct. 8, 2015 “Prefiling Order” against me, by “visiting” Judge Joe M. Leonard,

Monday, October 19, 2015 AOL

referring to me as “Udo Birnbaum, vexatious litigant” – that as I read that Order, **prohibits me from entering anything in the Court** – or any Texas court, for that matter - under penalty of contempt – lest I get some kind of “release” Order from you.

Hence my communicating directly with you to get such an Order from you – rather than risk entering anything - through the Clerk of the court.

What evidence or other do I have to bring to you – to get such Order?

And where would such record exist – that I may show you – that I am indeed NOT a “vexatious litigant”? Where should I even start looking?

PLEASE HELP ME

Lest I hear from you, I would have to presume this message did not reach you, and I would just have to continue trying.

I really do not want to have to go to the nuisance of Certified Mail, Restricted Delivery, or such.

AGAIN, PLEASE ADVISE.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
EUSTACE, TX 75124
(903) 479-3929
BRNBM@AOL.COM

Attach: **PREFILING ORDER** – by "visiting" Judge Joe M. Leonard, Oct. 8, 2015

Subj: **RE: VEXATIOUS LITIGANT, re required ORDER**
 Date: 10/20/2015 10:52:15 A.M. Central Daylight Time
 From: mmurphy@firstadmin.com
 To: judgetrum@vanzandtcounty.org
 CC: karen@vanzandtcounty.org, ppearman@vanzandtcounty.org, Alisa.Frame@firstadmin.com,
cshiver@firstadmin.com, Brnbn@aol.com, rmcdonald@vanzandtcounty.org,
mmurphy@firstadmin.com

Judge Drum:

I apologize for the delay in responding – I was out of the office in Collin County yesterday afternoon.

Pursuant to Texas Government Code section 74.046, my duties include acting for the local administrative judge when the local administrative judges does not perform the duties required by Subchapter D. (Those duties do not include approval of case filings for persons declared vexatious litigants under the Texas Civil Practice & Remedies Code.)

Subchapter D, as referenced in Texas Government Code section 74.046, includes sections 74.091 through 74.098 of the Texas Government Code. Those sections define the election and responsibilities of the local administrative judge. If the local administrative judges in your county are unable to act, you can request pursuant to section 74.092 that I assign an acting local administrative judge for purposes of the vexatious litigant issues for which the local administrative judges cannot act. In this situation, it would be regarding the referenced matter.

Please let me know if you have any questions or need additional information.

Mary Murphy
 Presiding Judge
 First Administrative Judicial Region
 133 North Riverfront Blvd. LB 50
 Dallas, TX 75207
 214-653-2947
 214-653-2957 (fax)
www.txcourts.gov/1ajr

From: Judge Teresa Drum [mailto:judgetrum@vanzandtcounty.org]
Sent: Monday, October 19, 2015 12:41 PM
To: Judge Mary Murphy
Cc: Karen Wilson; Pam Pearman; Alisa Frame; Candy Shiver; 'Brnbn@aol.com'; Judge Randy McDonald
Subject: RE: VEXATIOUS LITIGANT, re required ORDER

Judge Murphy:

I am also confused with regards to Judge Leonard's "Prefiling Order" in CV05297.

I am the Local Administrative Judge for the District Courts in Van Zandt County, I am the ONLY District Court in Van Zandt County and I have filed a voluntarily recusal from this cause.

Judge McDonald is the Local Administrative Judge for the county courts at law in Van Zandt County, he is the ONLY County Court at Law in Van Zandt County and he has filed a voluntarily recusal in this cause.

Judge Teresa Drum

Tuesday, October 20, 2015 AOL

294th District Court

NOTICE: All email correspondence relating to pending cases will be filed with the District Clerk for inclusion in the record of the case. Any communication to the Court or staff via email must comply with Rules 21 and 21A, T.R.C.P., and to do so by the fastest means available to the other affected parties or counsel. The provisions of Canon 3B.(8) of the Code of Judicial Conduct should be carefully reviewed before any person connected with a case attempts any communication with the Judge or court personnel.

CONFIDENTIALITY NOTICE: This email message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please destroy all copies of the original message.

From: Judge Mary Murphy [<mailto:mmurphy@firstadmin.com>]
Sent: Monday, October 19, 2015 9:25 AM
To: 'Brnbm@aol.com'; Mary Barker; Judge Teresa Drum; jdc@emafirm.com
Cc: Kathy Jackson; Kathy Jackson; Karen Wilson; Karen Wilson; Pam Pearman; Pam Pearman; Alisa Frame; Candy Shiver; Judge Mary Murphy
Subject: RE: VEXATIOUS LITIGANT, re required ORDER

Dear Mr. Birnbaum:

I am not the "Local Administrative Judge" and have no authority to approve requests to file under the Vexatious Litigants statute. The Local Administrative Judges for the District Judges and for the Statutory County Court Judges are referenced in sections 74.91 and 74.0911 of the Texas Government Code. Specifically, section 11.102 of the Texas Civil Practice & Remedies Code, titled Permission by Local Administrative Judge, requires a litigant to seek permission from "the local administrative judge of the type of court in which the vexatious litigant intends to file." You may need to seek clarification from Judge Leonard or the Clerk regarding the appropriate Local Administrative Judge in Van Zandt County.

Sincerely,

Mary Murphy
 Presiding Judge
 First Administrative Judicial Region
 133 North Riverfront Blvd. LB 50
 Dallas, TX 75207
 214-653-2947
 214-653-2957 (fax)
www.txcourts.gov/1ajr

From: Brnbm@aol.com [<mailto:Brnbm@aol.com>]
Sent: Sunday, October 18, 2015 6:52 PM
To: Judge Mary Murphy; mbarker@vanzandtcounty.org; judgetrum@vanzandtcounty.org; jdc@emafirm.com
Cc: kathyj@vanzandtcounty.org; kjackson@vanzandtcounty.org; karen@vanzandtcounty.org; districtclerk@vanzandtcounty.org; ppearman@vanzandtcounty.org; countyclerk@vanzandtcounty.org
Subject: Re: VEXATIOUS LITIGANT, re required ORDER

10-19-2015

-

Tuesday, October 20, 2015 AOL

Re: VEXATIOUS LITIGANT, re required ORDER

TO: JUDGE MARY MURPHY – First Administrative Judicial Region
mmurphy@firstadmin.com

copy: JUDGE RANDAL MCDONALD – Van Zandt County Court at Law
c/o MARY BARKER, Court Manager, Van Zandt County Court at Law
mbarker@vanzandtcounty.org

JUDGE TERESA DRUM – 294th District Judge of Van Zandt County
judgetrum@vanzandtcounty.org
kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

KAREN WILSON - 294th District Clerk
karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

PAM PEARMAN – Van Zandt County Clerk, Van Zandt Court at Law Clerk
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

JASON CASSEL, *Attorney Pro Tem* – jdc@emafirm.com

**Dear “Honorable Administrative Judge
for the First Administrative Region”
(titled per the Prefiling Order, attached)**

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Hence my communicating directly with you to get such an Order from you – rather than risk entering anything - through the Clerk of the court.

What evidence or other do I have to bring to you – to get such Order?

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PLEASE HELP ME

Lest I hear from you, I would have to presume this message did not reach you, and I would just have to continue trying.

I really do not want to have to go to the nuisance of Certified Mail, Restricted Delivery, or such.

AGAIN, PLEASE ADVISE.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
EUSTACE, TX 75124
(903) 479-3929
BRNBM@AOL.COM

Attach: **PREFILING ORDER** – by "visiting" Judge Joe M. Leonard, Oct. 8, 2015

Criminal Complaint and Affidavit of Official Oppression and Abuse of Official Capacity upon Udo Birnbaum.

Synopsis

My name is UDO BIRNBAUM. I am 78 years old, reside in Van Zandt County, and am competent to make this Affidavit.

This Complaint is upon a JOE M. LEONARD, “visiting judge” – in a **non-adjudicative setting** in the Van Zandt County Court at Law (CV05297) on Oct. 8, 2015 - upon my having petitioned my government in the 294th District Court (No. 14-00266) - under my First Amendment Right – for relief from my government (the 294th) having unlawfully imposed criminal sanctions (no “keys to own release”) upon me by civil process – such JOE M. LEONARD – retaliating upon me under color of law – and making me vulnerable in public - or in a court of law - by such JOE M. LEONARD, wrongfully branding me as one of those awful “vexatious litigants” – and ordering my inclusion in such “black-list” as the State publishes on the web.

Such branding as such “vexatious” person as he is only allowed to do **if** there had indeed been a Motion for such – **which there was not**, by a defendant – **of which there was none** – upon notice of hearing and actual hearing upon notice – of which there course **was none** – in a “litigation” – which there **de facto was none** - upon a “litigant” – of which there de facto **was none either**. All there was - was me – as a **pro se**, petitioning my government (the court), under my First Amendment Right, before Judge Joe M. Leonard.

(It is elementary, that if there is only ONE “party” – there can be no **litigation**, or **adjudication** “between the parties”, i.e. purely magisterial)

Such **Prefiling Order** as such JOE M. LEONARD issued – of course required a Finding regarding someone –me - actually being adjudged as one of those “vexatious litigants” – which **there never was**, by any judge, **ever**.

Such matters, as **were** before such JOE M. LEONARD on such Oct. 8, 2015, were as follows, the titles clearly “suggesting” the issue:

- **First Amended Original Petition to Declare Three Judgments as inconsistent with due process, unlawful, criminal, and void.**
- **Notice of Concurrent Criminal Complaint upon this Matter**
- **Synopsis upon Transfer** – the absurd unlawful “transfer” of this cause
- **Plea to the Jurisdiction and Sanity** – ***“if there is insanity around - - well, some of us gotta have it”***

Enough said, for now. Next, a refresher.

First Amendment – re unfettered access to the courts:

Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble and to petition the government for a redress of grievances. FIRST AMENDMENT.

"clearly established that filing a lawsuit was constitutionally protected conduct." Rutan v. Republican Party of Illinois, 497 U.S. 62, 73, 76 n.8 (1990), U.S. SUPREME COURT

Texas Civil Practice and Remedies Code – re “vexatious litigant”:

Sec. 11.054. CRITERIA FOR FINDING PLAINTIFF A VEXATIOUS LITIGANT.

A court may find a plaintiff a vexatious litigant if the defendant shows that there is not a reasonable probability that the plaintiff will prevail in the litigation against the defendant and that:

1. the plaintiff, in the seven-year period etc.

(Note: in this “matter”– there is no defendant - and no “if the defendant shows”)

Sec. 11.101. PREFILING ORDER; CONTEMPT. (a) A court may, on its own motion or the motion of any party, enter an order prohibiting a person from filing, pro se, a new litigation in a court to which the order applies under this section without permission of the appropriate local administrative judge described by Section 11.102(a) to file the litigation if the court finds, after notice and hearing as provided by Subchapter B, that the person is a vexatious litigant.

(b) A person who disobeys an order under Subsection (a) is subject to contempt of court.

(Note: There was NEVER a finding of “vexatious”, upon Birnbaum - EVER.

Texas Penal Code Title 8 – re constraints on public servants:

Sec. 39.03. OFFICIAL OPPRESSION. (a) A public servant acting under color of his office or employment commits an offense if he:

(1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

(2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or

(3) intentionally subjects another to sexual harassment.

Sec. 39.02. ABUSE OF OFFICIAL CAPACITY. (a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

(1) violates a law relating to the public servant's office or employment; or

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

The Ongoing Pattern – “Shoot the Messenger”

This was the FIRST and ONLY interaction between JOE M. LEONARD, a Texas “visiting judge”, and UDO BIRNBAUM, a pro se , petitioning his government (the court) - under the First Amendment – for wrongs done upon him – by his government – by “judgments”, “sanctions”, “orders on motions for sanction”, “sanction judgment”, etc. (\$85,000 + \$62,885 + \$125,770) – all “inconsistent with due process”.

Such “assignment” – of Judge JOE M. LEONARD - arising upon the **voluntary** recusal of 294th District Judge Teresa Drum, the curious “transfer” of the matter by First Administrative Judicial Region Presiding Judge Mary Murphy - into the **inferior** Van Zandt County Court at Law (to rule on the lawfulness of what its superior sister the 294th had done?), such transfer clearly without the consent of the District Judge – who had recused herself – without the required “agreement” thereto by the “transferee court” – for there was nothing to agree to - followed by the immediate **voluntary** recusal of Van Zandt Court at Law Judge Randall McDonald – all while still keeping the old 294th cause number in the Court at Law? , etc – and said “visiting” JOE M. LEONARD assigned.

This “cause”, No. 14-00266 in the 294th, now CV05297 in this Court at Law, titled **First Amended Original Petition to Declare Three Judgments as inconsistent with due process, unlawful, criminal, and void** – was not “litigation” at all – there was NO opposing Defendant – only a Petition by a Pro Se under his First Amendment Right.

Hence, the matter before JOE M. Leonard on said October 8, 2015, was purely of a **magisterial nature** – said judge sitting in a purely “magisterial capacity” – upon pleadings of “inconsistent”, “unlawful”, “criminal”, and “void” - so what does he do?

Instead of addressing the matter of the unlawful “judgments” - documented in excruciating detail in the documents before him – and him “sitting as a magistrate” – and instead of referring the matter to the criminal authorities – without any request by any “moving defendant” – for there was NO DEFENDANT – lights in upon Udo Birnbaum, Pro Se –

- and without any evidence presented to him – without even asking Birnbaum thereto – proceeds to de facto declare Birnbaum a “vexatious litigant” via his **Prefiling Order** – all without “notice of hearing” and

“hearing upon notice” upon the issue of “vexatious” – as required upon him by law – by reason of his office and employment.

Talk about “shooting the messenger”!

“intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful”. Official Oppression

“violates a law relating to the public servant's office or employment”. Abuse of Official Capacity

The evidence - as detailed in the file in the court:

- First Amended Original Petition to Declare Three Judgments as inconsistent with due process, unlawful, criminal, and void.
- Notice of Concurrent Criminal Complaint upon this Matter
- Synopsis upon Transfer
- Plea to the Jurisdiction and Sanity
- Prefiling Order – by “visiting” Judge Joe M. Leonard – Oct. 8, 2015
- Also, such documents as referenced to by the above

All statements upon personal knowledge, all attached documents true copies of the originals, except for obvious markups all by me, all also upon personal knowledge.

Attach:

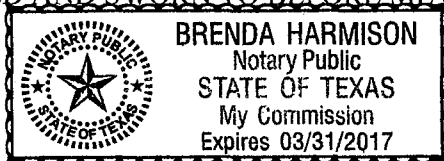
- Prefiling Order – by “visiting” Judge Joe M. Leonard 10-8-2015
- Rest of the court file in CV05297 – by reference
- Everything at www.OpenJustice.US (just google on “damn courthouse”)

UDO BIRNBAUM
 UDO BIRNBAUM
 540 VZ County Road 2916
 Eustace, TX 75124
 (903) 479-3929
 brnbm@aol.com

SIGNED this 20 day of Oct., 2015

UDO BIRNBAUM
 UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME on this 20 day of October 2015



Brenda Harmison
 Notary Public, State of Texas

CAUSE NO. CV05297

FILED FOR RECORD

2015 OCT -8 AM 11:56

PAH PEARMAN
CLERK, VAN ZANDT CO. CT

DEP.

UDO BIRNBAUM
Plaintiff

§
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IN THE COUNTY COURT

VS.

CHRISTINA WESTFALL, STEFANI
PODVIN, AND FRANK C. FLEMING
"The Westfall Bunch", reference only

AT LAW OF

THREE PIECES OF PAPER
At Issue ("defendants"?)

VAN ZANDT COUNTY, TEXAS

PREFILING ORDER

The Court enters a finding that there is no reasonable probability that Plaintiff will prevail as a pro se litigant and enters the following order: Plaintiff, Udo Birnbaum, is prohibited from filing pro se any new litigation in the 294th District Court and County Court at Law of Van Zandt County without permission of the Local Administrative Judge of the First Administrative Region. The District Clerk and County Clerk are prohibited from filing litigation, original proceedings, appeals, or other claims pro se made by Udo Birnbaum, vexatious litigant, unless Udo Birnbaum obtains an order giving permission entered by the Honorable Administrative Judge for the First Administrative Region. Additionally, the District Clerk and County Clerk shall provide notice to the Office of Court Administration of the Texas Judicial System in Austin, Texas, by sending a copy of this Prefiling Order not later than 30 days from this date.

SIGNED AND ENTERED ON THIS 8 day of October 2015.



HON. JOE M. LEONARD,
JUDGE SITTING BY ASSIGNMENT

Subj: **Orders - Cause No. CV05297**
Date: 10/21/2015 1:02:25 P.M. Central Daylight Time
From: Alisa.Frame@firstadmin.com
To: mbarker@vanzandtcounty.org
CC: mmurphy@firstadmin.com, Brnbn@aol.com, jdc@emafirm.com, kathyj@vanzandtcounty.org,
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org, cshiver@firstadmin.com

Good Afternoon, Mary,

Attached are two orders for filing and service in Cause No. CV05297; *Udo Birnbaum v. Christina Westfall, et al.*, pending in the County Court at Law of Van Zandt County. The parties or their counsel are copied on this e-mail.

The first order is an Order terminating the assignment of Judge Leonard to the above-referenced case. The second order is an Order that (1) assigns the Honorable Richard Mays to preside in the above-referenced case and (2) appoints Judge Mays to serve as the Local Administrative Judge for this case for the limited purpose of making any determinations required of the local administrative judge, including those duties under section 11.102 of the Texas Civil Practice and Remedies Code.

Judges May and Leonard will receive these Orders by separate e-mail.

Please let us know if you have any questions. As a reminder to the parties, all communications should include the court and all counsel.

Alisa Frame
Staff Attorney
First Administrative Judicial Region
133 N. Riverfront Boulevard, LB #50
Dallas, Texas 75207
alisa.frame@firstadmin.com
(214) 653-2945 (direct line)
(214) 653-2943 (main office number)

NO. CV05297

UDO BIRNBAUM

v.

CHRISTINA WESTFALL, ET AL.

§
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§
§

IN THE COUNTY COURT

AT LAW OF

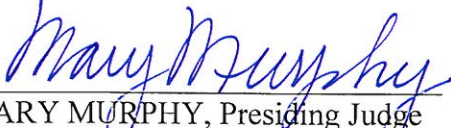
VAN ZANDT COUNTY, TEXAS

ORDER TERMINATING ASSIGNMENT

The assignment of the Honorable Joe Leonard to this case is terminated.

IT IS SO ORDERED.

Signed this 21 day of October, 2015.


MARY MURPHY, Presiding Judge
First Administrative Judicial Region

CAUSE NO. CV05297

UDO BIRNBAUM	§	IN THE COUNTY COURT
	§	
v.	§	AT LAW OF
	§	
CHRISTINA WESTFALL, ET AL.	§	VAN ZANDT COUNTY, TEXAS

**ORDER OF ASSIGNMENT BY PRESIDING JUDGE AND
APPOINTMENT OF LOCAL ADMINISTRATIVE JUDGE FOR CASE**

This case, bearing Cause No. 14-00266 in the 294th District Court of Van Zandt County, Texas, was transferred by the undersigned to the County Court at Law of Van Zandt County on July 14, 2015, due to the voluntary recusal of District Judge Teresa A. Drum. Such transfer was authorized pursuant to Texas Government Code sections 25.2362 (jurisdiction of Van Zandt County Court at Law) and 74.094 (authority of district and statutory county court judges). The case was given the above-referenced cause number in the county court at law.

Thereafter, on July 20, 2015 and due to the voluntary recusal of County Court at Law Judge Randal McDonald, the undersigned assigned the Honorable Joe M. Leonard, Senior Judge of the 196th District Court, to the case pursuant to Texas Government Code section 74.056.

On or about October 8, 2015, Judge Leonard signed a Prefiling Order, as follows:

“The Court enters a finding that there is no reasonable probability that Plaintiff will prevail as a pro se litigant and enters the following order: Plaintiff, Udo Birnbaum, is prohibited from filing pro se any new litigation in the 294th District Court and County Court at Law of Van Zandt County without permission of the Local Administrative Judge of the First Administrative Region. The District Clerk and County Clerk are prohibited from filing litigation, original proceedings, appeals, or other claims pro se made by Udo Birnbaum, vexatious litigant, unless Udo Birnbaum obtains an order giving permission entered by the Honorable Administrative Judge for the First Administrative Region. Additionally, the District Clerk and County clerk shall provide notice to the Office of Court Administration of the Texas Judicial System in Austin, Texas, by sending a copy of this Prefiling Order not later than 30 days from this date.”

In response to Mr. Birnbaum’s request for assistance, the undersigned advised all parties on Monday, October 19, 2015, that the “Local Administrative Judge” must consider vexatious litigant requests pursuant to section 11.102 of the Texas Civil Practice & Remedies Code, and the undersigned is without authority to do so as the regional presiding judge. Based on the voluntary recusals of Judges Drum and McDonald, who are the local administrative judges for the district and county court at law courts, respectively, of Van Zandt County, no local administrative judge exists to address the Prefiling Order and requests by Mr. Birnbaum as directed under that order.

Accordingly, it is necessary that a local administrative judge be appointed for purposes of this case. Both Judges Drum and McDonald are recused from making that election.

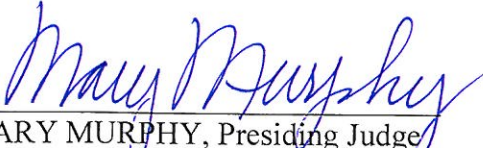
After considering the above, the undersigned finds in the interest of justice that a local administrative judge must be appointed to address the Pretrial Filing Order signed on October 8, 2015 by Judge Leonard and that the same judge should be assigned to the merits of the case if it proceeds. As a result and with the agreement of Judge Leonard, the July 20, 2015 Order assigning Judge Leonard to this case is being terminated pursuant to a separate order signed this date.

Pursuant to section 74.056, Texas Government Code, I assign the Honorable Richard Mays, Senior Judge of the 204th District Court, to preside in the above-numbered and entitled cause, and appoint the Honorable Richard Mays to serve as the Local Administrative Judge of the County Court at Law of Van Zandt County to this case only for purposes of making any determinations required of the local administrative judge, including those duties under section 11.102 of the Texas Civil Practice and Remedies Code regarding vexatious litigants.

This assignment and appointment continue until such time as the judge's plenary power has expired or the assignment and appointment are terminated by the Presiding Judge of the First Administrative Judicial Region, whichever occurs earlier.

IT IS ORDERED that the Clerk of the Court to which this assignment is made, if it is reasonable and practicable, and if time permits, give notice of this assignment to each attorney representing a party, and to each party representing himself or herself pro se, to a case that is to be heard in whole or in part by the assigned judge.

Signed this 21 day of October, 2015.


MARY MURPHY, Presiding Judge
First Administrative Judicial Region

CAUSE NO. CV05297


UDO BIRNBAUM	§	IN THE COUNTY COURT
	§	
V.	§	AT LAW OF
	§	
CHRISTINA WESTFALL, ET AL.	§	VAN ZANDT COUNTY, TEXAS

**ORDER TERMINATING CASE ASSIGNMENT AND
APPOINTMENT OF LOCAL ADMINISTRATIVE JUDGE FOR CASE**

On October 21, 2015, the undersigned assigned the Honorable Richard Mays to preside over the above-referenced case and appointed Judge Mays to serve as the Local Administrative Judge of the County Court at Law of Van Zandt County for this case only for the purpose of making any determinations required of the local administrative judge. The October 21, 2015 order of assignment and appointment is hereby terminated as of this date. The case will remain in the above court, and any further matters in the case will be heard by a visiting judge assigned pursuant to Section 74.056 of the Texas Government Code.

IT IS SO ORDERED.

Signed this 12 day of November, 2015.


MARY MURPHY, Presiding Judge
First Administrative Judicial Region

CAUSE NO. CV-05297

UDO BIRNBAUM

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IN THE COUNTY COURT

v.

CHRISTINA WESTFALL, ET AL.,
STEFANI PODVIN, AND
FRANK C. FLEMING

AT LAW OF

THREE PIECES OF PAPER

VAN ZANDT COUNTY, TEXAS

PAM PEARMAN
CLERK, VAN ZANDT CO., TX

2015 OCT 26 PM 2:29

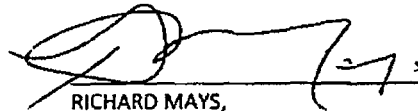
FILED FOR RECORD

ORDER VACATING AND SETTING ASIDE PREFILING ORDER

After reviewing the Prefiling Order signed and entered in this case on October 8, 2015, in which Plaintiff Udo Birnbaum was "prohibited from filing pro se any new litigation in the 294th District Court and County Court at Law of Van Zandt County without permission of the Local Administrative Judge of the First Administrative Region," the undersigned finds that no motion for an order determining Plaintiff to be a vexatious litigant was filed under Section 11.51 of the Texas Civil Practice & Remedies Code, and no notice and hearing were provided to Plaintiff. Accordingly, the October 8, 2015 Prefiling Order should be vacated and set aside.

IT IS THEREFORE ORDERED that the October 8, 2015 Prefiling Order is hereby vacated and set aside and the District and County Clerks of Van Zandt County shall provide notice to the Office of Court Administration of the Texas Judicial System in Austin, Texas, by immediately sending a copy of this Order to that office.

Signed this 23 day of October, 2015.



RICHARD MAYS,
SENIOR JUDGE, SITTING BY
ASSIGNMENT

CV05297

(had been 14-00266 in the 294th)

UDO BIRNBAUM

Plaintiff

v.

Christina Westfall, Stefani Podvin, and
Frank C Fleming

“The Westfall Bunch”, reference only

THREE PIECES OF PAPER

At Issue (“defendants”?)

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IN THE COUNTY

COURT AT LAW

VAN ZANDT COUNTY,
TEXAS

DEP.

PAM PEARMAN
CLERK, VAN ZANDT CO., TX

2015 NOV -4 PM 1:41

FILED FOR RECORD

PLAINTIFF DECLARES READY

TO THIS HONORABLE COURT:

Plaintiff, UDO BIRNBAUM, declares ready for trial. The jury fee has been paid.

Written demand to trial by jury has been on file from the start.

This the 3rd day of November, 2015.

Udo Birnbaum

Udo Birnbaum, Pro Se

540 VZ County Road 2916

Eustace, TX 75124

903-479-3929

brnbn@aol.com

DATE 11/04/2015

PAMELA PEARMAN
VAN ZANDT COUNTY CLERK
CANTON TX 75103

RECEIPT # 152046

TIME 13:44

FILE # CV05297

RECEIVED OF: BIRNBAUM, UDO

FOR: BIRNBAUM, UDO

DESCRIPTION: PAYMT FOR JURY TRIAL FEE/CB

AMOUNT DUE \$32.00

AMOUNT PAID \$32.00

BALANCE \$.00

PAYMENT TYPE C
CHECK NO
COLLECTED BY CB

**THE STATE OF TEXAS
FIRST ADMINISTRATIVE JUDICIAL REGION
ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE**

Pursuant to Section 74.056, Texas Government Code, I assign the:

Honorable Joe Clayton

Senior Judge of The 241st District Court

to the

County Court at Law of Van Zandt County, Texas

This assignment is for the cause(s) and style(s) as stated in the conditions of assignment from this date until plenary power has expired or the undersigned Presiding Judge has terminated this assignment in writing, whichever occurs first.

CONDITION(S) OF ASSIGNMENT

Cause No. CV05297; Udo Birnbaum v. Christina Westfall, et al.

In addition, whenever the assigned Judge is present in the county of assignment for a hearing in the above cause(s), the Judge is also assigned and empowered to hear, at that time, any other matters presented for hearing.

It is ordered that the Clerk of the court to which this assignment is made, if it is reasonable and practicable and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned Judge.

SIGNED: November 12, 2015
Date

Mary Murphy
Mary Murphy, Presiding Judge
First Administrative Judicial Region of Texas

CAUSE NO. CV05297

FILED FOR RECORD
2015 NOV 13 PM 3:48
PAMPEAN
CLERK, VAN ZANDT CO., TEXAS

UDO BIRNBAUM

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IN THE COUNTY COURT

V.

AT LAW OF

CHRISTINA WESTFALL, ET AL.

VAN ZANDT COUNTY, TEXAS

ORDER TERMINATING CASE ASSIGNMENT AND APPOINTMENT OF LOCAL ADMINISTRATIVE JUDGE FOR CASE

On October 21, 2015, the undersigned assigned the Honorable Richard Mays to preside over the above-referenced case and appointed Judge Mays to serve as the Local Administrative Judge of the County Court at Law of Van Zandt County for this case only for the purpose of making any determinations required of the local administrative judge. The October 21, 2015 order of assignment and appointment is hereby terminated as of this date. The case will remain in the above court, and any further matters in the case will be heard by a visiting judge assigned pursuant to Section 74.056 of the Texas Government Code.

IT IS SO ORDERED.

Signed this 12 day of November, 2015.

Mary Murphy
MARY MURPHY, Presiding Judge
First Administrative Judicial Region

Subj: **Orders - Cause No. CV05297**
Date: 11/12/2015 3:03:06 P.M. Central Standard Time
From: Alisa.Frame@firstadmin.com
To: mbarker@vanzandtcounty.org
CC: mmurphy@firstadmin.com, Brnbm@aol.com, jdc@emafirm.com, kathyj@vanzandtcounty.org,
ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org, cshiver@firstadmin.com

Good Afternoon, Mary,

Attached are two orders for filing and service in Cause No. CV05297; *Udo Birnbaum v. Christina Westfall, et al.*, pending in the County Court at Law of Van Zandt County. The parties or their counsel are copied on this e-mail.

The first order is an Order of Termination. Specifically, that order terminates (1) the assignment of the Honorable Richard Mays to preside over the above-referenced case and (2) the appointment of Judge Mays to serve as the Local Administrative Judge for this case for the limited purpose of making any determinations required of the local administrative judge. The second order is an Order of Assignment, which assigns the Honorable Joe Clayton to preside over the case.

Judges Mays and Clayton will receive these Orders by separate e-mail.

Please let us know if you have any questions. As a reminder to the parties, all communications should include the court and all counsel.

Alisa Frame
Staff Attorney
First Administrative Judicial Region
133 N. Riverfront Boulevard, LB #50
Dallas, Texas 75207
alisa.frame@firstadmin.com
(214) 653-2945 (direct line)
(214) 653-2943 (main office number)

THE STATE OF TEXAS
FIRST ADMINISTRATIVE JUDICIAL REGION
ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE

Pursuant to Section 74.056, Texas Government Code,

Honorable Joe Clayton

Senior Judge of The 241st District Court

to the

County Court at Law of Van Zandt County, Texas

This assignment is for the cause(s) and style(s) as stated in the conditions of assignment from this date until plenary power has expired or the undersigned Presiding Judge has terminated this assignment in writing, whichever occurs first.

CONDITION(S) OF ASSIGNMENT

Cause No. CV05297; Udo Birnbaum v. Christina Westfall, et al.

In addition, whenever the assigned Judge is present in the county of assignment for a hearing in the above cause(s), the Judge is also assigned and empowered to hear, at that time, any other matters presented for hearing.

It is ordered that the Clerk of the court to which this assignment is made, if it is reasonable and practicable and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned Judge.

SIGNED: November 12, 2015
Date

Mary Murphy
Mary Murphy, Presiding Judge
First Administrative Judicial Region of Texas

FILED FOR RECORD
2015 NOV 13 PM 3:48
CLERK OF COUNTY COURT
VAN ZANDT COUNTY
TEXAS

Subj: **Your assignment CV05297**
Date: 11/17/2015 3:02:07 P.M. Central Standard Time
From: Brnbm@aol.com
To: clayton@judgeclayton.com

11-17-2015

Re: Your assignment CV05297
Van Zandt County Court at Law

Dear Judge Clayton,

As you may already know, there is no “defendant” in this cause, and with me a Pro Se - **just you and me.**

And, of course, no “ex parte” restraints upon either of us.

Suggest we communicate directly, e-mail, phone, or whatever.

And, as you may already know, four judges have more or less “voluntarily” recused themselves off this “tar baby” – and I, for one, can see why.

Because the matter in this case is nothing less than my petitioning my government – in this case now you – about unlawful process upon me by my government – earlier judges - with all the criminal implications of me being punished for being a whistle blower. See my www.OpenJustice.US.

Suggest you just kindly bring this matter to the attention of the criminal authorities – I for one have not had much luck doing so from my lowly end.

Such would surely be easier on the both of us. I will be 79 this November – but will NOT be going away – NOT with \$700,000 in “judgments” – unlawful on their face.

And, as an aside, I have just paid the jury fee, and as I understand the law, the Texas Constitution is unique among the states, in providing for the inviolate right of trial by jury, whether the cause is one of common law, or of equity – such as this one – except as for such laws as the legislature has provided to “regulate” such - as by motion for summary judgment, etc – for which there is, in this cause, no opposing party to raise such matter.

I, for one, have no suggestion, other than having a trial.

And as a non-lawyer, for the life of me, I cannot understand why you, at your likewise stage of life, would want to sit on this matter – as the fifth judge on this cause.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
(903) 479-3929
brnbn@aol.com

CAUSE NO. CV05297

FILED FOR RECORD
NOV 19 2015
COUNTY CLERK VAN ZANDT CO. TX
BY: PAUL PERMAN

UDO BIRNBAUM

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IN THE COUNTY COURT

V.

AT LAW OF

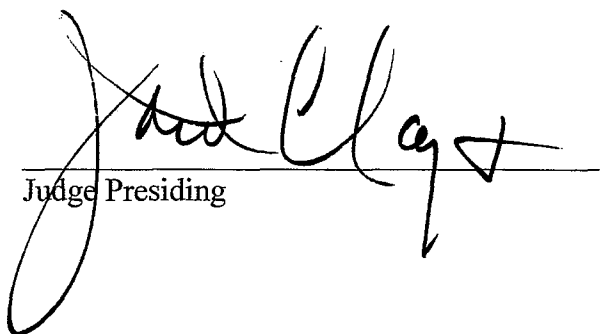
CHRISTINA WESTFALL, ET AL

VAN ZANDT COUNTY, TEXAS

ORDER OF RECUSAL

Being advised of the pleadings, parties, issues, and subject matter of the above case, the undersigned voluntarily recuses from hearing any matters in this cause and requests the Presiding Judge of the First Administrative Judicial region assign a judge to hear the case.

SIGNED this 17 day of Nov, 2015.


Judge Presiding

Subj: **RE: Your assignment CV05297**
Date: 11/18/2015 9:46:46 A.M. Central Standard Time
From: clayton@judgeclayton.com
To: Brnbm@aol.com

Dear Mr. Birnbaum:

Judge Clayton has chosen to not participate in this case.

Sincerely,

Jan D. Clayton

Legal Assistant to Judge Joe. D. Clayton

Joe D. Clayton, P.C.

100 E. Ferguson, Suite 1114

Tyler, TX 75702

(903)533-9288 Office

(903)533-9687 Facsimile

clayton@judgeclayton.com

www.judgeclayton.com

From: Brnbm@aol.com [mailto:Brnbm@aol.com]

Sent: Tuesday, November 17, 2015 3:02 PM

To: Jan Clayton <clayton@judgeclayton.com>

Subject: Your assignment CV05297

11-17-2015

Re: Your assignment CV05297
Van Zandt County Court at Law

Dear Judge Clayton,

As you may already know, there is no “defendant” in this cause, and with me a Pro Se - just you and me.

And, of course, no “ex parte” restraints upon either of us.

Suggest we communicate directly, e-mail, phone, or whatever.

And, as you may already know, four judges have more or less “voluntarily” recused themselves off this “tar baby” – and I, for one, can see why.

Because the matter in this case is nothing less than my petitioning my government – in this case now you – about unlawful process upon me by my government – earlier judges - with all the criminal implications of me being punished for being a whistle blower. See my www.OpenJustice.US.

Suggest you just kindly bring this matter to the attention of the criminal authorities – I for one have not had much luck doing so from my lowly end.

Wednesday, November 18, 2015 AOL

Such would surely be easier on the both of us. I will be 79 this November – but will NOT be going away – NOT with \$700,000 in “judgments” – unlawful on their face.

And, as an aside, I have just paid the jury fee, and as I understand the law, the Texas Constitution is unique among the states, in providing for the inviolate right of trial by jury, whether the cause is one of common law, or of equity – such as this one – except as for such laws as the legislature has provided to “regulate” such - as by motion for summary judgment, etc – for which there is, in this cause, no opposing party to raise such matter.

I, for one, have no suggestion, other than having a trial.

And as a non-lawyer, for the life of me, I cannot understand why you, at your likewise stage of life, would want to sit on this matter – as the fifth judge on this cause.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
(903) 479-3929
brnbm@aol.com

Subj: **Re: Your assignment CV05297**
Date: 11/18/2015 8:23:53 P.M. Central Standard Time
From: Brnbn@aol.com
To: clayton@judgeclayton.com

Dear Judge Clayton:

Thank you for your quick response.

Sincerely,

Udo Birnbaum
540 VZ County Road 2916
Eustace, TX 75124
(903) 479-3929
brnbn@aol.com
www.OpenJustice.US
www.CourthouseAwarenessNews.com

In a message dated 11/18/2015 9:46:46 A.M. Central Standard Time, clayton@judgeclayton.com writes:

Dear Mr. Birnbaum:

Judge Clayton has chosen to not participate in this case.

Sincerely,

Jan D. Clayton

Legal Assistant to Judge Joe. D. Clayton

Joe D. Clayton, P.C.

100 E. Ferguson, Suite 1114

Tyler, TX 75702

(903)533-9288 Office

(903)533-9687 Facsimile

clayton@judgeclayton.com

www.judgeclayton.com

From: Brnbm@aol.com [mailto:Brnbm@aol.com]
Sent: Tuesday, November 17, 2015 3:02 PM
To: Jan Clayton <clayton@judgeclayton.com>
Subject: Your assignment CV05297

11-17-2015

Re: Your assignment CV05297
Van Zandt County Court at Law

Dear Judge Clayton,

As you may already know, there is no “defendant” in this cause, and with me a Pro Se - just you and me.

And, of course, no “ex parte” restraints upon either of us.

Suggest we communicate directly, e-mail, phone, or whatever.

And, as you may already know, four judges have more or less “voluntarily” recused themselves off this “tar baby” – and I, for one, can see why.

Because the matter in this case is nothing less than my petitioning my government – in this case now you – about unlawful process upon me by my government – earlier judges - with all the criminal implications of me

being punished for being a whistle blower. See my www.OpenJustice.US.

Suggest you just kindly bring this matter to the attention of the criminal authorities – I for one have not had much luck doing so from my lowly end.

Such would surely be easier on the both of us. I will be 79 this November – but will NOT be going away – NOT with \$700,000 in “judgments” – unlawful on their face.

And, as an aside, I have just paid the jury fee, and as I understand the law, the Texas Constitution is unique among the states, in providing for the inviolate right of trial by jury, whether the cause is one of common law, or of equity – such as this one – except as for such laws as the legislature has provided to “regulate” such - as by motion for summary judgment, etc – for which there is, in this cause, no opposing party to raise such matter.

I, for one, have no suggestion, other than having a trial.

And as a non-lawyer, for the life of me, I cannot understand why you, at your likewise stage of life, would want to sit on this matter – as the fifth judge on this cause.

Sincerely,

UDO BIRNBAUM

540 VZ County Road 2916

Eustace, TX 75124

(903) 479-3929

brnbn@aol.com

THE STATE OF TEXAS
FIRST ADMINISTRATIVE JUDICIAL REGION
ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE

Pursuant to Section 74.056, Texas Government Code, I assign

Honorable Don Metcalfe

Senior Judge of The Criminal District Court # 2

to the

County Court at Law of Van Zandt County, Texas

FILED FOR RECORD
2015 NOV 20 PM 3:13

This assignment is for the cause(s) and style(s) as stated in the conditions of assignment from this date until plenary power has expired or the undersigned Presiding Judge has terminated this assignment in writing, whichever occurs first.

CONDITION(S) OF ASSIGNMENT

Cause No. CV05297; Udo Birnbaum v. Christina Westfall, et al.

In addition, whenever the assigned Judge is present in the county of assignment for a hearing in the above cause(s), the Judge is also assigned and empowered to hear, at that time, any other matters presented for hearing.

It is ordered that the Clerk of the court to which this assignment is made, if it is reasonable and practicable and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned Judge.

SIGNED: November 20, 2015
Date

Mary Murphy
Mary Murphy, Presiding Judge
First Administrative Judicial Region of Texas

CV05297

UDO BIRNBAUM	\$	
Plaintiff	\$	IN THE COUNTY COURT
v.	\$	
	\$	
Christina Westfall, Stefani Podvin, and	\$	AT LAW OF
Frank C Fleming	\$	
“The Westfall Bunch”, reference only	\$	
	\$	VAN ZANDT COUNTY, TEXAS
THREE PIECES OF PAPER	\$	
At Issue (“defendants”?)	\$	

Supplemental Pleading – upon our Sixth Judge – Don Metcalfe

with Prayer to set for trial – and special Notice to the Court

TO THIS HONORABLE COURT:

synopsis

1. The nature of this cause is clearly given by mere title of the Pleadings:
 - First Amended Original Petition to Declare Three Judgments as inconsistent with due process, unlawful, criminal, and void.
 - Notice of Concurrent Criminal Complaint upon this Matter
 - Synopsis upon Transfer – the absurd unlawful “transfer” of this cause
 - Plea to the Jurisdiction and Sanity – *“if there is insanity around - - well, some of us gotta have it”*
2. I am not a lawyer – but am with this cause (CV05297) seeking relief – for myself - from wrongs upon me by my government (prior judges) – and am now speaking before my government (you, Judge Metcalfe) – under my First Amendment Right – to “petition my government”.
3. This is a suit in “equity” – with no other “party” in this cause – and you “sitting as a magistrate” – with all the powers and duties thereof. There is nothing to “adjudicate”.
4. There being no “opposing party” – there are of course no restraints of “ex party” – on either of us - and I hereby give you full permission to inquire into any evidence or matter, talk to any party – including past judges, court personnel, past or present – including your inquiry into all matters regarding

me, whether in this court – or wherever – and strongly urge you to seek the assistance of the proper criminal authorities.

5. And as an assist – to you or whosoever – and to tell my story – there is of course my www.OpenJustice.US.

And again, I am not a lawyer.

a little bit of background
more at www.OpenJustice.US

This plum unlawful “stuff” has been ongoing upon me for TWENTY YEARS – ever since that 1995 fraudulent suit against me – No. 95-63 in the 294th District Court of Van Zandt County – unlawfully and wrongly accusing me of “unlawfully and wrongly” violating Section 11.086 of the Texas Water code – for having “allowed” natural BEAVERS, to build a natural BEAVER DAM – in a natural creek – all without my permission – of course. **All barratry!** www.OpenJustice.US

All week jury trial on that one – and tying me up in this “damn courthouse” - to this very day. For details - just google on “damn courthouse” – and find www.OpenJustice.US.

And the whole court – judge after judge after judge – coming down upon me (and ongoing in this very cause) – for having vigorously defended myself – as a Pro Se. (Complaint re “vexatious litigant” – www.OpenJustice.U)

And in the underlying cause to this cause – No. 00-00619 in the 294th – that cause itself against me WITHOUT CAUSE – me FINED \$500,000 or so – for being “well-intentioned” – in making a counter-claim – such FINE being PLUM UNLAWFUL – under the First Amendment – and Right to due process.

All week jury trial on that one, too.

*“In assessing the **sanctions**, the Court has taken into consideration that although Mr. Birrbaum may be **well-intentioned** and may believe that he **had** some kind of real claim as far as RICO there **was** nothing presented to the court in any of the proceedings since I’ve been involved **that suggest** he **had** any basis in law or **in fact** to support his **suits** against the individuals, **and I think** – can find that such **[\$62,885] sanctions** as I’ve determined are appropriate”.*

(Transcript, Sanction hearing July 30, 2002)

Was of course a jury trial – so why was Judge Paul Banner “weighing” the evidence (“that suggest”)? And a [\$62,885] sanction, for “past conduct” and not “coercive” in nature, i.e. no “keys to own release” – by civil process? PLUM UNLAWFUL.

See my criminal complaint re Judge Paul Banner – www.OpenJustice.US

And even – in THIS cause, CV05297 in this Court at Law – been wrongfully branded and turned in to the State of Texas - as one of those awful “vexatious litigants” – to be put on their web site “black list” – all without cause – all “unconditional” – no “keys to own release” – unlawful by civil process – per US Supreme Court - regardless of what Texas law says!

Déjà vu – all over again – Pogo. (Details – my criminal complaint upon (3rd) judge Joe Leonard – www.OpenJustice.US.)

Thru the prism of the “vexatious litigant” in this cause

a microcosm of what this cause is all about:

Regarding (3rd) judge Joe Leonard so arrogantly and without cause branding and demeaning me as a “vexatious litigant” – just because he has the power to do so – by the mere waving of a pen –

- and (4th) judge Richard Mays so flippantly disposing of the serious crime by (3rd) judge Joe Leonard – against me and the dignity of the Right to free speech and due process – again by the mere waving of a pen - when his very “assignment” – by Judge Mary Murphy -

– was by reason of her removing (3rd) judge Joe Leonard – immediately – and upon my criminal complaint to her – without Judge Murphy – or Judge Mays – giving a hoot about the serious pattern of crime before them – that takes the cake – conscious indifference to the Law of the Land!

- but it is a perfect microcosm of what was going on in the 294th in cause No. 00-619 – between Judge Paul Banner, Judge Ron Chapman – and again Judge Mary Murphy in that cause -

- a suit upon me - by my ex-lawyer, a G. David Westfall, claiming an unpaid “open account” – for legal fees (there ain’t no such animal!) – and with plum

fraudulent jury instructions and questions – by Judge Paul Banner, getting **\$85,000** – then a plum fraudulent FINE of **\$62,885** – topped by a FINE of **\$125,770** (exactly double that) – upon a mere one page motion to recuse – TWO years later – on April 1, 2004. – all of which is the “issue” – the only issue - in this very cause – in the first place! For a quick intro, see Happy April Fools Day, at www.OpenJustice.US.

PRAYER

To sixth (6th) judge Don Metcalfe

FIVE (5) prior judges have more or less “voluntarily” recused themselves off this “tar baby” – and I, for one, can see why.

Because the matter in this cause is nothing less than my petitioning my government – in this case now you – about unlawful process upon me by my government – earlier judges - with all the criminal implications of me being punished for being a whistle blower.

Dear Judge Metcalfe – I Udo Birnbaum, humbly and sincerely suggest, that by reason of your freedom of “sitting as a magistrate” - i.e. no opposing “party” - you just simply bring this matter to the attention of the criminal authorities – I for one have not had much luck doing so from my lowly end.

Such would surely be easier on the both of us. I will be 79 this November – but will NOT be going away – NOT with \$700,000 in “judgments” – unlawful on their face. You, of similar “maturity”.

And, as an aside, I have just paid the jury fee, and as I understand the law, the Texas Constitution is unique among the states, in providing for the “inviolable right of trial by jury”, whether the cause is one of common law, or of equity – such as this one – except as for such laws as the legislature has provided to “regulate” such - as by motion for summary judgment, etc – for which there is, in this cause, no opposing party to raise such matter.

I, for one, have no suggestion, other than having a trial.

And as a notice, regarding no opposing party – and not even a lawyer in this cause – regarding, pardon my phrase of “crow-eating-Order”, regarding the matter of “vexatious litigant” – please refer to fourth (4th) judge Richard Mays Oct. 24, 2015 Order, under belabored title of Amended Order Vacating and Setting Aside Prefiling Order and Amended Prefiling Order – ordering the “District Clerks” (plural) – to be “**immediately** sending a copy

of this order etc” – all without same fourth (4th) judge Richard Mays addressing any of ALL THE PLEADING OF UNLAWFUL IN THIS CAUSE – vanishing off the case – and fifth (5th) Judge Joe Clayton next – and now YOU.

And all such with very fourth (4th) Judge Richard Mays having been put on this “tar baby” – by Judge Mary Murphy – immediately upon my sworn Criminal Complaint of Official Oppression and Abuse of Official Capacity upon Udo Birnbaum – upon (3rd) Judge Joe Leonard, and again without Judge Mary Murphy or third (3rd) judge Joe Leonard and then thereafter fourth (4th) judge Richard Mays, and your immediate predecessor, (5th) judge Joe Clayton – having in any manner whatsoever – having touched any of ALL THE PLEADINGS OF UNLAWFUL IN THIS CAUSE:

“Being advised of the pleadings, parties, issues, and subject matter of the above case, the undersigned voluntarily recuses himself from hearing any matters in this cause, and etc” – Judge Joe Clayton, 17 Nov. 2015.

Much same regarding first (1st) judge Teresa Drum, second (2nd) judge Randall McDonald, etc. CEASE AND DESIST – www.OpenJustice.US.

Prayer (continued)

Anyhow, as a non-lawyer, for the life of me, I cannot understand why you, Judge Don Metcalfe, at your likewise stage of life, would want to sit on this matter – as the sixth (6th) judge on this cause.

In the alternative – I request a timely setting for “pre-trial” and trial.

Under either scenario - this communication also as Notice and Warning.

This the 30th day of November, 2015.

Sincerely and respectfully,

Udo Birnbaum

Udo Birnbaum, Pro Se
540 VZ County Road 2916
Eustace, TX 75124
903-479-3929
brnbm@aol.com

ATTACH – www.OpenJustice.US - by reference

Subj: **CV05297 - REQUEST TO SET TRIAL**
Date: 11/30/2015 3:13:45 A.M. Central Standard Time
From: Brnbnm@aol.com
To: mbarker@vanzandtcounty.org

11-30-2015

re: **CV05297**
Birnbaum vs Three Pieces of Paper

Ms. Barker,

Trying to cut down on the running around.

So herewith e-request to set for Trial / Pretrial.

Suggest you forward "as is" to Judge Metcalfe including attach.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
BRNBNM@AOL.COM

Subj: **CV05297 - your call**
Date: 12/2/2015 2:03:26 P.M. Central Standard Time
From: Brnbm@aol.com
To: mmurphy@firstadmin.com

12-2-2015

to: Judge Mary Murphy

re: CV05297 - your call

Please tell me again what it was you wanted me to do.

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbm@aol.com

No. CV05297

Udo Birnbaum

)

In the

vs.

)

County Court at Law

Christina Westfall et al.

)

Van Zandt County, Texas

FILED FOR RECORD
2015 DEC - 3 AM 10: 29
CLERK VAN ZANDT CO

Order Regarding Plaintiff's Request for Pre-trial and Trial Settings

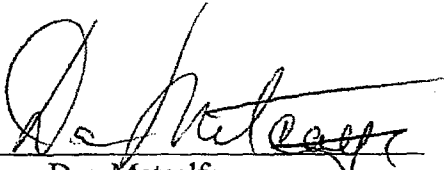
Plaintiff in the above cause has notified the Court that he requests settings for pre-trial hearing and for jury trial.

Plaintiff seeks to have judgments vacated. A review of the file indicates that service of process has not been perfected on the individuals holding said judgments.

Until service is perfected, and those individuals have had the opportunity in law to appear and answer in this cause, the Court is without authority to act *ex parte* by setting this cause for hearing or trial.

Plaintiff's request for settings will be held in abeyance until the holders of these judgments have had the opportunity to appear and answer. When service is perfected and that opportunity has occurred, Plaintiff may renew his requests for settings.

SIGNED this 2 day of December, 2015.


Don Metcalfe
Senior District Judge
Sitting by Assignment

Subj: **RE: CV05297 - your call**
Date: 12/3/2015 8:40:34 A.M. Central Standard Time
From: mmurphy@firstadmin.com
To: Brnbm@aol.com

Good morning Mr. Birnbaum:

I apologize for not responding to your email late yesterday, but I was not back in the office to respond last night. I also understand you are currently the only party in the case and there would be no other party to copy on my communication to you. I am forwarding a copy of this email to Judge Metcalf and to the court coordinators for the county court at law the district court in Van Zandt County.

I need to transfer your case back to the district court as an administrative matter. Judge Don Metcalf remains the judge assigned to the case and I will assign him to the district court as well.

The reason for the transfer is because your case originally was filed by you in the district court and was transferred administratively only because of the original recusal by Judge Drum. Van Zandt County **does not have the budget to pay for the visiting judges** and returning the case to district court will allow me to approve the visiting judge pay sheets for forwarding to the State Comptroller.

I wanted to give you the head's up regarding the transfer in order to avoid any confusion. I will provide you copies of the orders forwarded to the court.

You do not need to do anything, except your filings will be in the district court and Judge Metcalf will hear matters through that court with your original case number.

If you have any questions or need information, please let me know.

Thank you.

Sincerely,

Mary Murphy
Presiding Judge
First Administrative Judicial Region
133 North Riverfront Blvd. LB 50
Dallas, TX 75207
214-653-2947
214-653-2957 (fax)
www.txcourts.gov/1ajr

From: Brnbm@aol.com [mailto:Brnbm@aol.com]
Sent: Wednesday, December 02, 2015 2:03 PM
To: Judge Mary Murphy
Subject: CV05297 - your call

12-2-2015

to: Judge Mary Murphy

re: CV05297 - your call

Please tell me again what it was you wanted me to do.

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbm@aol.com

Subj: **CCL Case #CV05297; 294th DC Case #14-00266; Birnbaum v. Westfall, et al.**
Date: 12/4/2015 11:53:53 A.M. Central Standard Time
From: mmurphy@firstadmin.com
To: mbarker@vanzandtcounty.org, kathyj@vanzandtcounty.org
CC: Brnbm@aol.com, Alisa.Frame@firstadmin.com, cshiver@firstadmin.com, mmurphy@firstadmin.com

All:

Attached in one pdf file are two orders. One order is an Administrative Order Transferring Case Back to the 294th Judicial District Court as the Originating Court. The order confirms that the case will proceed under the original cause number of 14-00266.

The second order is an Order of Assignment by the Presiding Judge assigning Senior District Judge Don Metcalf to the 294th Judicial District, so he continues as the assigned judge on the case. Please file these orders in the court records.

Mr. Birnbaum is copied on this email, providing him copies of the orders pursuant to my prior email. The information is being forwarded to Judge Metcalf by separate email.

Please let us know if you need additional information.

Thank you.

Mary Murphy
Presiding Judge
First Administrative Judicial Region
133 North Riverfront Blvd. LB 50
Dallas, TX 75207
214-653-2947
214-653-2957 (fax)
www.txcourts.gov/1ajr

Friday, December 4, 2015 AOL

NO. CV05297

UDO BIRNBAUM	§	IN THE COUNTY COURT
	§	
v.	§	AT LAW OF
	§	
CHRISTINA WESTFALL, ET AL.	§	VAN ZANDT COUNTY, TEXAS

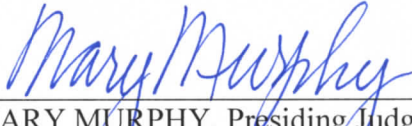
**ADMINISTRATIVE ORDER TRANSFERRING CASE BACK TO
294TH JUDICIAL DISTRICT COURT AS THE ORIGINATING COURT**

Plaintiff Udo Birnbaum filed this case in the 294th Judicial District Court of Van Zandt County, Texas, and the case was file-marked as Cause No. 14-00266. Based on the voluntary recusal of District Judge Teresa A. Drum, the undersigned administratively transferred the case to the County Court at Law on July 14, 2015, a court of concurrent jurisdiction, and the case received the above cause number. Thereafter, County Court at Law Judge Randal McDonald voluntarily recused from the case, and the undersigned, as the regional presiding judge, was required to assign visiting judges to the case because no other active judges in Van Zandt County have jurisdiction of the case.

It has come to the attention of the undersigned in an administrative capacity that Van Zandt County does not have the financial resources allocated to pay the costs of visiting judges. Accordingly, and because the Plaintiff filed this case in the 294th Judicial District, the undersigned finds the case should be returned to the court of original filing.

IT IS THEREFORE ORDERED that this case is transferred to the 294th Judicial District court under the original case number of 14-00266. This order is solely for administrative purposes and Senior District Judge Don Metcalf remains the judges presiding in this case. By separate order, Judge Metcalf is being assigned to the 294th Judicial District Court to continue his assignment to the case.

Signed this 4 day of December, 2015.



 MARY MURPHY, Presiding Judge
 First Administrative Judicial Region

**THE STATE OF TEXAS
FIRST ADMINISTRATIVE JUDICIAL REGION
ORDER OF ASSIGNMENT BY THE PRESIDING JUDGE**

Pursuant to Section 74.056, Texas Government Code, I assign the:

Honorable Don Metcalfe

Senior Judge of The Criminal District Court # 2

to the

294th District Court of Van Zandt County, Texas

This assignment is for the cause(s) and style(s) as stated in the conditions of assignment from this date until plenary power has expired or the undersigned Presiding Judge has terminated this assignment in writing, whichever occurs first.

CONDITION(S) OF ASSIGNMENT

Cause No. 14-00266; Udo Birnbaum v. Christina Westfall, et al.

In addition, whenever the assigned Judge is present in the county of assignment for a hearing in the above cause(s), the Judge is also assigned and empowered to hear, at that time, any other matters presented for hearing.

It is ordered that the Clerk of the court to which this assignment is made, if it is reasonable and practicable and if time permits, give notice of this assignment to each attorney representing a party to a case that is to be heard in whole or in part by the assigned Judge.

SIGNED: _____

Date

December 4, 20 *15*

Mary Murphy

Mary Murphy, Presiding Judge
First Administrative Judicial Region of Texas

Assign# 25932

Subj: **14-00266 - Birnbaum vs. Christina Westfall et al.**
Date: 12/8/2015 11:21:41 A.M. Central Standard Time
From: Brnbn@aol.com
To: karen@vanzandtcounty.org

12-8-2015

No. 14-00266 Udo Birnbaum vs. Christina Westfall et al.

Ms. Wilson,

Judge Metcalfe wants me to perfect process upon "the individuals holding said judgments".

Besides me not knowing just how they have juggled things -

- these Westfall "individuals" are NOT defendants in this matter.

What do I need to provide to you - to "perfect process"?

I earlier left a message regarding this matter.

Just email reply enough.

Thank you,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbn@aol.com

Subj: **RE: 14-00266 - Birnbaum vs. Christina Westfall et al.**
Date: 12/8/2015 3:29:49 P.M. Central Standard Time
From: karen@vanzandtcounty.org
To: Brnbn@aol.com

Udo,

Let me look at the case and see if I can figure it out for you!!!

We are having criminal court today, so it is busy.

Karen Wilson
District Clerk
Van Zandt County

From: Brnbn@aol.com [mailto:Brnbn@aol.com]
Sent: Tuesday, December 08, 2015 11:22 AM
To: Karen Wilson
Subject: 14-00266 - Birnbaum vs. Christina Westfall et al.

12-8-2015

No. 14-00266 Udo Birnbaum vs. Christina Westfall et al.

Ms. Wilson,

Judge Metcalfe wants me to perfect process upon "the individuals holding said judgments".

Besides me not knowing just how they have juggled things -

- these Westfall "individuals" are NOT defendants in this matter.

What do I need to provide to you - to "perfect process"?

I earlier left a message regarding this matter.

Just email reply enough.

Thank you,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbn@aol.com

Subj: **No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT**
Date: 12/8/2015 9:51:35 P.M. Central Standard Time
From: Brnbm@aol.com
To: mmurphy@firstadmin.com
CC: judgedrum@vanzandtcounty.org, rmcdonald@vanzandtcounty.org, karen@vanzandtcounty.org,
ppearman@vanzandtcounty.org, jdc@emafirm.com, Alisa.Frame@firstadmin.com,
cshiver@firstadmin.com, Lray@vanzandtcounty.org

12-9-2015

re: Udo Birnbaum vs Christina Westfall et al.
14-00266 - CV05297 - 14-00266
294th - Court at Law - 294th

ATTACH

Judge Mary Murphy,

Attached hereto **sworn complaint re Judge Joe Leonard** as to you on 10-21-2015.

You on same day terminated Judge Leonard, and assigned Judge Richard Mays.

Also on same day appointed Judge Mays as local administrative judge -

- for me, and me alone.

PLEASE ADVISE RE STATUS OF MY COMPLAINT.

NOTE: "copy to" list herewith - same as "copy to" with 10-21-2014

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
BRNBM@AOL.COM

ATTACH

Subj: **RE: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT**
Date: 12/9/2015 8:50:28 A.M. Central Standard Time
From: mmurphy@firstadmin.com
To: Brnbn@aol.com
CC: judgetrum@vanzandtcounty.org, rmcdonald@vanzandtcounty.org, karen@vanzandtcounty.org,
ppearman@vanzandtcounty.org, jdc@emafirm.com, Alisa.Frame@firstadmin.com,
cshiver@firstadmin.com, Lray@vanzandtcounty.org, mmurphy@firstadmin.com

Dear Mr. Birnbaum (copy all):

Complaints must be filed with the court clerks for the courts in which a complaint is being made. The following web site of the Texas Office of Court Administration provides resources and references.
<http://www.txcourts.gov/>

Sincerely,

Mary Murphy
Presiding Judge
First Administrative Judicial Region
133 North Riverfront Blvd. LB 50
Dallas, TX 75207
214-653-2947
214-653-2957 (fax)
www.txcourts.gov/1ajr

From: Brnbn@aol.com [mailto:Brnbn@aol.com]
Sent: Tuesday, December 08, 2015 9:52 PM
To: Judge Mary Murphy
Cc: judgetrum@vanzandtcounty.org; rmcdonald@vanzandtcounty.org; karen@vanzandtcounty.org;
ppearman@vanzandtcounty.org; jdc@emafirm.com; Alisa Frame; Candy Shiver;
Lray@vanzandtcounty.org
Subject: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT

12-9-2015

re: Udo Birnbaum vs Christina Westfall et al.
14-00266 - CV05297 - 14-00266
294th - Court at Law - 294th

ATTACH

Judge Mary Murphy,

Attached hereto sworn complaint re Judge Joe Leonard as to you on 10-21-2015.

You on same day terminated Judge Leonard, and assigned Judge Richard Mays.

Also on same day appointed Judge Mays as local administrative judge -

- for me, and me alone.

PLEASE ADVISE RE STATUS OF MY COMPLAINT.

NOTE: "copy to" list herewith - same as "copy to" with 10-21-2014

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
BRNBM@AOL.COM

ATTACH

FILED FOR RECORD
15 DEC 11 PM 3:31
KAREN WILSON
DIST CLERK VAN ZANDT CO TX
BY _____

No. 14-00266

UDO BIRNBAUM	\$	
Plaintiff	\$	IN THE DISTRICT COURT
v.	\$	
	\$	
Christina Westfall, Stefani Podvin, and	\$	294th JUDICIAL DISTRICT
Frank C Fleming	\$	
“The Westfall Bunch”, reference only	\$	VAN ZANDT COUNTY,
	\$	TEXAS
THREE PIECES OF PAPER	\$	
At Issue (“defendants”?)	\$	

RENEWED REQUEST FOR SETTINGS

holders of these judgments have had the opportunity to appear and answer

TO THIS HONORABLE COURT:

This Court’s Order Regarding Plaintiff’s Request for Pre-trial and Trial Settings held that “*Plaintiff’s request for settings will be held in abeyance until the holders of these judgments have had the opportunity to appear and answer.*” (attached)

These judgment holders have, however, not only “*had the opportunity to appear and answer*” – but have in fact already appeared and answered:

FRANK C FLEMING, their attorney, upon receiving Notice of Setting for Plea to the Jurisdiction and Sanity before Judge Joe M. Leonard for October 8, 2015, appeared by email identifying himself as the lawyer for these judgment holders. (attached)

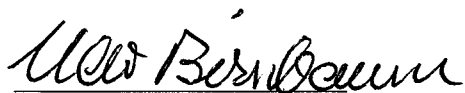
And on such October 8, 2015 actively participated, even giving testimony from the witness box.

It would appear, that such appearances and answers, both by email letter, and from the witness box, should satisfy all of the elements of those individuals having had the opportunity in law to appear and answer.

Plaintiff UDO BIRNBAUM moves for Pre-trial and Trial.

This the 11 day of December, 2015.

Sincerely,



UDO BIRNBAUM, Pro Se
540 VZ County Road 2916
Eustace, TX 75124
903-479-3929
brnbn@aol.com

attached:

Order Regarding Plaintiff's Request for Pre-trial and Trial Settings
Notice of Setting – Judge Joe Leonard – Oct. 8, 2015
Letter – via email – attorney Frank C. Fleming to the Court

No. CV05297

Udo Birnbaum

)

In the

vs.

)

County Court at Law

Christina Westfall et al.

)

Van Zandt County, Texas

FILED FOR RECORD
2015 DEC - 3 AM 10: 29
PAPER
CLERK VAN ZANDT CO

Order Regarding Plaintiff's Request for Pre-trial and Trial Settings

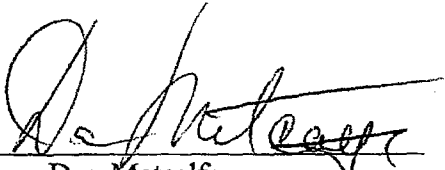
Plaintiff in the above cause has notified the Court that he requests settings for pre-trial hearing and for jury trial.

Plaintiff seeks to have judgments vacated. A review of the file indicates that service of process has not been perfected on the individuals holding said judgments.

Until service is perfected, and those individuals have had the opportunity in law to appear and answer in this cause, the Court is without authority to act *ex parte* by setting this cause for hearing or trial.

Plaintiff's request for settings will be held in abeyance until the holders of these judgments have had the opportunity to appear and answer. When service is perfected and that opportunity has occurred, Plaintiff may renew his requests for settings.

SIGNED this 2 day of December, 2015.


Don Metcalfe
Senior District Judge
Sitting by Assignment



JUDGE RANDAL L. McDONALD
COUNTY COURT AT LAW
121 EAST DALLAS STREET, ROOM 201
CANTON, TEXAS 75103
Voice: (903) 567-7988 ★ Fax: (903) 567-6854

MARY BARKER
COURT MANAGER

DIANA PEREIRA
OFFICIAL COURT REPORTER

September 25, 2015

NOTICE OF COURT SETTING

CAUSE NO. CV05297

UDO BIRNBAUM
Plaintiff

VS

CHRISTINA WESTFALL
STEFANI PODVIN
FRANK C FLEMING
Defendants


The above referenced civil matter is SET for hearing before the Court on the following action:

PLEA TO THE JURISDICTION AND SANITY: Thursday, October 8, 2015, at 10:30 A.M.

The Honorable Judge Joe Leonard will preside over this hearing, which will be held in the Van Zandt County Court courtroom, 121 E Dallas Street, Room 204, Canton, Texas 75103.

By copy of this notice, I am notifying all parties listed below.

Respectfully,


Mary E. Barker
Court Manager

Via Email: brnbm@aol.com
UDO BIRNBAUM, *Plaintiff, Pro Se*
540 VZCR 2916
EUSTACE, TX 75124

Via Email: jdc@emafirm.com
JASON CASSEL, *Attorney Pro Tem*
111 WEST TYLER STREET
LONGVIEW, TX 75606

Via Facsimile: (469) 327-2930
FRANK C FLEMING, *Defendant*
Attorney for Christina Westfall
& Stefani Podvin, Defendants
3326 ROSEDALE
DALLAS, TX 75205

FRANK C. FLEMING

ATTORNEY AT LAW

3326 Rosedale Dallas, Texas 75205
(214) 373-1234 Fax: 1-469-327-2930
lawyerfcf@gmail.com

September 28, 2015

VIA FAX: 903-567-6854

Mary Barker, Court Manager
District Court, Van Zandt County
121 East Dallas Street
Canton, TX 75103

Re: Cause No.: CV05297
 Udo Birnbaum
 v.
 Christina Westfall
 Stefani Podvin
 Frank C. Fleming

Dear Ms. Barker:

On Friday, September 25, 2015, you faxed me a Notice of Court Setting in the above referenced matter. However, I am not familiar with this matter. To my knowledge, neither I, nor my two clients, have ever been served with citation in this matter. I have never received any pleadings and I do not know anything about the issues that will be the subject of the hearing set for Thursday, October 8, 2015 at 10:30 A.M. I respectfully request that the hearing be postponed until such time as the plaintiff abides by the Texas Rules of Civil Procedure in bringing this action.

Please note that this plaintiff, Udo Birnbaum has been sanctioned on two separate occasions with respect to other legal matters he has attempted to bring against me and my clients. He has been deemed by two separate visiting judges in this court of being a vexatious litigant that brings forth frivolous claims. He has been sanctioned under Chapter 9 of the Civil Practices and Remedies Code in excess of \$150,000 for bringing unfounded and trumped up charges in an attempt to gain advantage in litigation.

I would welcome the opportunity to put Mr. Birnbaum's sanity at issue in court. However, based upon prior experiences with him, he is no doubt attempting to put Judge Banner's sanity on trial and not his own. At any rate, as much as I would enjoy the opportunity to be in court with Mr. Birnbaum and to see him make a complete fool of himself one more time, I would appreciate being relieved of the obligation to appear in your court next week until such time as Mr. Birnbaum follows the rules of court. Please forward my message to Judge Leonard as you deem appropriate.

If you have any questions do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Frank C. Fleming". The signature is written in a cursive style with some loops and flourishes.

FRANK C. FLEMING

Subj: **Re: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT**
Date: 12/13/2015 7:14:36 P.M. Central Standard Time
From: Brnbn@aol.com
To: brnbn@aol.com, mmurphy@firstadmin.com
CC: judgedrum@vanzandtcounty.org, rmcdonald@vanzandtcounty.org, karen@vanzandtcounty.org,
ppearman@vanzandtcounty.org, jdc@emafirm.com, Alisa.Frame@firstadmin.com,
cshiver@firstadmin.com, Lray@vanzandtcounty.org

12-14-2015

Re: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT

Judge Murphy, (copy all)

Could you have mistaken my inquiry – as a complaint – rather than as inquiry – upon my earlier complaint to you?

The difference is that one is a “complaint” in the ordinary course of affairs in the life of a court – like one party complaining of another – petitions, motions, and such.

The other one is a complaint about the court itself, about what should NOT be going on in a court – stuff like “inconsistent with due process”, official oppression, abuse of official capacity - as detailed in my earlier complaint to you in your supervisory administrative capacity.

So herewith, as attachment, my October 21, 2015 sworn complaint I was inquiring upon to you, So, once again -

PLEASE ADVISE RE STATUS OF MY COMPLAINT.

RE-ATTACH of such Oct. 21, 2015

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
BRNBN@AOL.COM

In a message dated 12/9/2015 8:50:28 A.M. Central Standard Time, mmurphy@firstadmin.com writes:

Dear Mr. Birnbaum (copy all):

Complaints must be filed with the court clerks for the courts in which a complaint is being

made. The following web site of the Texas Office of Court Administration provides resources and references. <http://www.txcourts.gov/>

Sincerely,

Mary Murphy

Presiding Judge

First Administrative Judicial Region

133 North Riverfront Blvd. LB 50

Dallas, TX 75207

214-653-2947

214-653-2957 (fax)

www.txcourts.gov/1ajr

From: Brnbm@aol.com [mailto:Brnbm@aol.com]

Sent: Tuesday, December 08, 2015 9:52 PM

To: Judge Mary Murphy

Cc: judgedrum@vanzandtcounty.org; rmcDonald@vanzandtcounty.org; karen@vanzandtcounty.org; ppearman@vanzandtcounty.org; jdc@emafirm.com; Alisa Frame; Candy Shiver; Lray@vanzandtcounty.org

Subject: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT

12-9-2015

re: Udo Birnbaum vs Christina Westfall et al.

14-00266 - CV05297 - 14-00266

294th - Court at Law - 294th

ATTACH

Judge Mary Murphy,

Attached hereto sworn complaint re Judge Joe Leonard as to you on 10-21-2015.

You on same day terminated Judge Leonard, and assigned Judge Richard Mays.

Also on same day appointed Judge Mays as local administrative judge -
- for me, and me alone.

PLEASE ADVISE RE STATUS OF MY COMPLAINT.

NOTE: "copy to" list herewith - same as "copy to" with 10-21-2014

Sincerely,

UDO BIRNBAUM

540 VZ County Road 2916

Eustace, TX 75124

903 479-3929

BRNBM@AOL.COM

ATTACH

Subj: **RE: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT**
Date: 12/14/2015 9:33:44 A.M. Central Standard Time
From: mmurphy@firstadmin.com
To: Brnbm@aol.com
CC: judgedrum@vanzandtcounty.org, rmcdonald@vanzandtcounty.org, karen@vanzandtcounty.org,
ppearman@vanzandtcounty.org, jdc@emafirm.com, Alisa.Frame@firstadmin.com,
cshiver@firstadmin.com, Lray@vanzandtcounty.org

Complaints must be filed in a court if action is sought by a court or with a Commission charged with processing specific types of complaints, such as the Judicial Conduct Commission. This office does not have that type of authority.

Sincerely,

Mary Murphy
Presiding Judge
First Administrative Judicial Region
133 North Riverfront Blvd. LB 50
Dallas, TX 75207
214-653-2947
214-653-2957 (fax)
www.txcourts.gov/1ajr

From: Brnbm@aol.com [mailto:Brnbm@aol.com]
Sent: Sunday, December 13, 2015 7:15 PM
To: brnbm@aol.com; Judge Mary Murphy
Cc: judgedrum@vanzandtcounty.org; rmcdonald@vanzandtcounty.org; karen@vanzandtcounty.org; ppearman@vanzandtcounty.org; jdc@emafirm.com; Alisa Frame; Candy Shiver; Lray@vanzandtcounty.org
Subject: Re: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT

12-14-2015

Re: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT

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Monday, December 14, 2015 AOL

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RE-ATTACH of such Oct. 21, 2015

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UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
BRNBM@AOL.COM

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Sincerely,

Mary Murphy
Presiding Judge
First Administrative Judicial Region
133 North Riverfront Blvd. LB 50
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From: Brnbn@aol.com [<mailto:Brnbn@aol.com>]
Sent: Tuesday, December 08, 2015 9:52 PM
To: Judge Mary Murphy
Cc: judgetrum@vanzandtcounty.org; rmcdonald@vanzandtcounty.org; karen@vanzandtcounty.org; ppearman@vanzandtcounty.org; jdc@emafirm.com; Alisa Frame; Candy Shiver; Lray@vanzandtcounty.org
Subject: No. 14-00266 - INQUIRY re CRIMINAL COMPLAINT

12-9-2015

re: Udo Birnbaum vs Christina Westfall et al.
14-00266 - CV05297 - 14-00266
294th - Court at Law - 294th

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Attached hereto sworn complaint re Judge Joe Leonard as to you on 10-21-2015.

Monday, December 14, 2015 AOL

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Also on same day appointed Judge Mays as local administrative judge -
- for me, and me alone.

PLEASE ADVISE RE STATUS OF MY COMPLAINT.

NOTE: "copy to" list herewith - same as "copy to" with 10-21-2014

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929

BRNBM@AOL.COM

ATTACH

Subj: **Re: PLEA TO THE JURISDICTION AND SANITY - CV05297**
Date: 12/21/2015 12:37:24 A.M. Central Standard Time
From: Brnbn@aol.com
To: jdc@emafirm.com
CC: amw@emafirm.com

12-21-2015

Mr. Cassel,

It has been over two months since this email.

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbn@aol.com

In a message dated 9/30/2015 2:09:51 P.M. Central Standard Time, jdc@emafirm.com writes:

Mr. Birnbaum,

I was appointed to investigate the complaints alleging official oppression you have made against Chris Martin and Judge Paul Banner.

I'm in the middle of a death penalty trial in Smith County. I have reviewed a substantial amount of paperwork in your case. As soon as my trial is over, I will get in touch with you to ensure I understand your position. Thank you.

Jason D. Cassel,
Sent from my iPhone

> On Sep 30, 2015, at 3:04 PM, "Brnbn@aol.com" <Brnbn@aol.com> wrote:

>

>

> 9-30-2015

>

> To: JASON CASSEL, Attorney Pro Tem – jdc@emafirm.com

> Copy: MARY BARKER, Court Manager, Van Zandt County Court at Law

> mbarker@vanzandtcounty.org

>

>

> Re: No. CV05297 Van Zandt County Court at Law

> Hearing for Oct. 8, 10:30 a.m.

> "Plea to the Jurisdiction and Sanity"

>

>

> Copy: TERESA DRUM – 294th District Judge - judgetrum@vanzandtcounty.org

> kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

>

> MARY MURPHY – Presiding Judge, First Administrative Judicial Region

> mmurphy@firstadmin.comtadmin.com

>

> KAREN WILSON - 294th District Clerk

> karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

>

> PAM PEARMAN – Van Zandt County Clerk

> ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

Monday, December 21, 2015 AOL

- >
- > CHRIS MARTIN – Van Zandt County District Attorney
- > chrismartin@vanzandtcounty.org
- >
- > LINDSAY RAY – Van Zandt County Sheriff
- > Lray@vanzandtcounty.org, vzsoadmin@vanzandtcounty.org
- >
- > MICHAEL BATES – Van Zandt County Sheriff's Office
- > Mbates@vanzandtcounty.org
- >
- > MICHAEL KING – Canton Police – mking@cantontex.com

> Mr. Jason Cassel,

> So that you may act fully informed, herewith a copy of the ENTIRE FILE in CV05297 - as a single PDF document - no separation between documents.

> I call particular attention - at the very end of the PDF - to the recent letter to Ms. Barker, Court Administrator, by a Frank C. Fleming - and also to my sworn complaints regarding him – and others - somewhere in the pile.

> And as a Pro Tem – I assume you were appointed to represent the State – as this cause - is essentially that what the State (the court) did upon me is unlawful.

> For your information, this stuff has been going on upon me for TWENTY years – starting in 1995 when I was sued - for ME violating Section 11.086 of the Texas Water Code – because of a natural dam - built by natural BEAVERS - on a natural creek.

> So again, so you may be fully informed, herewith copy of the ENTIRE FILE in CV05297. Documents referenced therein freely available at www.OpenJustice.US - or to get there - just google on the likes of “damn courthouse”, “damn courthouse criminals”, “beaver dam scheme”, “beavers lawyers fire ants”, “Presiding Pumpkin”, “Judge Poopi Poopcicle”, “District Judge Abcde Fghjk” – or just my name, or the judges associated with the unlawful pieces of paper at issue (“judgments”, “orders”, “orders on motions for sanctions”, “sanction judgments”) in this cause -

> - for just a small measure of this cancer in this court.

> Sincerely,

> UDO BIRNBAUM, Pro Se
> 540 VZCR 2916
> Eustace, TX 751241
> (903) 479-3929
> brnbm@aol.com

> Attach: File CV05297 – as single PDF – no separation between the documents

> 9-30-2015

>

> To: JASON CASSEL, Attorney Pro Tem – jdc@emafirm.com

> Copy: MARY BARKER, Court Manager, Van Zandt County Court at Law
> mbarker@vanzandtcounty.org

>

>

> Re: No. CV05297 Van Zandt County Court at Law

> Hearing for Oct. 8, 10:30 a.m.

> "Plea to the Jurisdiction and Sanity"

>

>

> Copy: TERESA DRUM – 294th District Judge - judgedrum@vanzandtcounty.org

> kathyj@vanzandtcounty.org, kjackson@vanzandtcounty.org

>

> MARY MURPHY – Presiding Judge, First Administrative Judicial Region

> mmurphy@firstadmin.com, shughes@firstadmin.com

>

> KAREN WILSON - 294th District Clerk

> karen@vanzandtcounty.org, districtclerk@vanzandtcounty.org

>

> PAM PEARMAN – Van Zandt County Clerk

> ppearman@vanzandtcounty.org, countyclerk@vanzandtcounty.org

>

> CHRIS MARTIN – Van Zandt County District Attorney

> chrismartin@vanzandtcounty.org

>

> LINDSAY RAY – Van Zandt County Sheriff

> Lray@vanzandtcounty.org, vzsoadmin@vanzandtcounty.org

>

> MICHAEL BATES – Van Zandt County Sheriff's Office

> Mbates@vanzandtcounty.org

>

> MICHAEL KING – Canton Police – mking@cantontex.com

>

>

>

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>

Monday, December 21, 2015 AOL

> - for just a small measure of this cancer in this court.

>

>

> Sincerely,

>

>

> UDO BIRNBAUM, Pro Se

> 540 VZCR 2916

> Eustace, TX 751241

> (903) 479-3929

> brnbm@aol.com

>

>

> Attach: File CV05297 – as single PDF – no separation between the documents

>

> <150930_CV05297_FILE_Van_Zandt_Court_at_Law.pdf>

Subj: **re Judge Banner - UPDATE**
Date: 12/21/2015 1:35:24 A.M. Central Standard Time
From: Brnbn@aol.com
To: jdc@emafirm.com
CC: amw@emafirm.com

12-21-2015

Mr. Cassel,

Just recently acquired knowledge of this document where they actually got the District Clerk to do actual EXECUTION **upon such ORDER** as Judge Banner REVIVED on November 14, 2014 as detailed in my complaint.

Attached is copy of such August 17, 2015 Writ of Execution with my marking.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbn@aol.com

Monday, December 21, 2015 AOL

Subj: **re role of Judge Banner - re ANOTHER complaint**
Date: 12/21/2015 2:18:11 A.M. Central Standard Time
From: Brnbn@aol.com
To: jdc@emafirm.com
CC: amw@emafirm.com

12-21-2015

Mr. Cassel,

Attached is another complaint - regarding this same whole matter.

This one - upon "securing execution of document by deception" -

- details the role of Judge Banner.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbn@aol.com

ATTACH

Subj: **Re: 14-00266 - BIRNBAUM vs etc - HOW TO PERFECT SERVICE**
Date: 1/7/2016 2:46:46 A.M. Central Standard Time
From: Brnbn@aol.com
To: karen@vanzandtcounty.org, kathyj@vanzandtcounty.org

1-7-2016

to: Karen Wilson, District Clerk 294th
Kathy Jackson, Court Coordinator, 294th

re: 14-00266 Birnbaum vs Christina Westfall etc
HOW TO "PERFECT SERVICE" - under the particulars of this cause
(per Judge Metcalfe Order 12-2-2015 - ATTACHED)

Ms. Wilson,

Once again - I need to know what I need to provide to you to "perfect service" upon the "holders of these judgments" per Judge Metcalfe Order - these "holders of these judgments" NOT BEING DEFENDANTS.

Seems obvious to this Pro Se that this is not possible - nor necessary - the issue - the ONLY issue - in this cause being that **what this Court did under Judge Paul Banner and Judge Ron Chapman** is "inconsistent with due process, unlawful, criminal, and void".

And since I cannot communicate with Judge Metcalfe except through your Office - the buck on this lands on your YOUR DESK.

So, please either:

1. Advise me what I need to provide to you - to "perfect service",
2. Provide me with some sort of document - which I can provide - through your Office - to Judge Metcalfe - to show him, that what he wants me to do, is not possible.
3. Else, work this out with Judge Metcalfe - i.e. if he wants them "in" - maybe he can find some way to get them "in" on the case - something like as a witness only - but then - I am not a lawyer.

As explanation - I am not trying to take these "pieces of paper" ("judgments") away from anybody - just to declare them as what they have always been - "inconsistent with due process of law" - NOT "voidable" - but VOID and UNLAWFUL "pieces of paper" - from the beginning.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916

Eustace, TX 75124
903 479-3929
brnbm@aol.com

ATTACH - Judge Metcalfe Order 12-2-2015

Udo

Let me look at the case and see if I can figure it out for you!!!

We are having criminal court today, so it is busy.

Karen Wilson

District Clerk

Van Zandt County

From: Brnbm@aol.com [mailto:Brnbm@aol.com]
Sent: Tuesday, December 08, 2015 11:22 AM
To: Karen Wilson
Subject: 14-00266 - Birnbaum vs. Christina Westfall et al.

12-8-2015

No. 14-00266 Udo Birnbaum vs. Christina Westfall et al.

Ms. Wilson,

Judge Metcalfe wants me to perfect process upon "the individuals holding said judgments".

Besides me not knowing just how they have juggled things -

- these Westfall "individuals" are NOT defendants in this matter.

What do I need to provide to you - to "perfect process"?

I earlier left a message regarding this matter.

Just email reply enough.

Thank you,

UDO BIRNBAUM

540 VZ County Road 2916

Eustace, TX 75124

903 479-3929

brnbm@aol.com

Subj: **NOTICE Securing Execution by Deception Judge Banner**
 Date: 2/3/2016 11:34:24 P.M. Central Standard Time
 From: Brnbn@aol.com
 To: karen@vanzandtcounty.org, judgetrum@vanzandtcounty.org, mmurphy@firstadmin.com,
ppearman@vanzandtcounty.org, lray@vanzandtcounty.org, chrismartin@vanzandtcounty.org,
jdc@emafirm.com

ATTACHED - signed PDF with 6 page attach
 just "pasted" here - formatting may be lost

2-4-2016

To: **Karen Wilson**, Clerk 294th District Court
Teresa Drum, District Judge, 294th District Court
Mary Murphy, Presiding Judge, First Administrative Judicial Region
Pam Pearman, Clerk Van Zandt County Court
Lindsay Ray, Sheriff, Van Zandt County
Chris Martin, District Attorney, Van Zandt County
Jason Cassel, Attorney Pro Tem

from: **Udo Birnbaum**

re: **Crime of Securing Execution of Document by Deception – by Judge Banner**
 Unlawful Order on Motion for Sanctions “revived” as “Sanctions Judgment” - to deceive the Clerk into accepting it as a bona fide judgment and issue Execution – which the Clerk did

Synopsis

What was in it – for Judge Banner?

As clearly caught by the Court Reporter, Judge Banner’s **motive**, was to **punish** (“sanction”) Birnbaum for having made a civil RICO counter-claim. The simple **means** was to arm “The Westfalls” with a fraudulent [\$62,885.00] Order on Motion for Sanctions”, deceptively “revive” such as “Sanctions Judgment” – and let the natural court process – via “The Westfalls” - take it from there. The Clerk takes the document as a bona fide judgment, issues Execution, sends a sheriff with a badge and a gun, and presto – Birnbaum is **punished** – with no money trail leading back to Judge Banner. Means, motive, and opportunity.

Filing a lawsuit is a First Amendment Right. Unconditional punishment (not “coercive”, “keys to own release”) is forbidden by civil process. US Supreme Court.

Ladies and Gentlemen:

Hereby **NOTICE**, that on or about August 17, 2015, in the 294th District Court of Van Zandt County, a fraudulent document assessing unconditional punishment upon me of \$62,885, plus 10% interest since 2002, such document titled **Order on Motion for SANCTIONS**, was deceptively presented to the Clerk of Court as a bona fide revived JUDGMENT, and the Clerk of Court did then and thereupon issue **Writ of Execution**.

Such **Order on Motion for Sanctions** had, however, been long ago, determined by the Fifth Court of Appeals in Dallas, Texas, to be **NOT consistent with due process**:

AFFIRMED; Opinion issued October 23, 2003. In The Court of Appeals Fifth District of Texas at Dallas No. 05-02-01683-CV UDO BIRNBAUM, Appellant V. THE LAW OFFICES OF G. DAVID WESTFALL, P.C., G. DAVID WESTFALL, CHRISTINA WESTFALL, AND STEFANI PODVIN,

Appellees. On Appeal from the 294th Judicial District Court Van Zandt County, Texas Trial Court Cause No. 00-00619 OPINION Before Justices Whittington, Wright, and Bridges Opinion By Justice Whittington

Sanctions Order

In his fourth issue, Birnbaum complains of the order imposing sanctions against him in favor of Christina Westfall and Podvin. He argues the sanction order is unlawful because it is a criminal sanction “imposed without full due criminal process,” and does not state the basis for the sanctions award as required by rule 13 of the Texas Rules of Civil Procedure. **We agree with Birnbaum that the trial court's order awards sanctions without stating the basis for the award, and therefore does not meet the requirements of rule 13.** See *Murphy v. Friendswood Dev. Co.*, 965 S.W.2d 708, 709-10 (Tex. App.-Houston [1st Dist.] 1998, no pet.) (“**Rule 13 is clear:** the particulars of good cause 'must be stated in the sanction order.' . . . [T]he order here did not recite the particular reasons supporting good cause to issue the sanctions and did not include findings of fact and conclusions of law supporting good cause . . . **we hold that the sanction order does not comply with Rule 13.**”). (emphasis added)

Knowledge of the unlawfulness of this **Order on Motion for Sanctions**, by the authors of this document, is of course clearly indicated by the very **non-inclusion** in this Order, of the “*basis for the award*” – as clearly stated by Judge Paul Banner – at the very end of the Sanctions hearing – that he assessed this sanction **not upon conduct** (“*well-intentioned*”) – but purely as a **punishment** for Birnbaum having made a **civil RICO counter-claim**, a First Amendment Right!

*In assessing the sanctions, the Court has taken into consideration that although Mr. Birnbaum may be **well-intentioned** and may believe that he **had** some kind of real claim as far as RICO there **was** nothing presented to the court in any of the proceedings since I've been involved that suggest he **had** any basis in law or **in fact** to support his **suits** against the individuals, and I think – can find that such sanctions as I've determined are appropriate.* (Transcript, end of Sanctions hearing July 30, 2002)

Such **void, voided, and fraudulent** document titled **Order on Motion for SANCTIONS** was on or about such 17th day of August, 2015, knowingly and deceptively presented to the Clerk of Court as a bona fide **judgment**, and the Clerk did thereon issue **Writ of Execution of JUDGMENT**.

Such **void, voided, and fraudulent** document titled **Order on Motion for SANCTIONS** – was fraudulently **REVIVED** – by **writ of scire facias to revive JUDGMENT** – by Judge Paul Banner – on November 14, 2014. Think about it – an Order in need of “revival”? Something REALLY STINKS!

Summary

Judge Paul Banner – as a principal:

Arming “The Westfall Bunch” with a fraudulent [\$62,885.00] **Order on Motion for Sanctions** – **reviving** same on Nov. 14, 2014 as “**Sanction Judgment**” – to let the natural court process accomplish his evil and unlawful scheme – of punishing Birnbaum for having dared to make a civil RICO counter-claim. But still, “Securing Execution of Document by Deception”. Penal Code Sec. 32.46, Felony 2nd Deg (because of the huge sums with 10% interest since 2002)

Judge Banner was clearly WARNED

REAL AUDIO – a doozy – Hearing before **Judge Paul Banner** Nov. 14, 2014. Judge Banner

taunting me – with me finally reading him “the riot act” – Judge Banner nevertheless REVIVING his own fraudulent 2002 Order on Motion for Sanctions. At www.OpenJustice.US. (www.CourthouseAwarenessNews.com) **A MUST HEAR!**

And for pure fun, go google on “presiding pumpkin”, or plain “damn courthouse”.

Also Hearing before **Hon. John McCraw**, with **Judge Banner** present. REAL GOOD LAW IN THERE. Judge McCraw told me, that next time, I’d better bring my toothbrush – for SIX MONTH in the County Jail – but he was a nice man. Avid dinosaur bone enthusiast - probably better informed about that.

So, **Ladies and Gentlemen**, please act accordingly. And, be sure you understand, that I cannot make these huge fraudulent assessments – close to \$500,000.00 in all – go away upon me – by simply shutting up.

-

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
brnbn@aol.com

-

ATTACH:

- Order on Motion for Sanctions – Sept. 9, 2002
- Writ of Execution - Aug. 17, 2015 – on the “revived” 2002 Order on Motion for Sanctions
- Court Reporter - Sanction Hearing – July 30, 2002 – **“well-intentioned”** counter-claim
- Order Reviving Judgment – Nov. 14, 2014 – reviving the 2002 Order on Motion for Sanctions, and legitimizing it as “sanction judgment”

Subj: **Re: 14-00266 - BIRNBAUM vs etc - HOW TO PERFECT SERVICE**
 Date: 2/5/2016 12:57:26 A.M. Central Standard Time
 From: Brnbn@aol.com
 To: karen@vanzandtcounty.org, kjackson@vanzandtcounty.org

2-5-2016

ONCE AGAIN, SAME REQUEST

re: Judge Metcalfe Order - once again attached

Udo

In a message dated 1/7/2016 2:46:46 A.M. Central Standard Time, Brnbn@aol.com writes:

1-7-2016

to: Karen Wilson, District Clerk 294th
 Kathy Jackson, Court Coordinator, 294th

re: 14-00266 Birnbaum vs Christina Westfall etc
 HOW TO "PERFECT SERVICE" - under the particulars of this cause
 (per Judge Metcalfe Order 12-2-2015 - ATTACHED)

Ms. Wilson,

Once again - I need to know what I need to provide to you to "perfect service" upon the "holders of these judgments" per Judge Metcalfe Order - these "holders of these judgments" NOT BEING DEFENDANTS.

Seems obvious to this Pro Se that this is not possible - nor necessary - the issue - the **ONLY** issue - in this cause being that **what this Court did under Judge Paul Banner and Judge Ron Chapman** is "inconsistent with due process, unlawful, criminal, and void".

And since I cannot communicate with Judge Metcalfe except through your Office - the buck on this lands on your YOUR DESK.

So, please either:

1. Advise me what I need to provide to you - to "perfect service",
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3. Else, work this out with Judge Metcalfe - i.e. if he wants them "in" - maybe he can find some way to get them "in" on the case - something like as a witness only - but then - I am not a lawyer.

As explanation - I am not trying to take these "pieces of paper" ("judgments") away from anybody - just to declare them as what they have always been - "inconsistent with due process of law" - NOT "voidable" - but VOID and UNLAWFUL "pieces of paper" - from the beginning.

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UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbm@aol.com

ATTACH - Judge Metcalfe Order 12-2-2015

Udo

Let me look at the case and see if I can figure it out for you!!!

We are having criminal court today, so it is busy.

Karen Wilson

District Clerk

Van Zandt County

From: Brnbm@aol.com [mailto:Brnbm@aol.com]
Sent: Tuesday, December 08, 2015 11:22 AM
To: Karen Wilson
Subject: 14-00266 - Birnbaum vs. Christina Westfall et al.

12-8-2015

No. 14-00266 Udo Birnbaum vs. Christina Westfall et al.

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Just email reply enough.

Thank you,

UDO BIRNBAUM

540 VZ County Road 2916

Eustace, TX 75124

903 479-3929

brnbm@aol.com

Subj: **RE: 14-00266 - BIRNBAUM vs etc - HOW TO PERFECT SERVICE**
 Date: 2/5/2016 2:19:23 P.M. Central Standard Time
 From: kathyj@vanzandtcounty.org
 To: Brnbm@aol.com, karen@vanzandtcounty.org

Mr. Birnbaum:

You are asking me to give you advise on how to perfect services and provide documents on a case that is filed in the 294th District Court.

I do understand the frustration that you are going through with Judge Drum recusing herself and the case being transferred to County Court at Law and then back to 294th District Court with Judge Metcalf appointed to preside over the case.

However, just like you, I am not an attorney and according to the Texas Government Code 81.101 and Texas Government Code 81.102 Unauthorized Practice of Law, I cannot give you legal advice nor do I have any documents that I can provide you with.

You may want to contact an attorney to help you. Lone Star Legal Aid may be able to assist you. Their phone number is 903-595-4781 or there is a website that might be able to help www.texaslawhelp.org

Kathy Jackson
 Court Coordinator
 294th Judicial District Court
 121 East Dallas Street, Room 301
 Canton, Texas 75103
 Tel: (903)567-4422 Fax: (903) 567-5652

NOTICE: All email correspondence relating to pending cases will be filed with the District Clerk for inclusion in the record of the case. Any communication to the Court or staff via email must comply with Rules 21 and 21A, T.R.C.P., and to do so by the fastest means available to the other affected parties or counsel. The provisions of Canon 3B.(8) of the Code of Judicial Conduct should be carefully reviewed before any person connected with a case attempts any communication with the Judge or court personnel.

CONFIDENTIALITY NOTICE: This email message, including any attachments, is for the sole use of the intended recipient and may contain confidential and privileged information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please destroy all copies of the original message.

From: Brnbm@aol.com [mailto:Brnbm@aol.com]
Sent: Friday, February 05, 2016 12:57 AM
To: Karen Wilson; Kathy Jackson
Subject: Re: 14-00266 - BIRNBAUM vs etc - HOW TO PERFECT SERVICE

2-5-2016

ONCE AGAIN, SAME REQUEST

re: Judge Metcalfe Order - once again attached

Udo

In a message dated 1/7/2016 2:46:46 A.M. Central Standard Time, Brnbm@aol.com writes:

1-7-2016

to: Karen Wilson, District Clerk 294th
Kathy Jackson, Court Coordinator, 294th

re: 14-00266 Birnbaum vs Christina Westfall etc
HOW TO "PERFECT SERVICE" - under the particulars of this cause
(per Judge Metcalfe Order 12-2-2015 - ATTACHED)

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3. Else, work this out with Judge Metcalfe - i.e. if he wants them "in" - maybe he can find some way to get them "in" on the case - something like as a witness only - but then - I am not a lawyer.

As explanation - I am not trying to take these "pieces of paper" ("judgments") away from anybody - just to declare them as what they have always been - "inconsistent with due process of law" - NOT "voidable" - but VOID and UNLAWFUL "pieces of paper" - from the beginning.

Sincerely,

UDO BIRNBAUM
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbm@aol.com

ATTACH - Judge Metcalfe Order 12-2-2015

,

Udo

Let me look at the case and see if I can figure it out for you!!!

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Karen Wilson

District Clerk

Van Zandt County

From: Brnbm@aol.com [<mailto:Brnbm@aol.com>]

Sent: Tuesday, December 08, 2015 11:22 AM

To: Karen Wilson

Subject: 14-00266 - Birnbaum vs. Christina Westfall et al.

12-8-2015

No. 14-00266 Udo Birnbaum vs. Christina Westfall et al.

Ms. Wilson,

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What do I need to provide to you - to "perfect process"?

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Just email reply enough.

Thank you,

UDO BIRNBAUM

540 VZ County Road 2916

Eustace, TX 75124

903 479-3929

brnbm@aol.com

No. 14-00266

UDO BIRNBAUM
Plaintiff

v.

Christina Westfall, Stefani Podvin, and
Frank C Fleming, "The Westfall Bunch",
(reference only – **not defendants**)

THREE PIECES OF PAPER
At Issue ("defendants"?)

§
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§
§

IN THE DISTRICT COURT
294th JUDICIAL DISTRICT
VAN ZANDT COUNTY,
TEXAS

FILED FOR RECORD
16 MAY -2 PM 3:07
KAREN WILSON
DIST. CLERK VAN ZANDT CO. TX
DEP

**Plaintiff's Tenth Motion to be heard on his Petition that
what the Court did upon him is unlawful**

and

Tenth Request for Setting

JUDGE DON METCALFE:
Assigned Senior Judge

To present testimony and evidence in support of:

- **First Amended Original Petition to declare three judgments as inconsistent with due process, unlawful, criminal, and void.**
(Pleading – this cause)
- **Complaint and Affidavit of Official Oppression and Abuse of Official Capacity upon Udo Birnbaum.**
(Sworn complaint)

This the 2nd day of May, 2016

Udo Birnbaum
UDO BIRNBAUM, *Pro Se*
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbn@aol.com

Notice to Hon. Mary Murphy, FAJR:

Copy Hon. Teresa Drum, 294th

Judge Murphy, your 294th District Court has gone rogue.

To wit, a \$62,885 punishment upon me, for having made a counter-claim when I was sued - a First Amendment Right.

Plus an additional \$125,770 punishment (2 x \$62,885) upon me, for seeking relief from the above – again a First Amendment Right – to petition my government – for relief.

Such PUNISHMENT, in your 294th, because:

“In assessing the [\$62,885] sanctions, the Court has taken into consideration that although Mr. Birnbaum may be well-intentioned and may believe that he had some kind of real claim as far as RICO there was nothing presented to the court in any of the proceedings since I’ve been involved that suggest he had any basis in law or in fact to support his suits against the individuals, and I think – can find that such [\$62,885] sanctions as I’ve determined are appropriate.”

(Judge, Transcript, end of Sanctions hearing – notice all the “had” and “was”)

Besides, your court, by civil process, is forbidden from imposing unconditional punishment, of any kind. Any civil sanction has to be “coercive”, i.e. provide “keys to own release” – to purge such contempt. US Supreme Court, no less.

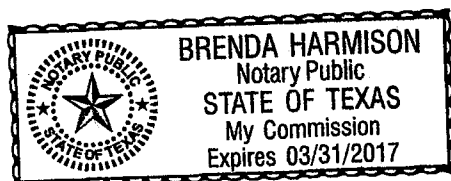
Stated another way, punishment – for past conduct – requires full criminal process, including a finding of “beyond a reasonable doubt” – by a jury. US Supreme Court.

All statements true and correct, and upon personal knowledge.

SIGNED this 3 day of May, 2016

Udo Birnbaum
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME on this 3rd day of May, 2016



Brenda Harmison
Notary Public, State of Texas

NO. 14-00266

UDO BIRNBAUM

VS.

Christina Westfall, Stefani Podvin and
Frank C. Fleming

Three Pieces of Paper

FILED FOR RECORD
16 MAY -3 10:53
KARL WILSON
DIST CLERK VAN ZANDT CO. TX
294th JUDICIAL DISTRICT
SEP

VAN ZANDT COUNTY, TEXAS

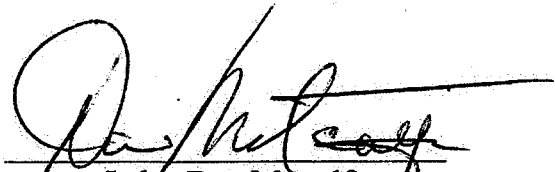
**NOTICE OF COURT'S INTENTION TO DISMISS CASE
FOR WANT OF PROSECUTION**

This case was filed by Plaintiff Birnbaum on June 25, 2014. Never at any time has service of citation been perfected on any named defendants.

Unless such service is perfected on at least one named defendant by July 1, 2016, this case will be dismissed by the Court for want of prosecution.

The Court Coordinator and the District Clerk are to see that Plaintiff Birnbaum is provided with a copy of this Notice.

SIGNED this the 25th day of April, 2016.


Judge Don Metcalfe
Senior District Judge
Sitting by Assignment

No. 14-00266

UDO BIRNBAUM	\$	
Plaintiff	\$	IN THE DISTRICT COURT
v.	\$	
	\$	
Christina Westfall, Stefani Podvin, and	\$	294th JUDICIAL DISTRICT
Frank C Fleming, "The Westfall Bunch",	\$	
(* reference only – not defendants)	\$	VAN ZANDT COUNTY,
	\$	TEXAS
	\$	
THREE PIECES OF PAPER	\$	(* - never defendants. Purely
At Issue ("defendants"?)	\$	nomenclature / identification issue)

FILED FOR REC
 16 MAY 13 PM 3:1
 KAREN WILSON
 DIST. CLERK VAN ZANDT CO. TX
 BEP

Motion for Recusal of Judge Don Metcalfe

background

1. This "cause" I have before this Court is NOT in the nature of "litigation" – there is no "defendant", I assert no "claim", I seek no "damages".

2. Instead I seek "equitable relief" - from "wrongs" done upon me by this very court – in assessing punishment upon me – for having made a counter-claim, a First Amendment Right:

*"In assessing the [**\$62,885**] **sanctions**, the Court has taken into consideration that although Mr. Birrnbaum may be **well-intentioned** and may believe that he **had** some kind of real claim as far as RICO there **was** nothing presented to the court in any of the proceedings since I've been involved that **suggest** he **had** any basis in law or in fact to support his suits against the individuals, and **I think** – can find that such [**\$62,885**] **sanctions** as I've determined are appropriate."*
 (Judge, Transcript, end of Sanctions hearing – notice all the "had" and "was")

3. Same, regarding the additional **\$125,770** punishment (2 x \$62,885) upon me, for seeking relief from the above – via a motion for recusal - again a First Amendment Right – to petition my government – for relief.

4. Same regarding a \$85,000 or so "judgment" – likewise imposed "inconsistent with due process" – the judge had a jury sitting there – but did not ask them the right question, instead even feeding them outright fraudulent instructions.

argument

5. Judge Don Metcalfe is just about to dismiss my cry before this court, for supposed “want of prosecution” – when all I am asking – is to be heard. Hereto attached is said Notice of Court’s intention to dismiss case for want of prosecution. “Attach 1”.

6. And despite all my evidence before this Court – despite Judge Don Metcalfe being the SIXTH judge on this cause – (THREE voluntary recusals, namely Judge Teresa Drum, Judge Randall McDonald, Judge Joe Clayton, TWO removed by First Administrative Judicial Region Presiding Judge Mary Murphy, namely Judge Joe Leonard, Judge Richard Mays) – me being declared a “vexatious litigant” by Judge Joe Leonard, then being “un-declared” by Judge Richard Mays - and TEN Motions to Judge Metcalfe alone – to at least let me have a hearing – Judge Don Metcalfe gives EVERY INDICATION of being either incapable or unwilling to see what is right there before him.

7. And every indication of not letting me have a jury trial, upon the issue of fact of whether these particular assessments upon me are indeed unlawful – such right to jury trial per the Texas Constitution - that “the right to jury trial shall be inviolate” – Texas making no distinction between causes in law and causes in equity¹ – such as this cause.

8. And this very Motion for Recusal of Judge Don Metcalfe – is nothing less than – me again “petitioning my government” – for relief – from Judge Don Metcalfe – denying my Right – of “petitioning my government”.

a few details

My complaint / petition is clearly before this court – even by mere title of my pleadings:

- First Amended Original Petition to declare three judgments as inconsistent with due process, unlawful, criminal, and void. (Pleading – this cause)
- Complaint and Affidavit of Official Oppression and Abuse of Official Capacity upon Udo Birnbaum. (Sworn complaint, “Attach 4”)
- Notice to Hon. Mary Murphy, FAJR: Judge Murphy, your 294th District Court has gone rogue. (Sworn complaint, “Attach 3”)

¹ The Texas Constitution guarantees citizens the right to a jury “in the trial of all causes,” making no distinction between actions in law and actions in equity. Therefore, plaintiffs bringing purely equitable causes of action in Texas civil courts are entitled to jury trials **on all factual issues**. See Tex. Const. art. I, § 15, art, V, § 10.

- Plaintiff's Tenth Motion to be heard on his Petition that what the Court did upon him is unlawful. ("Attach 2")

9. Yes, there were indeed NINE preceding motions to be heard, FIVE preceding judges – in THIS cause alone, TWENTY TWO (22) years between being sued over a natural BEAVER DAM – brought as a violation of Section 11.086 of the Texas Water Code, two ALL-WEEK jury trials, TWO petitions for writ of certiorari to the US Supreme Court, all the petitions to the courts in between – and here I now stand.

Prayer

10. Should this motion be denied, I nevertheless pray that Judge Metcalfe more seriously consider the issue of fact in this "cause" – the ONLY issue in this cause – of whether these astronomical fines / assessments of \$62,885, \$125,770, and \$85,000 upon me (before 10% interest for 14 years or so!) – whether these are INDEED unlawful.

11. And whether his oath to "preserve, protect, and defend the Constitution and laws of the United States, and of this State" – requires that there be indeed a jury trial – per the Constitution of this state – that in Texas the right to jury trial is inviolate – regardless of whether the cause be under the common law – or be one under equity, as this cause.

All statements true, correct, upon personal knowledge. All attachments true copies of the originals, except for obvious markups, all by me, all true, all upon personal knowledge.

This the 13 day of May, 2016

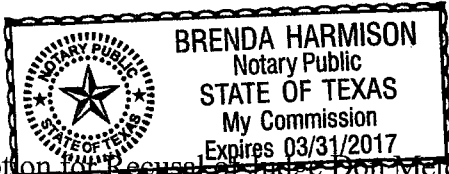
UDO Birnbaum

UDO BIRNBAUM, *Pro Se*
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929
brnbn@aol.com

SIGNED this 13 day of May, 2016

UDO Birnbaum
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME on this 13th day of May 2016



Brenda Harmison
Notary Public, State of Texas

NO. 14-00266

UDO BIRNBAUM

VS.

Christina Westfall, Stefani Podvin and Frank C. Fleming

Three Pieces of Paper

NOT proper "who" is "what". See below. This cause is purely an action in EQUITY!

FILED FOR RECORD
16 MAY -3 10:53
KARL WILSON
DIST. CLERK VAN ZANDT CO. TX
IN THE DISTRICT COURT
294th JUDICIAL DISTRICT
VAN ZANDT COUNTY, TEXAS

NOTICE OF COURT'S INTENTION TO DISMISS CASE FOR WANT OF PROSECUTION

This case was filed by Plaintiff Birnbaum on June 25, 2014. Never at any time has service of citation been perfected on any named **defendants**.

Unless such service is perfected on at least one named **defendant** by July 1, 2016, this case will be dismissed by the Court for want of prosecution.

The Court Coordinator and the District Clerk are to see that Plaintiff Birnbaum is provided with a copy of this Notice.

SIGNED this the 25th day of April, 2016.

Judge Metcalfe - There are NO DEFENDANTS in this cause. NEVER WERE! This is purely an action in EQUITY.

Judge Don Metcalfe
Senior District Judge
Sitting by Assignment

EVERY PLEADING since First Amended, makes it 110% clear - that there are NO DEFENDANTS, never were - that this nomenclature is strictly of a "book-keeping" nature - arising from Original Petition - which was NEVER served - and long-ago superceded by First Amended. See First Amended for details.

FOR PROPER HEADING - compare to "Plaintiff's Tenth Motion to be heard on his Petition that what the Court did upon him is unlawful"

And at a hearing on Oct. 8, 2015 - while this cause was under Cause CV05297 in the Van Zandt County Court at Law - to hear PLEA TO THE JURISDICTION AND SANITY- re this case having been bounced into the Court at Law - these individuals spontaneously even appeared - and EVERYBODY - even JUDGE LEONARD - agreed that these were NOT DEFENDANTS!

Notice to Hon. Mary Murphy, FAJR:

Copy Hon. Teresa Drum, 294th

Judge Murphy, your 294th District Court has gone rogue.

To wit, a \$62,885 punishment upon me, for having made a counter-claim when I was sued - a First Amendment Right.

Plus an additional \$125,770 punishment (2 x \$62,885) upon me, for seeking relief from the above – again a First Amendment Right – to petition my government – for relief.

Such PUNISHMENT, in your 294th, because:

“In assessing the [\$62,885] sanctions, the Court has taken into consideration that although Mr. Birnbaum may be well-intentioned and may believe that he had some kind of real claim as far as RICO there was nothing presented to the court in any of the proceedings since I’ve been involved that suggest he had any basis in law or in fact to support his suits against the individuals, and I think – can find that such [\$62,885] sanctions as I’ve determined are appropriate.”

(Judge, Transcript, end of Sanctions hearing – notice all the “had” and “was”)

Besides, your court, by civil process, is forbidden from imposing unconditional punishment, of any kind. Any civil sanction has to be “coercive”, i.e. provide “keys to own release” – to purge such contempt. US Supreme Court, no less.

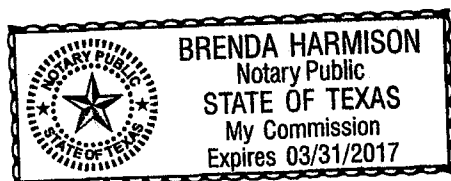
Stated another way, punishment – for past conduct – requires full criminal process, including a finding of “beyond a reasonable doubt” – by a jury. US Supreme Court.

All statements true and correct, and upon personal knowledge.

SIGNED this 3 day of May, 2016

Udo Birnbaum
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME on this 3rd day of May, 2016



Brenda Harmison
Notary Public, State of Texas

Complaint and Affidavit of Official Oppression and Abuse of Official Capacity upon Udo Birnbaum

SEC. 39.03, 39.02, SECOND DEGREE FELONY

synopsis

My name is UDO BIRNBAUM. I am 78 years old, reside in Van Zandt County, Texas, and am competent to make this affidavit.

This complaint arises out of a \$67,885 unconditional punishment upon me, by a Judge PAUL BANNER, by civil process, titled Order on Motion for Sanctions, for having made a cross-claim in a court of law, a First Amendment Right:

(HINT: civil process cannot unconditionally punish for past conduct – can only “coerce” into compliance – with some Order. Has to provide “keys to own release”)

*“In assessing the **sanctions**, the Court has taken into consideration that although Mr. Birnbaum may be **well-intentioned** and may believe that he **had** some kind of real claim as far as RICO there **was** nothing presented to the court in any of the proceedings since I’ve been involved **that suggest he had** any basis in law or **in fact** to support his **suits** against the individuals, **and I think** – can find that such **sanctions** as I’ve determined are appropriate”. (Judge Paul Banner, Transcript, Sanction hearing)*

details

On or about the 14th day of November, 2014, Senior “visiting” Judge PAUL BANNER, in Van Zandt County, Texas, did then and there, under color of the 294th District Court of Van Zandt County, and after having been made fully aware by said UDO BIRNBAUM at such proceeding, that his action was unlawful, on or about such 14th day of November, 2014, did Official Oppression and Abuse of Official Capacity upon said UDO BIRNBAUM.

Such Official Oppression and Abuse of Official Capacity – by said Judge PAUL BANNER - in a non-adjudicative setting - on such 14th day of November, 2014 – by magisterially breathing life anew – and color of legitimacy - onto Order on Motion for Sanctions – as it was up that day for “revival” by Application for Writ of Scire Facias to Revive Judgment. (HINT: An Order in need of “revival”? – something STINKS)

Such fresh life by on such 14th day of November, 2014, “visiting” Judge Paul Banner magisterially signing into the records of the 294th District Court of Van Zandt County, a document titled Order Reviving Judgment - upon the July 30, 2002 \$67,885 Order on Motion for Sanctions - as he had unlawfully oppressed upon same UDO BIRNBAUM in 2002.

Again, such Official Oppression and \$67,885 Abuse of Official Capacity by said Judge PAUL BANNER upon said UDO BIRNBAUM – as punishment - for having dared to exercise a First Amendment Right – to make a counter-claim – in said 294th District Court – when said UDO BIRNBAUM was sued:

“In assessing the sanctions, the Court has taken into consideration that although Mr. Birnbaum may be well-intentioned and may believe that he had some kind of real claim as far as RICO there was nothing presented to the court in any of the proceedings since I’ve been involved that suggest he had any basis in law or in fact to support his suits against the individuals, and I think – can find that such sanctions as I’ve determined are appropriate”. (Judge Paul Banner, Transcript, Sanction hearing July 30, 2002)

The attached documents speak for themselves:

- Transcript Sanction Hearing - 2002 – finding of “well-intentioned”
- Order on Motion for Sanctions - 2002 – [\$67,885] “no-mention-anything”
- Findings of Fact and Conclusions of Law - 2003 – re his \$67,885 Order on Motion for Sanction – suddenly “all-venom” - no more “well-intentioned”
- Order Reviving Judgment - 2014 – fresh life upon unlawful [\$67,885] Order on Motion for Sanctions – and conceal as “Sanction Judgment”

(details at www.OpenJustice.US)

summary

(all “venom” - no more “well-intentioned”)

Here, a few quotes from Judge Paul Banner’s Findings of Fact and Conclusions of Law as go with his [\$67,885] Order on Motion for Sanctions – which Order he re-executed on Nov. 14, 2014, by reviving same that day.

THINK – why would any judge want or have to make a FINDING on his own ORDER in the first place – and “revive” such own 2002 Order - in 2014? Something really STINKS.

Was of course a **JURY** cause. Findings had to be by **JURY**, but

11. ... **punitive** damages awarded **by the Court** prevent similar **future** action p3
14. ... the relief **which the Court seeks** **and others** similarly situated from **filing** lawsuits. p3
15. ... **punitive** damage conduct to be **punished** p3
4. ... on the evidence **presented to the Court** p5
9. ... **punitive** damages for the **filing** **lawsuit** p5
10. ... [for] **filing** this claim **calls out** for ... **punitive** damages p6
15. ... The award of **punitive** damages harm done p6
16. ... The award of **punitive** damages is not excessive. p5
- 17.... **Punitive** damages gain the **relief sought** which is to stop **and others like him**, from **filing** **lawsuits**. p6
18. ... **punitive** damage award to the harm done. p7
19. ... Authority for the **punitive** damage award etc. common law of Texas. p7

Totally “inconsistent with due process”. Filing a lawsuit (I did NOT – only made a counter and cross-claim) is a First Amendment Right. **ANY** adverse action – by a public official – for exercising a Right (and Judge Banner says that is why he did it) **is** official oppression. He also cannot impose **punitive** sanction by **civil** process – only “coercive” – where one has the “keys to one’s own release” – i.e. by complying with some Order – of which there was none – to purge a contempt!

And all these poison words? At his **very sanction hearing**, he found me “**well-intentioned**”, only that HE did not see my **evidence** as showing my **counter-claim**. Weighing the evidence is of course for the jury. And he even states – that he is **punishing** (“*sanctions*”) me – for **having** made a counter-claim – a **First Amendment Right!** Civil contempt cannot punish for past conduct. Period. US Supreme Court. Plum mad. So, once again:

"In assessing the sanctions, the Court has taken into consideration that although Mr. Birnbaum may be well-intentioned and may believe that he had some kind of real claim as far as RICO there was nothing presented to the court in any of the proceedings since I've been involved that suggest he had any basis in law or in fact to support his suits against the individuals, and I think – can find that such sanctions as I've determined are appropriate". (Judge Paul Banner, Transcript, Sanction hearing)

Indicated real reason: - to stop this defendant "and others like him" (Judge Paul Banner Findings) - from going Pro Se with civil RACKETEERING counter-claims – against fraudulent suits – by lawyers - for that holiest-of-holies - LEGAL FEES!

summary

So, what happened to "well-intentioned"? ANSWER: All one big cover-up – and the Order Reviving Judgment of November 14, 2014 – of the \$67,885 sanction – is nothing less than a fresh re-execution – on November 14, 2014, of Official Oppression and Abuse of Official Capacity.

All statements upon personal knowledge, all attached documents true copies of the originals, except for obvious markups all by me, all of which also upon personal knowledge. Lots more "stuff" at www.OpenJustice.US

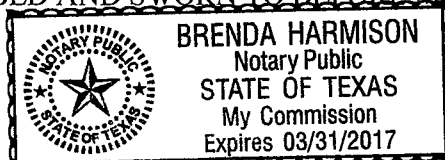
Attached: See page 2 for list

UDO Birnbaum
UDO BIRNBAUM
540 Van Zandt CR 2916
Eustace, TX 75124
(903) 479-3929
brnbn@aol.com

SIGNED this 31 day of Aug, 2015

UDO Birnbaum
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME on this 31st day of August, 2015



Brenda Harmison
Notary Public, State of Texas

7-30-2002 "Sanction Hearing". Compare the "well-intentioned" here, with all the POISON WORDS in the ONE YEAR LATER "Finding of Fact" ! HINT: The "Finding" was a CYA - for all this done WITHOUT THE JURY.

1 damages, \$5,000.00 in punitive and the joint and several
2 \$50,085.00 in attorneys' fees. Mr. Birnbaum's sanctions as
3 against Mr. Fleming or against the P.C. is denied and nothing
4 is ordered.

well-intentioned

was a JURY trial. Why is HE weighing the evidence?

5 In assessing the sanctions, the Court has
6 taken into consideration that although Mr. Birnbaum may be
7 well-intentioned and may believe that he had some kind of
8 real claim as far as RICO there was nothing presented to the
9 court in any of the proceedings since I've been involved that
10 suggest he had any basis in law or in fact to support his
11 suits against the individuals, and I think -- can find that
12 such sanctions as I've determined are appropriate. And if
13 you will provide me with an appropriate sanctions order, I
14 will reflect it.

\$67,000 Sanction - for a "well-intentioned" COUNTER-CLAIM - a First Amendment Right ! Official Oppression

15 Now, as far as relief for sanctions on behalf
16 of Mr. Westfall, individually, that is specifically denied.

17 Any relief sought by any party by way of
18 sanctions which have not been specifically addressed either
19 by the granting or the denial of same -- such is denied.

20 Okay. How soon can I expect an order because
21 I gather this matter will go up to whatever appropriate
22 appeals court for review?

23 MR. FLEMING: I will give Mr. Birnbaum the
24 statutory three days. I'll submit it to him. And if I don't
25 hear back from him, I'll submit it to you after.

www.OpenJustice.US

It was a JURY case - and ONLY the jury can award "damages". There was NO JURY making this AWARD!

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 **\$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.

Cannot award "judgment" - to someone who is NOT A PLAINTIFF !

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 RENDERED ON JULY 30, 2002, AND SIGNED THIS 9 day of August, 2002.

Paul W. ...
JUDGE PRESIDING

FILED
02 AUG 21 AM 9:59
WESTFALL/UDO/PLEADINGS/ORDER ON SANCTIONS

156/835

in response to a request from the Defendant/Counter-Plaintiff, the Court makes its findings of fact and conclusions of law as follows:

Findings of Fact

1. The Defendant/Counter-Plaintiff's claims concerning RICO civil conspiracy claims against Christina Westfall and Stefani Podvin (the wife and daughter of the Defendant/Counter-Plaintiff's former attorney, David Westfall) were **groundless and totally unsupported** by any credible evidence whatsoever.

Always remember - the court reporter found him saying - that Mr. Birnbaum was "well intentioned". Suddenly all this stuff.

2. The Defendant/Counter-Plaintiff's claims concerning RICO civil conspiracy claims against Christina Westfall and Stefani Podvin were without merit and brought for the purpose of harassment, delay, and to seek advantage in a collateral matter by attempting to cause the original **Plaintiff**, David Westfall to drop his claim for un-reimbursed legal services provided to the Defendant.

3. The Defendant/Counter-Plaintiff was afforded numerous opportunities to marshal his evidence and present any facts to support his allegations concerning RICO civil conspiracy claims against the wife and daughter of the Defendant/Counter-Plaintiff's attorney, David Westfall. The Defendant/Counter-Plaintiff wholly failed to provide any such credible evidence at either the summary judgment phase of the lawsuit or at the hearing on the motion for sanctions.

4. The attempt to provide testimony by the Defendant/Counter-Plaintiff concerning RICO civil conspiracy claims were his own opinions and **totally uncorroborated** by any other evidence.

5. The Defendant/Counter-Plaintiff never established that he had suffered any economic damages as a result of an alleged conspiracy. The Defendant/Counter-Plaintiff was sued by his former counsel to collect money for **legal work** which had been performed for the Defendant/Counter-Plaintiff for which the Defendant/Counter-Plaintiff had not paid his attorney in

Judge Paul Banner did NOT submit ANY of this to the jury! He INSTRUCTED THEM that Mr. Birnbaum had "FAILED TO ABIDE"!

full. The jury found that the work had been performed by the attorney, the amount charged to the client was reasonable, and that there was an amount owed by the Defendant/Counter-Plaintiff to the Plaintiff. The Defendant/Counter-Plaintiff's claims concerning RICO civil conspiracy claims had no bearing on whether or not the Defendant/Counter-Plaintiff received the legal services and owed the balance of the outstanding attorney's fees.

6. The filing of the Defendant/Counter-Plaintiff's claims concerning RICO civil conspiracy was a blatant and obvious attempt to influence the outcome of the Plaintiff's legitimate lawsuit against the Defendant/Counter-Plaintiff and to cause harassment to the Plaintiff and his family members.

7. The behavior of the Defendant/Counter-Plaintiff in filing claims concerning RICO civil conspiracy in this lawsuit have been totally without substantiation on any cause of action pled.

8. The conduct of the Defendant/Counter-Plaintiff giving rise to the award of punitive damages was engaged in willfully and maliciously by the Defendant/Counter-Plaintiff with the intent to harm the Plaintiff and the Counter-Defendants.

How about "well intentioned"? Remember?

9. The amount of actual damages, attorney's fees, suffered by the Counter-Defendant was proven to be reasonable and necessary by a preponderance of the evidence and not challenged by the Defendant/Counter-Plaintiff at the hearing on sanctions. The amount of actual damages awarded was in an amount that was proven at the hearing.

Was a JURY case. No jury at this hearing.

10. The amount of damages for inconvenience awarded by the court was proven at the hearing by a preponderance of the evidence and not challenged by the Defendant/Counter-Plaintiff at the hearing on sanctions. The court awarded damages for inconvenience in an amount the Court found to be reasonable and necessary, supported by evidence, and appropriate considering the circumstances.

B.S.

60

11. The amount of **punitive** damages awarded by the Court were found to be supported by the evidence and necessary under the circumstances to attempt to **prevent similar future action** on the part of the Defendant/Counter-Plaintiff.

Can't do this in a CIVIL proceeding. Takes FULL CRIMINAL PROCESS.

12. The sanctions award is directly related to the harm done.

13. The sanctions award is not excessive in relation to the harm done and the **net worth of the Defendant/Counter-Plaintiff**.

No evidence to any of this B.S. ever!

14. The sanctions award is an appropriate amount in order to gain the **relief which the Court seeks**, which is to stop the Defendant/Counter-Plaintiff and **others similarly situated** from filing **frivolous lawsuits**.

"relief which the Court seeks" - to keep from filing lawsuits - a First Amendment Right. OFFICIAL OPPRESSION PER SE.

15. The amount of the **punitive** damage award is an amount narrowly tailored to the amount of harm caused by the offensive conduct to be **punished**.

16. The Counter-Defendants suffered both economic and emotional damages as a result of the Defendant/Counter-Plaintiff's lawsuit and specifically the frivolous nature of the lawsuit caused damages which included expenses (in addition to taxable court costs), attorney's fees, harassment, inconvenience, intimidation, and **threats**.

No evidence to all this B.S. Remember "well intentioned"?

17. The Counter-Defendants established a prima facie case that this lawsuit was filed by the Defendant/Counter-Plaintiff without merit and for the purpose of **harassment**. The prima facie case was made by the testimony and documents introduced as evidence by the Counter-Defendants at the summary judgment proceedings as well as at the hearing on sanctions on July 30, 2002.

18. After the Counter-Defendants established their prima facie case, the Defendant/Counter-Plaintiff failed wholly to provide any credible evidence to support the legal theories of the Defendant/Counter-Plaintiff.

Conclusions of Law

1. The Defendant/Counter-Plaintiff wholly failed to provide any credible evidence to substantiate any of his claims concerning a RICO civil conspiracy claim.
2. An essential element of each of Defendant/Counter-Plaintiff's claim was damages.
3. The Defendant/Counter-Plaintiff failed to prove any damage as a direct result of any action or inaction caused by the Plaintiff or the Counter-Defendants.
4. All of Defendant/Counter-Plaintiff's claims were as a matter of law unproved and untenable on the evidence presented to the Court. How about "evidence to the JURY"?
5. Based upon the facts presented to support Defendant/Counter-Plaintiff's claim concerning RICO civil conspiracy charges, the Defendant/Counter-Plaintiff's claims concerning RICO civil conspiracy were completely untenable.
6. The Defendant/Counter-Plaintiff's claims concerning RICO civil conspiracy charges were not based upon the law, were not a good faith extension of existing law, and were brought and continued to be urged for the purpose of harassment. was "civil RICO" - not the mumbo-jumbo above
7. The court concludes as a matter of law that Defendant/Counter-Plaintiff's claims concerning RICO civil conspiracy were brought for the purpose of harassment.
8. The Defendant/Counter-Plaintiff's behavior in bringing and prosecuting this frivolous lawsuit was a violation of one or more of the following: §9.000 et seq. Civ. Prac. & Rem. Code, §10.000 et seq. Civ. Prac. & Rem. Code, and/or Rule 13, T.R.C.P. what about "well intentioned"?
9. The Court has the power to award both actual and punitive damages against the Defendant/Counter-Plaintiff for the filing and prosecution of a frivolous lawsuit. This authority stems from one or more of the following: §9.000 et seq. Civ. Prac. & Rem. Code, §10.000 et seq. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

Findings of Fact and Conclusions of Law
PAGE 5 of 7

Official Oppression per se

10. The behavior and attitude of the Defendant/Counter-Plaintiff in filing and prosecuting this claim against the Counter-Defendants calls out for the award of both actual and **punitive** damages to be assessed against the Defendant/Counter-Plaintiff.

11. The Counter-Defendants were successful in presenting a prima facie case to the Court on the issue of sanctions. After the prima facie case was made, the burden of proof shifted to the Defendant/Counter-Plaintiff and the Defendant/Counter-Plaintiff failed in its effort to prove good faith in the filing of the RICO civil conspiracy claims.

12. The appropriate award for actual damages as a result of the filing and full prosecution of this frivolous lawsuit is an award of **\$50,085.00 in attorney's fees**. The Court makes this award under power granted to the Court by §9.000 et seq. Civ. Prac. & Rem. Code, §10.000 et seq. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

13. The appropriate sanction for the inconvenience suffered by the Counter-Defendants for the filing and full prosecution of this frivolous lawsuit is an award of **\$1,000.00** to Christina Westfall and **\$1,800.00** to Stefani Podvin, to be paid by the Defendant/Counter-Plaintiff to the Counter-Defendants.

14. The appropriate punitive sanction for the filing and full prosecution of this frivolous lawsuit is an award of **\$5,000.00** to Christina Westfall and an award of **\$5,000.00** to Stefani Podvin, to be paid by the Defendant/Counter-Plaintiff to the Counter-Defendants.

15. The award of **punitive** damages is directly related to the harm done.

16. The award of **punitive** damages is not excessive.

17. The award of **punitive** damages is an appropriate amount to seek to gain the relief sought which is to stop this Defendant/Counter-Plaintiff, and **others like him**, from **filing** similar frivolous lawsuits.

OFFICIAL OPPRESSION per se. Can't do "punitive" in a CIVIL proceeding. Only "coercive". Requires "keys to own release"!

Findings of Fact and Conclusions of Law

PAGE 6 of 7

westfall\udo\judgment\findings of facts2

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18. The amount of the **punitive** damage award is narrowly tailored to the harm done.

19. Authority for the **punitive** damage award is derived from §10.000 et seq. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

Any finding of fact herein which is later determined to be a conclusion of law, is to be deemed a conclusion of law regardless of its designation in this document as a finding of fact. Any conclusion of law herein which is later determined to be a finding of fact, is to be deemed a finding of fact regardless of its designation in this document as a conclusion of law.

SIGNED THIS 30 day of September, 2003.



JUDGE PRESIDING

Careful study of this document shows that all this B.S. is to C.Y.A. for having "awarded damages" WITHOUT A JURY - in a jury cause - and trying to CONCEAL that this is exactly what Judge Paul Banner had done.
--
It also is a window on his mindset during the JURY TRIAL of April 8-11, 2002, his hatred of Pro Se parties.
--
JUST READ ALL THIS VENOM IN THIS DOCUMENT. Remember, "although Mr. Birnbaum may be well intentioned --- etc. I (Mr. Banner) did not see the evidence as showing etc " - or something like that.
--
Was of course a JURY TRIAL - so why was Mr. Banner "weighing" the evidence?

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/counter-plaintiff 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!

NO. 14-00266

UDO BIRNBAUM

IN THE DISTRICT COURT

vs.

VAN ZANDT COUNTY, TEXAS

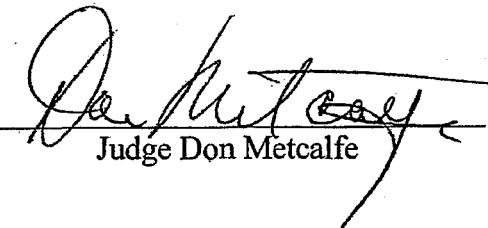
CHRISTINE WESTFALL et al.

294TH JUDICIAL DISTRICT

ORDER OF REFERRAL ON MOTION TO RECUSE

Plasintiff having filed Motion to Recuse this Judge, I hereby decline to recuse myself and request the Presiding Judge of the First Administrative Judicial Region to assign a judge to hear the Motion to Recuse, in accordance with Rule 18a, Texas Rules of Civil Procedure.

SIGNED this the 16th day of May, 2016.


Judge Don Metcalfe

FILED FOR RECORD
16 MAY 16 PM 1:32
KAREN WILSON
DIST CLERK VAN ZANDT CO. TX
BY _____ DEP

SCANNED
1 HS

CAUSE NO. 14-00266

FILED FOR RECORD
16 MAY 16 PM 3:24
BY KAREN NELSON
DIST. CLERK
VAN ZANDT CO. TX

UDO BIRNBAUM

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IN THE DISTRICT COURT

V.

294th JUDICIAL DISTRICT

THREE PIECES OF PAPER

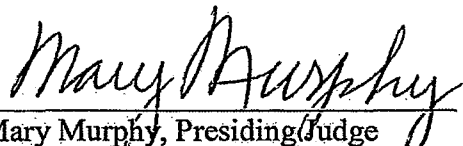
VAN ZANDT COUNTY, TEXAS

**ORDER DENYING MOTION FOR RECUSAL OF
JUDGE DON METCALFE**

On this date, the undersigned considered the Motion for Recusal of Judge Don Metcalfe filed by Udo Birnbaum. The motion is facially insufficient as a matter of law because it fails to state verified facts that will support recusal. Specifically, Movant is complaining about Judge Metcalfe's Notice of Court's Intention to Dismiss Case for Want of Prosecution because no service has been effected in this two-year old case. In this action, Movant is seeking relief from judgments and orders signed by a prior judge and contends he does not have to have a defendant to proceed. Judge Metcalfe has indicated by his notice that unless a defendant is named and served, there is no action (legal or equitable) that can proceed. If Movant were entitled to proceed in this case without a named defendant, his complaint against Judge Metcalfe would be in the nature of assigned error in the judge's rulings (judicial acts). Such judicial acts are not the basis for recusal; rather, grounds for recusal are for matters other than rulings (such as comments or actions not in the person's judicial capacity) that show bias or prejudice concerning the subject matter of the suit or the parties to the suit. See TEX. R. CIV. P. 18b(b). In other words, the basis for recusal would be assertions the parties could not get a fair trial if the case did proceed because the judge had made comments or statements in an extrajudicial capacity that reasonably called into question the judge's impartiality. Based on the basis asserted for the recusal of Judge Metcalfe, the motion is denied without an oral hearing pursuant to Rule 18a(g)(3)(A), Texas Rules of Civil Procedure.

IT IS SO ORDERED.

Signed this 16 day of May, 2016.


Mary Murphy, Presiding Judge
First Administrative Judicial Region

SCANNED

1 HS