

IN THE 294TH DISTRICT COURT OF VAN ZANDT COUNTY, TEXAS

KAREN L. WILSON DISTRICT CLERK  
VAN ZANDT COUNTY COURTHOUSE  
121 E. DALLAS, ROOM 302  
CANTON, TEXAS 75103

ATTORNEY FOR PETITIONER

KATRYNA WATKINS  
1021 ESE LOOP 323, SUITE 200  
TYLER, TEXAS 75701

CITATION FOR PERSONAL SERVICE

THE STATE OF TEXAS

NOTICE TO DEFENDANT:

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org."

TO: **UDO BIRNBAUM**  
**540 VAN ZANDT COUNTY ROAD 2916**  
**EUSTACE, TEXAS 75124**  
**OR WHEREVER HE MAY BE FOUND**

DEFENDANT – GREETING:

You are hereby commanded to appear by filing a written answer to the

**PLAINTIFF'S ORIGINAL PETITION AND APPLICAITON FOR TEMPORARY INJUNCTION**

at or before ten o'clock a.m. on the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable 294TH DISTRICT COURT of Van Zandt County, Texas at the Courthouse of said County in Canton, Texas.

**PLAINTIFF'S ORIGINAL PETITION AND APPLICAITON FOR TEMPORARY INJUNCTION**

was filed in said Court, on the 24th day of August, 2022, in this Cause No. 22-00105 on the docket of said court and styled:

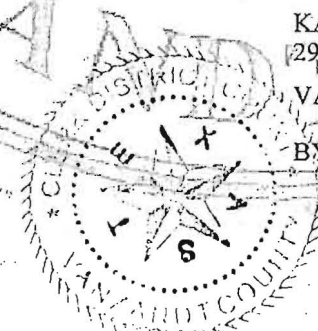
**CSD VAN ZANDT LLC** v. **UDO BIRNBAUM**

The nature of this demand is fully shown by a true and correct copy of the petition, accompanying this citation and made a part hereof.

Issued and given under my hand and seal of said court at Canton, Texas, this the 24th day of August, 2022.

KAREN L. WILSON, DISTRICT CLERK  
294th DISTRICT COURT  
VAN ZANDT COUNTY, TEXAS

BY Shawn Thornton, Deputy  
SHAWN THORNTON



RETURN OF SERVICE  
22-00105

THE STATE OF TEXAS  
COUNTY OF VAN ZANDT  
CSD VAN ZANDT LLC

294TH DISTRICT COURT  
UDO BIRNBAUM

v.

PLAINTIFF'S ORIGINAL PETITION AND APPLICAITON FOR TEMPORARY  
INJUNCTION

NAME AND ADDRESS FOR SERVICE:  
UDO BIRNBAUM  
540 VAN ZANDT COUNTY ROAD 2916  
EUSTACE, TEXAS 75124

OFFICERS RETURN

Came to hand on the 24<sup>th</sup> day of August, 2022, at 4:51, o'clock P.m., and executed in Van Zandt County, Texas by delivering or attempting to deliver to each of the within named defendants in person, a true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the **PLAINTIFF'S ORIGINAL PETITION AND APPLICAITON FOR TEMPORARY INJUNCTION**, at the following times and places, to-wit:

Name	Date/Time	Place and Distance from Courthouse
<u>Udo Birnbaum</u>	<u>8-22</u>	<u>540 VZCR 2916 Eustace, TX 75124</u>

OR not executed as to the defendant, \_\_\_\_\_

The diligence used in attempting to find said defendant being: \_\_\_\_\_ and the cause or failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of said defendant being: \_\_\_\_\_

FEES:  
Serving Petition \$ \_\_\_\_\_

\_\_\_\_\_, Officer  
\_\_\_\_\_, County, Texas  
By: \_\_\_\_\_, Deputy

*COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.*  
In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The return must either be verified or be signed under penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
(First, Middle, Last)  
\_\_\_\_\_  
(Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Declarant/Authorized Process Server  
\_\_\_\_\_  
(Id # & expiration of certification)

22-00105  
**CAUSE NO.** \_\_\_\_\_

<b>CSD VAN ZANDT LLC</b> <i>Plaintiff</i>	§ § § § § § § §	<b>IN THE DISTRICT COURT</b>  294TH <b>JUDICIAL DISTRICT</b>  <b>VAN ZANDT COUNTY, TEXAS</b>
<b>v.</b>		
<b>UDO BIRNBAUM</b> <i>Defendant</i>		

**PLAINTIFF’S ORIGINAL PETITION AND APPLICATION FOR  
TEMPORARY INJUNCTION**

COMES NOW, CSD VAN ZANDT LLC, (hereinafter “Plaintiff”), and files this *Original Petition and Application for Temporary Injunction* against Defendant, UDO BIRNBAUM, and alleges as follows:

**L.  
EXHIBIT LIST**

- Exhibit A: Affidavit of Lisa Girot, attached hereto and incorporated herein for all purposes.
- Exhibit B: Affidavit of Robert Dow, attached hereto and incorporated herein for all purposes.
  - Attachment 1: Warranty Deed with Vendor’s Lien Conveying Subject Property from Lisa Leger Girot, Patricia Moore Barclay, and James T. Moore, III to CSD Van Zandt LLC.
  - Attachment 2: Notice to Vacate Letter Sent to Defendant on June 30, 2022 and USPS Green Card.
  - Attachment 3: Images of Defendant’s Vehicle Blocking Plaintiff’s Access Gate.
  - Attachment 4: Receipt for Plaintiff’s New Gate Lock and Chain.
  - Attachment 5: Notice to Vacate Letter Sent to Plaintiff from Defendant on August 4, 2022.
- Exhibit C: Warranty Deed Conveying Subject Property from T. C. Travis and Carolyn Ann Travis to Defendant.
- Exhibit D: Warranty Deed Conveying Subject Property from Defendant to Gwendolyn Wright Thibodeaux.

- Exhibit E: Corrected Heirship Affidavit Concerning Gwendolyn Wright Thibodeaux.
- Exhibit F: Judgment Declaring Heirship of Gwendolyn Wright Thibodeaux.
- Exhibit G: Last Will and Testament of Louis Thibodeaux.
- Exhibit H: Order to Probate and Execute Notarial Testament of Louis Thibodeaux.

**II.**  
**DISCOVERY-CONTROL PLAN**

1. Plaintiff intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4 and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because Plaintiff seeks injunctive relief.

**III.**  
**CLAIM FOR RELIEF**

2. Plaintiff seeks monetary relief of \$250,000 or less and non-monetary relief. Tex. R. Civ. P. 47(c)(2).

**IV.**  
**PARTIES**

3. Plaintiff, CSD Van Zandt LLC, is a Texas Limited Liability Company whose registered agent is Robert O. Dow. Plaintiff's principal place of business is 6115 Owens St Suite 201 Dallas, TX 75235.

4. Defendant, Udo Birnbaum, is an individual who may be served at 540 Van Zandt County Road 2916, Eustace, Texas 75124, or wherever he may be found.

**V.**  
**JURISDICTION AND VENUE**

5. Venue is proper in Van Zandt County, Texas, pursuant to Texas Civil Practice & Remedies Code § 15.011, as this action involves real property located in Van Zandt County, Texas, and because all or a substantial portion of the events giving rise to this suit occurred in Van Zandt

County, Texas. Jurisdiction is proper in this Court because Plaintiff seeks damages that are within the jurisdictional limits of this Court.

## **VI.** **FACTS**

6. On September 17, 1981, T.C. and Carolyn Ann Travis granted Defendant approximately 150 acres in Van Zandt County, Texas, via Warranty Deed filed at Instrument No. 7512 of the Official Public Records of Van Zandt County, Texas. Years later, on April 12, 2002, Defendant sold the 150 acres (“the Property”) to Gwendolyn Wright Thibodeaux via Warranty Deed filed at Instrument No. 00026857 of the Official Public Records of Van Zandt County, Texas. Then, on December 8, 2006, Gwendolyn Wright Thibodeaux passed away.

7. Subsequently, in Cause No. 15622 in the County Court of Van Zandt County, Texas, Judge Don Kirkpatrick determined Ms. Thibodeaux’s heirs and their respective shares and interests in the Property as follows: Louis Thibodeaux: 50%; Patricia Moore Barclay: 25%; and James T. Moore, III: 25%. As a result, Louis Thibodeaux, Patricia Moore Barclay and James T. Moore, III owned the Property in the percentages set out above.

8. On October 29, 2019, Louis Thibodeaux passed away in Louisiana, leaving a will that conveyed all his right, title, and interest in his real property to Lisa Leger Girot. Louis Thibodeaux’s will was then probated in Louisiana on January 24, 2020, leaving Lisa Leger Girot a 50% interest in the Property. After Louis Thibodeaux’s passing, Lisa Leger Girot maintained payment of taxes on the property, until she sold her interest in same to Plaintiff. Plaintiff purchased the Property from Lisa Leger Girot, Patricia Moore Barclay, and James T. Moore, III via Warranty Deed with Vendor’s Lien filed at Instrument No. 2022-007473 of the Official Public Records of Van Zandt County, Texas on June 24, 2022.

9. Before purchasing the Property, Plaintiff was aware that Defendant was living on a portion of the Property - specifically 540 Van Zandt County Road 2916, Eustace, Texas 75124. As such, Plaintiff sent Defendant a letter on June 30, 2022 in an effort to terminate Defendant's alleged tenancy at will and request that Defendant vacate the Property as required under Texas Property Code Sections 24.005 and 91.001. Defendant received the letter on July 14, 2022.

10. To date, Defendant has made no effort to vacate the Property. Moreover, Defendant has caused significant issues for Plaintiff in the operation of its business and has obstructed Plaintiff's access to the Property. Shortly after closing on the Property, Plaintiff began improvements on same, including, but not limited to, mowing, removing interior fences, cutting back overgrowth, pulling up fence corners, and collecting trash and scrap metal around the Property.

11. In this connection, to aid with said improvements, Plaintiff rented a skid steer, which was parked on the Property. On July 26, 2022, Defendant parked his vehicle in front of Plaintiff's access gate to the Property, which prevented Plaintiff from removing the skid steer to return it to the rental company on time. In addition, Defendant cut the chain and lock Plaintiff placed on its access gate, which ultimately forced Plaintiff to replace same.

## **VII.**

### **COUNT ONE – DECLARATORY JUDGMENT**

12. The purpose of a declaratory judgment action is to establish existing rights, status or other legal relationships. *City of El Paso v. Heinrich*, 284 S.W.3d 366, 370 (Tex. 2009). Chapter 37 of the Tex. Civ. Prac. & Rem. Code § 37.002 (a-b), provides the purpose of [the DJA] "is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations." *Id.*

13. Plaintiff adopts and incorporates the foregoing paragraphs herein for all purposes and asks the Court to declare the above-referenced deeds as conveying superior title and possession of the Property to Plaintiff. In accordance with Texas Civil Practice & Remedies Code Chapter 37.009, Plaintiff is entitled to recover reasonable and necessary attorney fees.

**VIII.**  
**COUNT TWO – TRESPASS TO TRY TITLE**

14. Plaintiff adopts and incorporates the foregoing paragraphs herein for all purposes. Plaintiff does not believe that a title issue exists. However, out of an abundance of caution, Plaintiff pleads Trespass to Try Title in the alternative. “A trespass to try title action is the method of determining title to lands, tenements, or other real property.” Tex. Prop. Code §22.001(a). To prevail, a plaintiff must typically prove 1) a regular chain of conveyance from the sovereign; 2) superior title out of a common source; 3) title by limitations; or 4) title by prior possession coupled with proof that possession was not abandoned. *Lance v. Robinson*, 543 S.W.3d 723, 735 (Tex. 2018) (quoting *Martin v. Amerman*, 133 S.W.3d 262, 265 (Tex. 2004)).

15. Plaintiff obtained title to the Property via a regular chain of conveyance from the sovereign, as explained hereinabove. To reiterate, Mr. and Mrs. Travis conveyed the Property to Defendant, who conveyed same to Gwendolyn Wright Thibodeaux. Upon her death, the Property passed to Louis Thibodeaux, Patricia Moore Barclay, and James T. Moore, III. Subsequently, Lisa Leger Girot inherited Louis Thibodeaux’s interest in the Property upon his death. Plaintiff then purchased the Property from Lisa Leger Girot, Patricia Moore Barclay, and James T. Moore, III. As such, Plaintiff is entitled to immediate possession of the Property and a declaration of title in Plaintiff’s favor and against Defendant.

**IX.**  
**APPLICATION FOR TEMPORARY INJUNCTION**

16. In a request for injunctive relief, “the only question before the court is the right of the applicant to a preservation of the status quo of the subject matter of the suit pending a final trial of the case on its merits.” *Middagh v. Tiller-Smith Company, Inc.*, 518 S.W.2d 589 (Tex. App.—El Paso [8<sup>th</sup> Dist.] 1975, no writ.) (quoting *Transport Co. of Texas v. Robertson Transports, Inc.*, 261 S.W.2d 549, 552 (Tex. 1953)). In order to receive a temporary injunction, a plaintiff must show: (1) a cause of action against the defendant; (2) a probable right to the relief sought; and (3) a probable, imminent and irreparable injury absent injunctive relief, with no adequate remedy at law. See *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002); *Henderson v. KRTS, Inc.*, 822 S.W.2d 769, 773 (Tex. App.—Houston [1st Dist.] 1992, no writ).

17. Plaintiff adopts and incorporates the foregoing paragraphs herein for all purposes. Plaintiff seeks a temporary injunction to preserve the status quo of the Property. Specifically, Plaintiff requests the Court to enjoin Defendant from denying Plaintiff access to the Property. Plaintiff has a cause of action against Defendant as set out in full, hereinabove. Plaintiff also has a probable right to the relief sought as Plaintiff unequivocally owns the Property outright. Defendant has refused to vacate Plaintiff’s property and, on numerous occasions, has obstructed Plaintiff’s access, which has caused Plaintiff to cease all future development on the Property. Defendant’s actions will continue to disrupt the status quo, and Plaintiff will be left with no adequate remedy at law absent action from this Court.

18. Stated otherwise, the damage done and threatened by Defendant’s actions will likely continue but for the intervention of this Court. Such damage is continuing and, to a large degree, intangible because the loss of Plaintiff’s ingress and egress cannot be fully calculated nor compensated. In the period leading up to the filing of this suit, Defendant’s actions have been



erratic and unpredictable. In addition to parking his vehicle in front of Plaintiff's access gate and cutting Plaintiff's chain and lock, Defendant signed the USPS certified letter green card for the Notice to Vacate letter from Plaintiff as "Bin Laden" and subsequently mailed Plaintiff back the same exact Notice to Vacate letter Plaintiff mailed to him. Unless Defendant is restrained from blocking access to Plaintiff's property, Plaintiff will suffer probable, imminent injury. In fact, the equitable factors weigh in favor of Plaintiff. If relief is denied, and Plaintiff is denied access to the Property, Plaintiff's injury is much greater than any injury to Defendant if relief is granted.

19. Plaintiff would further show the Court that it is entitled to injunctive relief herein, pursuant to Texas Civil Practice and Remedies Code, Section 65.011(5), wherein it states in relevant parts: "A writ of injunction may be granted if . . . (5) irreparable injury to real or personal property is threatened, irrespective of any remedy at law." Accordingly, Plaintiff repleads the allegations set out above and would show the Court that Defendant's threatened conduct would cause irreparable injury to Plaintiff's right of ingress and egress to use and enjoy its property, and Plaintiff is therefore entitled to injunctive relief.

20. Plaintiff asks the Court to set its application for temporary injunction for a hearing and, after the hearing, issue a temporary injunction against Defendant.

21. Plaintiff has joined all indispensable parties under the applicable Texas Rule of Civil Procedure.

**X.**  
**JURY DEMAND**

22. Plaintiff demands a jury trial and tenders the appropriate fee with this Petition.

**XI.**  
**CONDITIONS PRECEDENT**

23. All conditions precedent to Plaintiff's claims for relief have been performed or have occurred.

**PRAYER**

For the reasons set forth above, Plaintiff asks that Defendant be cited to appear and answer and, on final trial, that Plaintiff be awarded a judgment against Defendant for the following:

- a. Judgment that declares that Plaintiff has superior title in the Property;
- b. Temporary injunction;
- c. Permanent injunction;
- d. Actual damages;
- e. Special damages;
- f. Attorney's fees;
- g. Prejudgment and post-judgment interest;
- h. Court costs;
- i. All other relief to which Plaintiff is justly entitled.

Respectfully submitted,

**FLOWERS DAVIS, P.L.L.C.**  
1021 ESE Loop 323, Suite 200  
Tyler, Texas 75701  
(903) 534-8063 Phone  
(903) 534-1650 Facsimile

/s/ Katryna R. Watkins  
**KATRYNA R. WATKINS**  
State Bar No. 24106554  
[krw@flowersdavis.com](mailto:krw@flowersdavis.com)  
**CELIA C. FLOWERS**  
Texas Bar No. 07175500  
[ccf@flowersdavis.com](mailto:ccf@flowersdavis.com)  
**TUCKER B. ROYALL**  
State Bar No. 24047782  
[tbr@flowersdavis.com](mailto:tbr@flowersdavis.com)

**ATTORNEYS FOR PLAINTIFF**

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF CALCASIEU

BEFORE ME, the undersigned authority, personally came and appeared LISA LEGER GIROT, who after being duly sworn, did depose and say:

That She is very familiar with the property described as follows, to-wit:

149.000, ABST 978, SUR: P YOUNG (R000032761)  
18.000, ABS: 978, SUR: YOUNG (R000019734  
Records of VAN ZANDT COUNTY, TEXAS.

That the affiant was acquainted with Louis (nmn) Thibodeaux. Mr. Thibodeaux was a resident of Van Zandt County up until approximately December 2012. He then moved to Sulphur, Louisiana, where he resided up until he became a resident of the Southwest Louisiana Veteran's Home, located in Jennings, Louisiana, until his demise, October 29, 2019. Mr. Thibodeaux and his then wife (now deceased) acquired title to the herein described property by virtue of a Deed bearing #700978058000, volume 1710, page 590, from Udo H Birnbaum. To my knowledge, title remained unchanged with the exception of his wife's death and subsequently his death. In March of 2017, Mr. Thibodeaux attempted to give the above-described property to Mr. Birnbaum, but Mr. Birnbaum refused to accept same property for personal reasons. Mr. Louis Thibodeaux left a Last Will & Testament leaving all his possessions to myself. Mr. Thibodeaux married once, to Gwen Wright, the union produced no children. Since I acquired title to the herein described property, Mr. Birnbaum has never challenged my ownership of the property or sought to execute a written lease agreement with me.

Mr. Thibodeaux was referred to me as a client by Chris Duncan, the Mayor of Sulphur, to assist him in his affairs early 2017. Mr. Thibodeaux was a Veteran of the Korean war. I serve on the Mayor's Armed Forces Committee and do volunteer work for Veterans. This is how I came to know Mr. Thibodeaux. Through the years I assisted him in numerous matters. In March 2018, Mr. Thibodeaux granted me Power of Attorney as he was becoming increasingly ill and unable to manage his affairs. Some of the tasks I performed were paying his bills, helping with Oil/Gas leases, having repairs performed on his home, taking him to the VA Clinic for doctor visits, eye exams, dental services-etc, helping manage his meds, balancing his checking account and numerous other tasks. I assisted him in selling his home in Sulphur when he became too ill to live alone even with the assistance of a caretaker. I was appointed his trustee when I had him (at his request) admitted to the Veteran's Home in Jennings, and in the end I am the one who arranged for his body to be delivered (his request) to Baylor College of Medicine, and subsequently cremated. I continue to maintain numerous files and records he imparted to me.

The affiant has personally known Louis Thibodeaux and has known him to farm, pay taxes, occupy and have actual, corporeal and uninterrupted possession of the property. Since Mr. Thibodeaux's passing, I have maintained payment of taxes on the property.

Sworn to and subscribed before me, Notary Public, in Sulphur, Calcasieu Parish, Louisiana, on this 5th day of August, 2022.

*Lisa L. Girot*

LISA L. GIROT

*Donna L. Brown*

NOTARY PUBLIC

**Donna L. Brown**  
Notary # 001657  
Calcasieu Parish, Louisiana  
Commission Expires at Death

CAUSE NO. \_\_\_\_\_

**CSD VAN ZANDT LLC**  
*Plaintiff*

v.

**UDO BIRNBAUM**  
*Defendant*

§  
§  
§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

\_\_\_\_ **JUDICIAL DISTRICT**

**VAN ZANDT COUNTY, TEXAS**

**AFFIDAVIT OF ROBERT O. DOW**

STATE OF TEXAS                     '  
  '  
COUNTY OF DALLAS                 '

Before me, the undersigned notary public, on this day personally appeared Robert Dow, who after being duly sworn, on his oath stated:

1. "My name is Robert O. Dow. I am over 18 years of age, of sound mind, and capable of making this Affidavit. I have not been convicted of a felony or crime involving moral turpitude.
2. I have reviewed *Plaintiff's Original Petition and Application for Temporary Injunction* and have personal knowledge of all facts contained therein, which are true and correct. Specifically, my company, CSD Van Zandt, LLC, purchased the property at subject in this cause ("the Property") in or around June 2022 from Lisa Leger Girot, Patricia Moore Barclay, and James T. Moore, III. CSD Van Zandt, LLC purchased the Property through East Texas Title Company. I have a title policy on the property, and the title company, title underwriter, and lender all approved title.
3. Before purchasing the Property, I was aware that Udo Birnbaum was living on a portion of the Property at 540 Van Zandt County Road 2916, Eustace, Texas 75124. As such, I had my attorneys with Flowers Davis, PLLC send Mr. Birnbaum a letter on June 30, 2022 to terminate his alleged tenancy at will and demand that he vacate the Property as required under Texas Property Code Sections 24.005 and 91.001. To my knowledge, Mr. Birnbaum received the letter on July 14, 2022. To date, he still occupies the Property.
4. Moreover, since receipt of the above-referenced letter, Mr. Birnbaum has caused trouble for myself and my company and has obstructed access to the Property. Shortly after

closing on the Property, I began improving same, including, but not limited to, mowing, removing interior fences, cutting back overgrowth, pulling up fence corners, and collecting trash and scrap metal around the Property. To aid with these improvements, I rented a skid steer, which was parked on the Property. On July 26, 2022, Mr. Birnbaum parked his vehicle in front of my access gate to the Property, which prevented me from removing the skid steer to timely return it to the rental company. Mr. Birnbaum also cut the chain and lock I placed on my access gate, which forced me to replace same. Further, on August 4, 2022, Mr. Birnbaum sent me the same exact Notice to Vacate letter my attorneys sent to him, marked up and addressed to CSD Van Zandt, LLC.

5. Attached hereto as Attachments 1-5 are the: (1) Warranty Deed with Vendor's Lien Conveying Subject Property from Lisa Leger Girot, Patricia Moore Barclay, and James T. Moore, III to CSD Van Zandt LLC; (2) Notice to Vacate Letter sent to Defendant on June 30, 2022 and USPS Green Card; (3) Images of Defendant's Vehicle Blocking Plaintiff's Access Gate; (4) Receipt for Plaintiff's New Gate Lock and Chain; and (5) Notice to Vacate Letter sent to Plaintiff from Defendant on August 4, 2022. I have reviewed each of the foregoing Attachments and have personal knowledge of the information and facts contained within same, which are true and correct. These documents are exact copies of the originals.

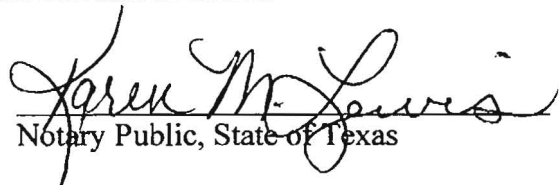
6. I understand that any false statements made in this Affidavit will subject me to penalties of perjury."

Affiant further sayeth not.



Robert O. Dow

**SUBSCRIBED AND SWORN TO** before me, the undersigned authority, on this the 23<sup>rd</sup> day of August 2022 to certify which witness my hand and seal of office.



Notary Public, State of Texas



# FLOWERS DAVIS

**CELIA C. FLOWERS\***

- \* BOARD CERTIFIED, OIL, GAS & MINERAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION
- \* BOARD CERTIFIED, RESIDENTIAL REAL ESTATE LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION
- \* BOARD CERTIFIED, PROPERTY OWNERS ASSOCIATION LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION
- \* BOARD CERTIFIED, CIVIL TRIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION

MELANIE S. REYES

- \* BOARD CERTIFIED, OIL, GAS & MINERAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION  
LICENSED TO PRACTICE LAW IN TX AND NM

ALAN W. TOMME

J. SCOTT MILLER

CATHERINE CHESLEY GOODGION

- \* LICENSED TO PRACTICE BEFORE THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

WILLIAM R. KNIGHT, JR.

MAYA P. JEDLICKA

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SPECIALIST IN NATURAL RESOURCES - OIL & GAS LAW

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LONGVIEW OFFICE:

1516 JUDSON ROAD

LONGVIEW, TEXAS 75601

TELEPHONE: (903) 757-8900

FACSIMILE: (903) 757-8902

**ROBERT S. DAVIS**

CHAD C. ROOK

LEE I. CORREA

ROBIN H. O'DONOGHUE

J. MITCHELL BEARD

STEVE M. MASON

JOHN "JACK" R. FULGHAM

THOMAS H. BUCHANAN, OF COUNSEL

PRESTON W. MCGEE\*

- \* BOARD CERTIFIED, PERSONAL INJURY TRIAL LAW

TEXAS BOARD OF LEGAL SPECIALIZATION

- \* BOARD CERTIFIED, CIVIL TRIAL LAW

TEXAS BOARD OF LEGAL SPECIALIZATION

VIRGINIA D. YOUNG

DANIEL C. ROSS

June 30, 2022

Udo Birnbaum and Occupant(s) of the Property  
540 VZ County Road 2916  
Eustace, TX 75124

*Delivered Via: CMRRR 7014 2120 0001 7709 2678 and USPS regular mail*

*Re: Notice to Vacate Property at 540 VZ County Road 2916 Eustace, TX 75124*

Dear Mr. Birnbaum and any other Occupants of the above referenced Property:

Our law firm represents CSD Van Zandt LLC, and I am writing you regarding the property located at 540 VZ County Road 2916, Eustace, TX 75124 (the "Premises"), which you currently live in as a tenant at will. Enclosed with this letter is a notice to vacate the property immediately.

If you have any questions, please contact me at (903) 534-8063 or [crk@flowersdavis.com](mailto:crk@flowersdavis.com).

Sincerely,

Corey R. Kellam,  
Attorney-at-Law

**NOTICE TO VACATE PREMISES**

**TO: UDO BIRNBAUM AND ANY TENANTS OR PARTIES IN POSSESSION OF THE REAL PROPERTY COMMONLY KNOWN AS 540 VZ COUNTY ROAD 2916 EUSTACE, TX 75124 (the "Premises").**

**YOU ARE HEREBY NOTIFIED:**

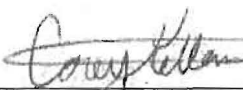
Notice is hereby given and demand is hereby made that you vacate the Premises by the 30<sup>th</sup> day after the date of receipt of this notice. Specifically, you are demanded to vacate as our client, CSD Van Zandt LLC, hereby terminates your tenancy at will. This notice is given and demand is made as provided in sections 24.005 and 91.001 of the Texas Property Code, copies of which are enclosed.

If you do not vacate the premises before the 30<sup>th</sup> day after the date of receipt of this notice, we, on behalf of our client, CSD Van Zandt LLC, will institute a forcible detainer suit against you. You are advised that, in addition to the other remedies available to our client, a judgment may be entered against you, including attorney fees and costs of suit, as provided in section 24.006 of the Texas Property Code, a copy of which is also enclosed. You are also advised that unless you vacate the premises within this period, CSD Van Zandt LLC intends to pursue any and all legal remedies it may have against you in a court of appropriate jurisdiction.

**YOU ARE REQUIRED, BEFORE THE 30<sup>TH</sup> DAY AFTER YOUR RECEIPT OF THIS NOTICE, TO VACATE AND DELIVER UP POSSESSION OF THE PREMISES TO CSD VAN ZANDT LLC, OR THE UNDERSIGNED WILL PROMPTLY BEGIN LEGAL PROCEEDINGS FOR POSSESSION OF THE PREMISES.**

Dated: June 30, 2022

FLOWERS DAVIS, P.L.L.C.  
1021 ESE Loop 323, Suite 200  
Tyler, Texas 75701  
Phone: (903) 534-8063

By:   
Corey R. Kellam  
State Bar No. 24083297

*ATTORNEY FOR CSD VAN ZANDT LLC*



Notice to Vacate



Notice to Vacate

# FLOWERS DAVIS

~~CELIA C. FLOWERS\*~~  
 BOARD CERTIFIED, OIL, GAS & MINERAL LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION  
 \* BOARD CERTIFIED, RESIDENTIAL REAL ESTATE LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION  
 \* BOARD CERTIFIED, PROPERTY OWNERS ASSOCIATION LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION  
 \* BOARD CERTIFIED, CIVIL TRIAL LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION  
 MELANIE S. REYES  
 \* BOARD CERTIFIED, OIL, GAS & MINERAL LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION  
 LICENSED TO PRACTICE LAW IN TX AND NM  
 ALAN W. TOMME  
 J. SCOTT MILLER  
 CATHERINE CHEWLEY GOODGION  
 \* LICENSED TO PRACTICE BEFORE THE  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WILLIAM R. KNIGHT, JR.  
 MAYA P. JEDLIKA  
 KATRYNA R. WATKINS  
 TUCKER B. ROYALL  
 ANDREW SCHWING  
 \* LICENSED TO PRACTICE LAW IN TX AND LA  
 COREY R. KELLAM  
 A.D. (DEAN) CHAPMAN, OF COUNSEL  
 ELLIS G. VICKERS, OF COUNSEL\*  
 \* LICENSED TO PRACTICE LAW IN NEW MEXICO AND TEXAS  
 \* NEW MEXICO BOARD OF LEGAL SPECIALIZATION RECOGNIZED  
 SPECIALIST IN NATURAL RESOURCES - OIL & GAS LAW

~~Attorneys at Law~~  
 1021 ESE LOOP 323, SUITE 200  
 TYLER, TEXAS 75701  
 MAIN TELEPHONE: (903) 534-8063  
 FACSIMILE (903) 534-1650

~~IMMIGRATION (903) 592-8186  
 WWW.FLOWERSDAVIS.COM~~

~~LONGVIEW OFFICE:  
 1516 JUDSON ROAD  
 LONGVIEW, TEXAS 75601  
 TELEPHONE: (903) 757-8900  
 FACSIMILE: (903) 757-8902~~

~~ROBERT S. DAVIS  
 CHAD C. ROOK  
 LEE I. CORREA  
 ROBIN H. O'DONOGHUE  
 MITCHELL BEARD  
 STEVE M. MASON  
 JOHN "JACK" R. FULGHAM~~

~~THOMAS H. BUCHANAN, OF COUNSEL~~

~~PRESTON W. MCGEE\*  
 \* BOARD CERTIFIED, PERSONAL INJURY TRIAL LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION  
 \* BOARD CERTIFIED, CIVIL TRIAL LAW  
 TEXAS BOARD OF LEGAL SPECIALIZATION~~

~~VIRGINIA D. YOUNG  
 DANIEL C. ROSS~~

Notice to Vacate Property

Aug 4, 2022  
~~June 30, 2022~~

CSD Van Zandt LLC

~~Udo Birnbaum~~ and Occupant(s) of the Property *c/o Flowers Davis*  
 540 VZ County Road 2916 *1021 ESE LOOP 323, Suite 200*  
 Eustace, TX 75124 *Tyler, TX 75701*

~~Delivered Via: EMRRR 7014 2120 0001 7709 2678 and USPS regular mail~~  
 7021 2720 0002 2601 0909

Re: Notice to Vacate Property at 540 VZ County Road 2916 Eustace, TX 75124

CSD Van Zandt LLC

Dear ~~Mr. Birnbaum~~ and any other Occupants of the above referenced Property:

~~Our law firm represents CSD Van Zandt LLC, and I am writing you regarding the property~~  
 located at 540 VZ County Road 2916, Eustace, TX 75124 (the "Premises"), which you currently  
 live in as a tenant at will. Enclosed with this letter is a notice to vacate the property immediately.  
 occupy as a SQUATTER

If you have any questions, please contact me at (903) 534-8063 or [erk@flowersdavis.com](mailto:erk@flowersdavis.com).

903 802-9669 BRNBM@AOL.com

~~Udo Birnbaum~~  
 UDO BIRNBAUM

Sincerely,

~~Corey R. Kellam~~  
 Corey R. Kellam,  
 Attorney at Law

NOTICE TO VACATE PREMISES

TO: ~~UDO BIRNBAUM AND ANY TENANTS OR PARTIES IN POSSESSION~~ **CSD Van Zandt, LLC** **SQUATTING ON**  
~~OF THE REAL PROPERTY COMMONLY KNOWN AS 540 VZ COUNTY ROAD 2916 EUSTACE, TX 75124 (the "Premises").~~

YOU ARE HEREBY NOTIFIED:

Notice is hereby given and demand is hereby made that you vacate the Premises ~~by the 30<sup>th</sup> day after the date of receipt of this notice.~~ Specifically, you are demanded to vacate ~~as our client, CSD Van Zandt LLC, hereby terminates your tenancy at will.~~ This notice is given and demand is made as provided in sections 24.005 and 91.001 of the Texas Property Code, copies of which are enclosed.

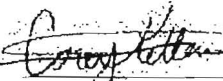
If you do not vacate the premises before the 30<sup>th</sup> day after the date of receipt of this notice, we, ~~on behalf of our client, CSD Van Zandt LLC,~~ will institute a forcible detainer suit against you. You are advised that, in addition to the other remedies available ~~to our client,~~ a judgment may be entered against you, including attorney fees and costs of suit, as provided in section 24.006 of the Texas Property Code, a copy of which is also enclosed. You are also advised that unless you vacate the premises within this period, ~~I CSD Van Zandt LLC intends to pursue any and all legal remedies it may have against you in a court of appropriate jurisdiction.~~ **I**

YOU ARE REQUIRED, BEFORE THE 30<sup>TH</sup> DAY AFTER YOUR RECEIPT OF THIS NOTICE, TO VACATE ~~AND DELIVER UP POSSESSION OF THE PREMISES TO CSD VAN ZANDT LLC, OR~~ THE UNDERSIGNED WILL PROMPTLY BEGIN LEGAL PROCEEDINGS ~~FOR POSSESSION OF THE PREMISES.~~

~~Dated: June 30, 2022~~  
**AUG. 4, 2022**

**UDO BIRNBAUM**  
**540 VZ County Road 2916**  
**EUSTACE, TX 75124**  
**903 802-9669**  
**Udo Birnbaum**

~~FLOWERS DAVIS, P.L.L.C.~~  
~~1021 ESE Loop 323, Suite 200~~  
~~Tyler, Texas 75701~~  
~~Phone: (903) 534-8063~~

By:   
Corey R. Kellam  
State Bar No. 24083297

~~ATTORNEY FOR CSD VAN ZANDT LLC~~