

This is the "to deprive the owner of property" evidence - that goes with their [successful] actual "unlawful appropriation of property". Penal 31.03 theft "unlawful appropriation of property to deprive the owner of property". (by successfully duping the Clerk with a mere ORDER to issue Abstract of JUDGMENT



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

Candi Scott

THE LAW OFFICES OF  
G. DAVID WESTFALL, P.C.  
  
Plaintiff/Counter-Defendant

v.

UDO BIRNBAUM  
  
Defendant/Counter-Plaintiff and  
Third Party Plaintiff

v.

G. David Westfall, Christina Westfall, and  
Stefani Podvin

Third Party Defendants

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IN THE DISTRICT COURT AM 8:47

HERBERT YOUNG  
DIST. CLERK VAN ZANDT CO. TX.

BY \_\_\_\_\_ DEP.

294<sup>th</sup> JUDICIAL DISTRICT

This motion shows clear intent to get money. And indeed getting a \$62,885 "Order on Motion for Sanctions", and with such ORDER duping the District Clerk to produce Abstract of JUDGMENT - "brings about" - - - - "the unlawful appropriation of property (the judgment liens) "to deprive the owner of property". Presto Penal 31.03 THEFT

VAN ZANDT COUNTY, TEXAS

**MOTION FOR SANCTIONS**

COMES NOW, Third Party Defendants, G. David Westfall, Christian Westfall, and Stefani Podvin, ("Movants"), third party defendants in the above-styled and numbered cause and files this Motion For Sanctions based upon Defendant/Third Party Plaintiff's violation of Rule 13, T. R. C. P., and violation of §§10.001 et seq. of the Texas Civil Practice and Remedies Code, and would thereby show the Court as follows:

Same song, second verse with a \$125,770 (62,885 x 2) Order on Motion for Scanctions

**I.**  
**FACTS:**

- 1. This lawsuit was brought by Plaintiff to collect on overdue legal fees for legal services rendered to the Defendant at Defendant's request.
- 2. Instead of a mounting a normal defense to a rather simple lawsuit such as this and raising the normal objections to a suit on a sworn account, the Defendant/Third Party Plaintiff chose

instead to make this lawsuit into his own public forum to make a mockery of all lawyers and the entire legal system.

3. Defendant/Third Party Plaintiff tried unsuccessfully to intimidate and harass the Plaintiff into dropping this lawsuit by attempting to implicate the owner of the Plaintiff, G. David Westfall, as well as his wife and daughter in a totally frivolous claim of running an organized crime syndicate in the form of a law office.

4. The Defendant/Third Party Plaintiff has attempted to use the forum of this lawsuit to launch a full scale attack on the integrity and character of G. David Westfall, Christina Westfall, and Stephanie Podvin.

5. If those attacks were not enough, the Defendant/Third Party Plaintiff broadened his attack in his pleadings and so called "Open Letters" to include casting aspersions at this Court, the visiting Judge, the Hon. Paul Banner, the Coordinator of the Court, the Court Reporter for the Court, and the Court of Appeals.

## II.

Specifically, Movants file this request for sanctions against the Defendant/Third Party Plaintiff for the following actions of the Defendant/Third Party Plaintiff:

1. Filing a frivolous third party claim pleading without factual support or a valid legal basis in Defendant/Third Party Plaintiff's causes of action filed against either G. David Westfall, Christina Westfall, or Stefani Podvin. Movants contend that Defendant/Third Party Plaintiff filed these pleadings for the purpose of causing inconvenience and/or harassment for Stefani Podvin, Christina Westfall, G. David Westfall, P.C., and G. David Westfall, individually and not in support of any valid, legally factual, and legally supportable claims.

BULL SHIT: Judge Paul Banner himself, at the hearing of their motion for protection from my taking their deposition, HIMSELF, HIMSELF - set the TIME, PLACE, and MANNER, of EACH of the FOUR depositions

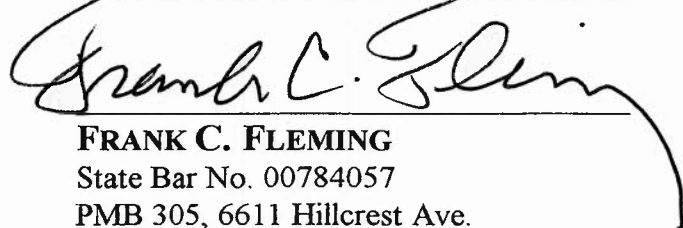
2. Filing discovery requests and taking depositions for the purpose of harassment and inconvenience and not to support any valid claims or causes of actions against the Movants.
3. Filing a frivolous motion to recuse the Hon. Paul Banner for the purpose of causing inconvenience and/or harassment for Movants.
4. Filing frivolous and untimely motions to appeal the granting of the Movants' Motions for Summary Judgment granted by the trial court.

WHEREFORE, PREMISES CONSIDERED, Movants pray that a hearing be set on this motion, and following a hearing, the Court assess appropriate sanctions against the Defendant/Third Party Plaintiff for the violations of Rule 13 of the Texas Rules of Civil Procedure and/or the violations of §10.001 et seq. of the Tex. Rules of Civil Procedure. Specifically, Movants request damages be assessed against the Defendant/Third Party Plaintiff and awarded to the Movants for the following:

- a. Reimbursement of all Movants' reasonable and necessary attorney's fees expended by Movants in defense of the allegations made by the Defendant/Third Party Plaintiff in this lawsuit to the extent such attorney's fees have not yet been awarded in any prior rulings of this Court.
- b. Reimbursement of all Movants' reasonable and necessary attorney's fees expended by Movants in pursuit of this Motion for Sanctions.
- c. Monetary damages to reimburse Movants for the inconvenience and harassment suffered by the Movants as a direct result of the improper actions taken by the Defendant/Third Party Plaintiff against the Movants in connection with this lawsuit.

- d. Punitive damages to be assessed against the Defendant/Third Party Plaintiff and awarded to the Movants in order to prevent the reoccurrence of such behavior again in the future by the Defendant/Third Party Plaintiff.
- e. Damages assessed against the Defendant/Third Party Plaintiff and awarded to the Court to reimburse the Court for its expenses and inconvenience suffered as a direct result of frivolous pleadings filed on behalf of the Defendant/Third Party Plaintiff.
- f. And for such other and further relief, both general and special, to which Movants may be justly entitled, both at law and equity.

Respectfully submitted,  
LAW OFFICE OF FRANK C. FLEMING

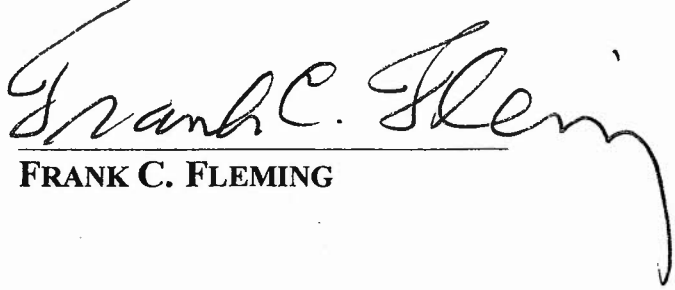


**FRANK C. FLEMING**  
State Bar No. 00784057  
PMB 305, 6611 Hillcrest Ave.  
Dallas, Texas 75205-1301  
(214) 373-1234  
(fax) 373-3232

**ATTORNEY FOR MOVANTS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above document has this day been delivered to Udo Birnbaum, by facsimile transmission to 903/479-3929, on this 9<sup>th</sup> day of May 2002.

  
FRANK C. FLEMING

**FIAT**

Please take note that this motion is set for hearing at \_\_\_\_ : \_\_\_\_ AM/PM on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
District Judge Presiding



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

*Candi Scott*

No. 00-00619

**THE LAW OFFICES OF  
G. DAVID WESTFALL, P.C.**

**IN THE DISTRICT COURT**

**Plaintiff/Counter-Defendant**

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**v.  
UDO BIRNBAUM**

**294<sup>th</sup> JUDICIAL DISTRICT**

**Defendant/Counter-Plaintiff and  
Third Party Plaintiff**

**v.**

**G. David Westfall, Christina Westfall,  
and Stefani Podvin**

**Third Party Defendants**

**VAN ZANDT COUNTY, TEXAS**

FILED FOR RECORD  
02 MAY 10 PM 3:19  
DUSTIN YOUNG  
DIST. CLERK VAN ZANDT CO. TX

**BIRNBAUM'S RESPONSE TO [THE WESTFALLS'] MOTION FOR SANCTIONS:  
LET THE U. S. JUSTICE DEPARTMENT DETERMINE THE FACTS**

COMES NOW Udo Birnbaum in response to the "facts" and "actions" issues raised by *[The Westfalls'] Motion for Sanctions*, to show that justice requires that these issues be determined by the U. S. Justice Department, because this Court has **no investigative capability**:

**IN RESPONSE TO MOVANTS' "FACTS" ISSUES**  
(Movants starting page 1 paragraph I)

**The Westfalls' "sanctionable facts" issue 1:**

*"This lawsuit was brought by Plaintiff to collect on overdue legal fees for legal services rendered to the Defendant at Defendant's request".*

**FALSE: "Overdue"** is a word never used in the entire case! This was an alleged "breach of contract" cause, where Plaintiff had breached the contract long ago by not openly and honestly informing Birnbaum by **billing monthly** and obligating Birnbaum to large expenses **without Birnbaum's prior approval**, all in violation of the agreement!

**"Plaintiff" (and the lawyers) never had a cause!**

*Birnbaum's Response to  
[the Westfalls'] Motion for Sanctions  
page 1 of 6 pages*

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The Westfalls' "sanctionable facts" issue 2:

*"Instead of a mounting a normal defense to a rather simple lawsuit such as this and raising the normal objections to a suit on a sworn account, the Defendant/Third Party Plaintiff chose instead to make this lawsuit into his own public forum to make a mockery of all lawyers and the entire legal system".*

**FALSE:** Birnbaum raised the **normal defense** of denying the account **under oath** per Rule 185, RCP, and calling for **appointment of an auditor** per Rule 172. (see attachment)

Neither the "Law Office", G. David Westfall, Stefani Podvin, Christina Westfall, or Frank C. Fleming ever responded to **any** of Birnbaum's motions for appointment of such Auditor under Rule 172!

Birnbaum has a First Amendment Right to speak out on the corruption G. David Westfall, Christina Westfall, and Stefani Podvin are bringing upon him in this Court in the name of their "Law Office".

The Westfalls' "sanctionable facts" issue 3:

*"Defendant/Third Party Plaintiff tried unsuccessfully to intimidate and harass the Plaintiff into dropping this lawsuit by attempting to implicate the owner of the Plaintiff, G. David Westfall, as well as his wife and daughter in a totally frivolous claim of running an organized crime syndicate in the form of a law office".*

**FALSE AND CONCLUSORY:** Birnbaum used more precise statutory language. But the issue is clear: Only the **U. S. Justice Department** can determine whether the above were indeed running a racketeering enterprise in violation of 18 U.S.C. § 1961, *et seq.* out of the "law office" as Birnbaum complains. This Court has **no investigative capability**.

Birnbaum has a First Amendment Right to speak out against public corruption as he has seen it, **without fear of retaliation** masquerading as "sanctions".

*"Implicate the owner"* is ludicrous under the circumstances: "Plaintiff" is the alter ego of Westfall, his wife, and his daughter. Another issue for the **U. S. Justice Department**.

The Westfalls' "sanctionable facts" issue 4:

*"The Defendant/Third Party Plaintiff has attempted to use the forum of this lawsuit to launch a full scale attack on the integrity and character of G. David Westfall, Christina Westfall, and Stephanie Podvin".*

FALSE: Birnbaum was seeking the intervention of the Court from the beginning upon the issue of **fraud in bringing this suit**. Another issue for the U. S. Justice Department.

The Westfalls' "sanctionable facts" issue 5:

*"If those attacks were not enough, the Defendant/Third Party Plaintiff broadened his attack in his pleadings and so called "Open Letters" to include casting aspersions at this Court, the visiting Judge, the Hon. Paul Banner, the Coordinator of the Court, the Court Reporter for the Court, and the Court of Appeals".*

FALSE: Birnbaum was seeking the intervention of the addressees to bring this entire matter to the attention of the U. S. Justice Department.

**IN RESPONSE TO MOVANTS' "ACTIONS" (OF BIRNBAUM) ISSUES**  
(Movants starting page 2 paragraph II)

Further Westfalls' "sanctionable facts" issues:

*"Specifically, Movants file this request for sanctions against the Defendant/Third Party Plaintiff for the following actions of the Defendant/Third Party Plaintiff:"*

Issue II-1

*"Filing a frivolous third party claim pleading without factual support or a valid legal basis in Defendant/Third Party Plaintiffs causes of action filed against either G. David Westfall, Christina Westfall, or Stefani Podvin. Movants contend that Defendant/Third Party Plaintiff filed these pleadings for the purpose of causing inconvenience and/or harassment for Stefani Podvin, Christina Westfall, G. David Westfall, P.C., and G. David Westfall, individually and not in support of any valid, legally factual, and legally supportable claims."*



FALSE: Birnbaum has a First Amendment Right to speak out against public corruption as he has seen it, **without fear of retaliation** masquerading as "sanctions". Another issue for the U. S. **Justice Department.**

Issue II-2

*"Filing discovery requests and taking depositions for the purpose of harassment and inconvenience and not to support any valid claims or causes of actions against the Movants."*

FALSE: Birnbaum has a First Amendment Right to speak out against public corruption as he has seen it, **without fear of retaliation** masquerading as "sanctions". Another issue for the U. S. **Justice Department.**

Issue II-3

*"Filing a frivolous motion to recuse the Hon. Paul Banner for the purpose of causing inconvenience and/or harassment for Movants."*

FALSE: As pointed out at the trial by Hon. Paul Banner himself, Birnbaum has a procedural right to ask for recusal.

Birnbaum has a First Amendment Right to speak out against public corruption as he has seen it, **without fear of retaliation** masquerading as "sanctions". Another issue for the U. S. **Justice Department.**

Issue II-4

*"Filing frivolous and untimely motions to appeal the granting of the Movants' Motions for Summary Judgment granted by the trial court."*

Birnbaum has a First Amendment Right to speak out against public corruption as he has seen it, **without fear of retaliation** masquerading as "sanctions". Another issue for the U. S. **Justice Department.**

In response to [The Westfall'] Movants "Wherefore, Premises Considered" paragraph, seeking the following:

- a. *Reimbursement of all Movants' reasonable and necessary attorney's fees expended by Movants in defense of the allegations made by the Defendant/Third Party*

- Plaintiff in this lawsuit to the extent such attorney's fees have not yet been awarded in any prior rulings of this Court.*
- b. Reimbursement of all Movants' reasonable and necessary attorney's fees expended by Movants in pursuit of this Motion for Sanctions.*
  - c. Monetary damages to reimburse Movants for the inconvenience and harassment suffered by the Movants as a direct result of the improper actions taken by the Defendant/Third Party Plaintiff against the Movants in connection with this lawsuit.*
  - d. Punitive damages to be assessed against the Defendant/Third Party Plaintiff and awarded to the Movants in order to prevent the reoccurrence of such behavior again in the future by the Defendant/Third Party Plaintiff*
  - e. Damages assessed against the Defendant/Third Party Plaintiff and awarded to the Court to reimburse the Court for its expenses and inconvenience suffered as a direct result of frivolous pleadings filed on behalf of the Defendant/Third Party Plaintiff.*
  - f. And for such other and further relief, both general and special, to which Movants may be justly entitled, both at law and equity.*

Birnbaum has a First Amendment Right to speak out against public corruption as he has seen it, **without fear of retaliation** masquerading as "sanctions". Another issue for the U. S. Justice Department.

WHEREFORE, PREMISES CONSIDERED, Birnbaum prays that a hearing be set on the "fact" and "actions" issues raised in the *[Westfalls'] Motion for Sanctions*, so that he may more fully show that the interest of justice requires that this matter be turned over to the U. S. Justice Department. (See attached *Petition to U. S. Bankruptcy Judge* for details). The Westfalls are a menace to society.

Respectfully submitted

*Udo Birnbaum*

**UDO BIRNBAUM, Pro Se**

540 VZ CR 2916

Eustace, TX 75124

(903) 479-3929

att:

- *Motion for Appointment of Auditor Pursuant to Rule 172*
- *Petition to U. S. Bankruptcy Judge Harold C. Abramson Nov. 26, 2001 (incl. 68 page Appendix)*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above document has this 10 day of May, 2002 been delivered as follows:

**REGULAR U.S. FIRST CLASS MAIL:**

- FRANK C. FLEMING, 6611 Hillcrest, PMB 305, Dallas, Texas 75205-1301
- THE HON. PAUL BANNER, c/o Sandy Hughes, First Administrative Judicial Region, 133 N. Industrial LB 50, Dallas, TX 75207 (no attachments)
- Judge Paul Banner, 24599 CR 3107, Gladewater, TX 75647 (no attachments)

**CERTIFIED MAIL, RESTRICTED DELIVERY**

**NO. 7000 0520 0022 8182 1532:**

- HON. HAROLD C. ABRAMSON, United States Bankruptcy Court, Northern District of Texas, 1100 Commerce Street, Rm. 12A24, Dallas, TX 75242-1496 (including attachments)

**HAND DELIVERY:**

- THE HON. PAUL BANNER, c/o Betty Davis, Court Administrator 294<sup>th</sup> District Court, 121 E. Dallas Street Room 301, 75103 (including attachments)
- DISTRICT CLERK, 294<sup>th</sup> District Court, Courthouse, Canton, TX 75103 (including attachments)

  
Udo Birnbaum