

May 26, 1998

Nancy Young, District Clerk
294th District Court
121 E. Dallas St. Rm. 302
Canton, TX 75103

Re: Jury Array, 294th District Court, Canton, TX.

Pertaining to my earlier inquiry regarding your jury arrays:

You indicated that the jury wheel is actually a software implementation, and that this software is controlled by someone outside of the County.

You also indicated that the list can be modified by editing on your end.

I request specific assurance that the jury wheel has not been tampered with, and that the array has not been derived from a preferred list.

Sincerely,

Udo Birnbaum

UDO BIRNBAUM
DEFENDANT

Reference:

to Nancy Young District Clerk:
re: Altering of File etc.

June 21, 1996

Udo Birnbaum
Rt. 1 Box 295
Eustace, Texas 75124

May 20, 1998

FILED FOR RECORD

98 MAY 20 AM 10:42

William B. Jones

Vs.

Cause 95-63, 294th District Court TX.

Udo Birnbaum

BY _____ DEP.

To: Clerk of Court

Re: Request for subpoenas and service
~~~~~

I hereby request you to issue subpoenas for each of the following witnesses, and have them served by the Sheriff. All witnesses reside in Van Zandt County. Trial is set for Tuesday, May 26, 1996. at 9:00 AM  
27th UMB

Scott Johnson

Wills Point Police Department

Odis Munns

Highway 19 South, Walton

Doug Poole

RFD 1, Van

William B. Jones

RT 1, Box 355, Eustace, Texas 75124  
(off FM 1256)

Sincerely,

*Udo Birnbaum*

UDO BIRNBAUM  
DEFENDANT

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124

CERTIFIED:

April 14, 1998

2 131 075 283

TO: BETTY DAVIS, Court Administrator  
121 East Dallas Street, Room 301  
Canton, Texas 75103-1465

RE: TAMPERING WITH SETTINGS OF PROCESS

You have personally and officially witnessed, and may even have inadvertently participated in, the latest surprise and unannounced process.

You, as an officer of the Court, should have called upon the District Attorney, and certainly should not have issued any more process, until you had been provided with an official finding.

I therefore call upon you to correct and rescind the latest setting, and to notify me of status.

No setting of hearing is requested, or appropriate.

Sincerely,

Udo Birnbaum

UDO BIRNBAUM

Udo Birnbaum  
Route 1, Box 295  
Eustace, TX 75124  
(903) 479-3929

CERTIFIED:

2 131 075 476

May 4, 1998

TO: BETTY DAVIS, Court Administrator  
121 East Dallas Street, Room 301  
Canton, Texas 75103-1465

RE: TAMPERING WITH SETTINGS OF PROCESS

I have yet to receive any response pertaining to my requests to you dated February 20, 1998 and April 14, 1998.

You have officially witnessed the recent unannounced process, and the blatant abuse of position and power, to deny me the protection of the law. My pleadings of crimes and call for the district attorney have precedence over Cause and settings.

There is a clear pattern of someone running roughshod over me and rigging settings and process.

It is high time for you to report to the district attorney, what you, as an Officer of the Court, have personally and officially witnessed.

Sincerely,

Aldo Birnbaum

JDC BIRNBAUM

Udo Birnbaum  
Route 1, Box 295  
Eustace, TX 75124

COPY: Thomas R. Phillips, Chief Justice  
The Supreme Court of Texas  
201 West 14th St., Room 104  
Austin, Texas 78701

CERTIFIED:

2 131 073 313

COPY: Richard L. Ray  
Attorney for the Plaintiff  
300 S. Trade Days Blvd.  
Canton, Texas 75103

CERTIFIED:

2 131 073 314

RE: MOTION FOR RECUSAL, CAUSE 95-63, 294TH DISTRICT COURT

The next judge should, of course, come through Chief Justice Phillips.  
I trust that complete documentation regarding assignment will be provided

Sincerely,

Udo Birnbaum

UDO BIRNBAUM  
PRO SE  
RT. 1, BOX 295  
EUSTACE, TEXAS 75124  
(903) 479-3929

FILED FOR RECORD

98 FEB 20 PM 2:21

HARVEY YOUNG  
CLERK VANDERZANT CO. TX.

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

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was sent by certified mail, return receipt requested, on this the 20<sup>th</sup> day of February, 1998, as indicated.

Udo Birnbaum

UDO BIRNBAUM

Att.:

Motion for recusal, Cause 95-63, 294th District Court  
(dated February 3, 1998)

May 18, 1998

TO:

Thomas R. Phillips, Chief Justice  
The Supreme Court of Texas  
201 West 14th St., Room 104  
Austin, Texas 78701

CERTIFIED:

COPY:

BETTY DAVIS, Court Administrator  
294th District Court  
121 East Dallas Street, Room 301  
Canton, Texas 75103-1465

CERTIFIED:

Re: Assignment of judge for recusal hearing  
Cause 95-63, 294th District Court  
~~~~~

Your Honor:

I have yet to receive a reply to my April 3, 1998 inquiry to you, and in my defense I am compelled to officially declare judges James B. Zimmerman and Pat McDowell to be witnesses.

I have been denied the protection of the Court from a three year barrage of fraudulent documents and settings, and require the judges' testimony to show how and why the trial was set, despite the evidence provided to both of them.

Subpoenas Duces Tecum were issued on May 15, 1998 per Instructions (attached). By copy to the Court Administrator I am also serving notice upon both judges.

Regarding assignment, I plead for someone independant to address the fraud upon the Court and bring an end to the rigging.

Sincerely,

Udo Birnbaum

UDO BIRNBAUM
PRO SE DEFENDANT

Attachment:

Instructions to Clerk of Court

May 14, 1998

Udo Birnbaum
Rt. 1 Box 295
Eustace, Texas 75124
(903) 479-3929

May 18, 1998

TO:

Thomas R. Phillips, Chief Justice
The Supreme Court of Texas
201 West 14th St., Room 104
Austin, Texas 78701

CERTIFIED:

COPY:

BETTY DAVIS, Court Administrator
294th District Court
121 East Dallas Street, Room 301
Canton, Texas 75103-1465

CERTIFIED:

Re: Assignment of judge for recusal hearing
Cause 95-63, 294th District Court
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Sincerely,

Udo Birnbaum

UDO BIRNBAUM  
PRO SE DEFENDANT

Attachment:

Instructions to Clerk of Court

May 14, 1998

Udo Birnbaum  
Rt. 1 Box 295  
Eustace, Texas 75124  
(903) 479-3929



May 18, 1998

TO:

Thomas R. Phillips, Chief Justice  
The Supreme Court of Texas  
201 West 14th St., Room 104  
Austin, Texas 78701

CERTIFIED:

COPY:

BETTY DAVIS, Court Administrator  
294th District Court  
121 East Dallas Street, Room 301  
Canton, Texas 75103-1465

CERTIFIED:

Re: Assignment of judge for recusal hearing  
Cause 95-63, 294th District Court  
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Regarding assignment, I plead for someone independant to address the fraud upon the Court and bring an end to the rigging.

Sincerely,

Udo Birnbaum

UDO BIRNBAUM
PRO SE DEFENDANT

Attachment:

Instructions to Clerk of Court

May 14, 1998

Udo Birnbaum
Rt. 1 Box 295
Eustace, Texas 75124
(903) 479-3929

WILLIAM B. JONES

*

IN THE DISTRICT COURT

VS.

FILED FOR RECORD

OF VAN ZANDT COUNTY, TEXAS

UDO BIRNBAUM

98 FEB -3 PM 2:32

294TH JUDICIAL DISTRICT

DEFENDANT'S RESPONSE TO BACKDATED SETTINGS:

MOTION FOR RECUSAL OF ZIMMERMAN AND MCDOWELL

=====

COPY

Judge Zimmerman and Judge McDowell:

Both of you have contributed to the systematic rigging of the entire Court against the Defendant, to conceal the fraud upon the Court. Any proper action by the Court, the First Administrative Judicial District, or the District Attorney would have produced indictments.

The Court's personal priorities are again shown by the obstruction of my January 21, 1998 "Application for Order to Compel". The Court has BACKDATED another document, and is in total disregard of what is proper before the Court. My January 21, 1998 call for the District Attorney supersedes all Civil process and settings.

You have acquired "personal knowledge of disputed evidentiary facts concerning the proceeding", and have acquired a conflict of interest.

Per Rule 18b(2), Rules of Civil Procedure, both of your recusals are mandatory and in order.

This the 3rd day of February, 1998

Udo Birnbaum

UDO BIRNBAUM
PRO SE DEFENDANT
RT. 1, BOX 295
EUSTACE, TEXAS 75124
(903) 479-3929

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered by certified mail, return receipt requested, to the Plaintiff's attorney of record, Mr. Richard L. Ray, and the Court Administrator, Betty Davis, on this the 3rd day of February, 1997, as indicated below.

Udo Birnbaum
UDO BIRNBAUM

Richard L. Ray
300 S. Trade Days Blvd.
Canton, Texas 75103

CERTIFIED:
Z 131 073 118

Betty Davis
Court Administrator
121 E. Dallas, Room 301 Courthouse
Canton, TX 75103

CERTIFIED:
Z 131 073 119

FILED FOR RECORD
98 FEB -3 PM 2:32
NANCY YOUNG
DIST. CLERK VAN ZANDT CO. TX.
BY / DEP.

*** This document provided as indicated: ***
~~~~~

TO: Nancy Young, District Clerk  
294th District Court, Canton, Texas

Envelope marked:

To be opened ONLY by the judge PRESIDING  
1:00 PM, July 22, 1997  
294th District Court, Canton, Texas  
IF NO HEARING: refer to Pat McDowell ONLY

TO: Judge Pat McDowell  
Presiding Judge 1st Adm. Jud. Dist.  
July 22, 1997, at 1:00 PM  
294th District Court  
Canton, Texas

OBJECTION TO DIVERSIONARY PROCEEDINGS  
~~~~~

I am still being victimized by a conspiracy of official oppression. This hearing is a diversion to cover up the Administrative District's involvement, including Zimmerman's role as a secret agent for Wallace, Davis, and Ray since October 2, 1995!

Pertaining to the April 21, 1997 hearing, Zimmerman has failed to enter my complaints of CONSPIRACY, RETALIATION, OFFICIAL OPPRESSION, and a BOGUS COURT ORDER, and has divulged my sworn complaints, mailed to him AT THE DISTRICT. He professed not to have received them until recently, yet had them, and shuffled them into OPEN Court files. His denial of protection, BY THE DISTRICT, is a serious violation of my rights.

The presence, in File 95-63, of the complete highlighted summary document, mailed to the District, indicates that my complaint is still not on the District's official agenda. The absence of my seven original individual documents, mailed to the District over a 21 month period, indicates that they were being intercepted and divulged all along.

For over 21 months I have sought the protection of the District. Today's hearing is just another subversion of the process and suppression of what is properly before the Court. MY PROTECTION FROM CRIMES HAS PRIORITY OVER YOUR BELATED CONCERN WITH A SINGLE PROCEDURE, WHEN ALL ALONG I HAVE BEEN DOCUMENTING TO YOUR DISTRICT THE CRIMINAL MISUSE OF THE ENTIRE PROCESS AND THE ENTIRE COURT.

Your failure to act in a timely manner indicates a conflict of interest. ACTION AS INDICATED: Referral of Cause 95-63 to the Justice Department.

This the 21st day of July, 1997

UB

UDO BIRNBAUM
PRO SE DEFENDANT
RT. 1, BOX 295
EUSTACE, TEXAS 75124
(903) 479-3929

March 11, 1997

OFFICIAL NOTIFICATION TO:

CERTIFIED ARTICLES:

* County Judge Richard Lawrence
Van Zandt County, Texas
Courthouse
Canton, TX 75103

P 211 515 843

* Leslie P. Dixon
District Attorney, Van Zandt Co.
Courthouse
Canton, TX 75103

P 211 515 844

* Administrative Judge James B. Zimmerman
First Administrative Judicial District
George Allen Courts Bldg.
600 Commerce, Rm 611
Dallas, TX 75202

P 211 515 845

NOTIFICATION OF CONSPIRACY AND RETALIATION
~~~~~

Lack of appropriate action is allowing a conspiracy to continue. The matter of crimes has been lingering over two years. I have been denied all official action. You are our magistrates.

I have already reported:

1. SUBVERSION of the Court Process to sneak in DEFAULT JUDGMENT proceedings, even though the attorney fully knew the Cause to be fraudulent, because HE HIMSELF fabricated it.
2. SUBVERSION of the County Appraisal District to harass and threaten.
3. SUPPRESSION of the rights of the Defendant.
4. OBSTRUCTION of the first recusal.
5. OBSTRUCTION by the First Administrative Judicial District, including MAIL TAMPERING regarding the second recusal.
6. ALTERING of Court records by tampering with File 95-63.
7. FORGERY of Court Order.

In light of the misuse of the Court and the Appraisal District, the obstruction of two recusals, the mail tampering, and even the FORGERY OF A COURT ORDER, I have reason to believe that someone even designated me for recent official scrutiny and harassment by someone in the IRS, because it was solely pertaining to what the attorney probated.

The latest "Notice of Setting" (enclosed) complements the BOGUS Court Order, and is another attempt to ensnare, and a diversion from serious complaints before the Court.

A procession of judges are meddling with the process, by interfering with the duties of the Court Administrator, to do whatever they find expedient, to cover up and oppress. The process has become a sleight of the hand. This is contrary to all legal norms and principles.

I question the authenticity of this "Notice of Setting", particularly in light of my recent notification to Mr. Davis (1-27-97, attached). The preferential scheduling is a diversion from what is before the Court.

The responsibility for this official harassment, however, rests directly with the County, for continuing to allow exploitation of employees and their positions, and the District Attorney, for denying me the protection of that Office.

This ongoing caper is official oppression. I am forced to request:

1. AN INJUNCTION against Richard Ray, Richard Davis, Tommy Wallace, and Betty Davis to cease and desist regarding Cause 95-63.
2. OFFICIAL REFERRAL of this matter to the U.S. Justice Department. This is racketeering under color of Law.

*Udo Birnbaum*

UDO BIRNBAUM  
Rt. 1 Box 295  
Eustace, TX 75124  
(903) 479-3929

encl:

|                                                                                 |                    |
|---------------------------------------------------------------------------------|--------------------|
| Notice of Setting                                                               | 2-05-97            |
| To Richard Davis<br>(4 encl.)                                                   | 1-27-97            |
| To First Administrative Judicial District:<br>Re: Recusal of judge<br>(1 encl.) | 10-02-95           |
| Defendant's Complaints                                                          | 10-25-95           |
| Petition for Court Order                                                        | 12-20-95           |
| Petition for Court to Respond                                                   | 1-03-96            |
| Defendant's Objection                                                           | 2-14-96            |
| Re: Obstruction of Process                                                      | 4-11-96            |
| Motion for Recusal and Disqualification                                         | 6-10-96            |
| Postmaster:<br>Re: Tampering with Certified Mail<br>Postal Inspector's reply    | 6-24-96<br>6-27-96 |
| To Clerk of Court, 294th<br>Re: Altering of file 95-63                          | 6-21-96            |
| To County Judge & Commissioners                                                 | 8-16-96            |

|                  |   |                            |
|------------------|---|----------------------------|
| WILLIAM B. JONES | * | IN THE DISTRICT COURT      |
| VS.              | * | OF VAN ZANDT COUNTY, TEXAS |
| UDO BIRNBAUM     | * | 294TH JUDICIAL DISTRICT    |

DEFENDANT'S APPLICATION FOR ORDER TO COMPEL  
~~~~~

TO JUDGE JAMES B. ZIMMERMAN:

I, UDO BIRNBAUM, petition this Court for an Order, to compel the District Attorney of this County, to officially present to the Grand Jury my complaints of crimes.

Plaintiff has produced a fraudulent transcript of December 10, 1997 oral depositions, and it is time for the District Attorney to bring an end to this oppression. Defendant has pleadings of duress before both this Court and the First Administrative Judicial District.

WHEREFORE, Defendant petitions this Court to issue such ORDER upon LESLIE P. DIXON, District Attorney, Van Zandt County.

I certify that copy of this application, and the request for a hearing thereon, has this day been served by Certified Mail, return receipt requested, on the Plaintiff's Attorney of record, Richard L. Ray, at 300 S. Trade Days Blvd., Canton, Texas 75103.

This the 21st Day of January, 1998

UB

UDO BIRNBAUM
PRO SE
RT. 1, BOX 295
EUSTACE, TEXAS 75124
(903) 479-3929

April 3, 1998

Thomas R. Phillips, Chief Justice
The Supreme Court of Texas
201 West 14th St., Room 104
Austin, Texas 78701

Re: Assignment of judge for recusal hearing
Cause 95-63, 294th District Court
~~~~~

Your Honor:

I have not received any notice through your Office or the Court Administrator, 294th District Court, of assignment to address the Feb. 3, 1998 motion for recusal. The disregard of procedure by the 294th District Court requires the assignment of an outside judge. A copy of my previous communication to your Office is attached.

For three years judges have blocked my complaints of crimes. Now even Pat McDowell, presiding judge of the First Administrative Judicial Region, is coming down unannounced to again exclude the District Attorney, to prevent that office from addressing any evidence. McDowell's subsequent fuzzy letter confirms his total disregard of procedure and my civil rights:

McDowell's letter is an attempt to conceal that he became knowledgeable long ago. He is hiding that Tommy Wallace, 294th District Judge, had never been removed from control. The First Administrative Judicial Region is neither enforcing procedure, nor taking official action regarding the tampering. (See "Notification, etc. below")

Please assign a judge to bring an end to the local tampering.

Sincerely,

---

UDO BIRNBAUM  
PRO SE DEFENDANT  
RT. 1, BOX 295  
EUSTACE, TEXAS 75124  
(903) 479-3929

attached:

|                          |                               |
|--------------------------|-------------------------------|
| letter from Pat McDowell | Feb. 23, 1998                 |
| re: motion for recusal   | Feb. 20, 1998                 |
| motion for recusal       | Feb. 3, 1998                  |
| call for the DA          | Jan. 21, 1998                 |
| to Pat McDowell          | Jul. 21, 1997                 |
| Notification etc.        | Mar. 11, 1997 w/o attachments |

(attachments can be found in file 95-63,  
where the judge dumped the "Notification")





## THE SUPREME COURT OF TEXAS

CHIEF JUSTICE  
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

CLERK  
JOHN T. ADAMS

JUSTICES  
RAUL A. GONZALEZ  
NATHAN L. HECHT  
JOHN CORNYN  
CRAIG ENOCH  
ROSE SPECTOR  
PRISCILLA R. OWEN  
JAMES A. BAKER  
GREG ABBOTT

EXECUTIVE ASST  
WILLIAM L. WILLIS

ADMINISTRATIVE ASST  
NADINE SCHNEIDER

September 16, 1997

Mr. Udo Birnbaum  
Rt. 1, Box 295  
Eustace, Texas 75124

Dear Mr. Birnbaum:

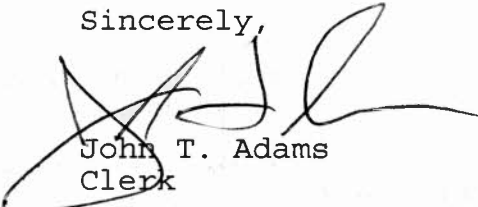
Your letter of September 12, 1997 to the Chief Justice has been given to me for reply.

The Supreme Court lacks both the authority and resources to conduct an investigation such as you request.

From your correspondence and documents, we assume that you have read Rule 18a Texas Rules of Civil Procedure. It is not entirely clear from your documents when in the proceedings you first filed your motion for recusal, but it appears to have been after hearing or hearings or other action by the court. You will have noted that section (f) states that when a recusal motion is denied, the remedy is review for abuse of discretion on appeal from the final judgment. Although no copy of any order overruling your motions is provided, we gather from your letter that there is such an order.

If you wish to file a complaint against a judge, you may contact the State Commission on Judicial Conduct, P. O. Box 12265, Austin, Texas 78711 [512 463-5533]. A complaint against an attorney may be filed with the Office of General Counsel, State Bar of Texas, P. O. Box 12487, Austin, Texas 78711 [1 800 204 2222].

Sincerely,

  
John T. Adams  
Clerk

## RULE 18. WHEN JUDGE DIES DURING TERM, RESIGNS OR IS DISABLED

If the judge dies, resigns, or becomes unable to hold court during the session of court duly convened for the term, and the time provided by law for the holding of said court has not expired, such death, resignation, or inability on the part of the judge shall not operate to adjourn said court for the term, but such court shall be deemed to continue in session. If a successor to such judge shall qualify and assume office during the term, or if a judge be transferred to said district from some other judicial district, he may continue to hold said court for the term provided, and all motions undisposed of shall be heard and determined by him, and statements of facts and bills of exception shall be approved by him. If the time for holding such court expires before a successor shall qualify, and before a judge can be transferred to said district from some other judicial district, then all motions pending, including those for new trial, shall stand as continued in force until such successor has qualified and assumed office, or a judge has been transferred to said district who can hold said court, and thereupon such judge shall have power to act thereon at the succeeding term, or on an earlier day in vacation, on notice to all parties to the motion, and such orders shall have the same effect as if rendered in term time. The time for allowing statement of facts and bills of exception from such orders shall date from the time the motion was decided.

(Amended June 16, 1943, eff. Dec. 31, 1943.)

### Notes and Comments

Source: Art. 2288.

## RULE 18a. RECUSAL OR DISQUALIFICATION OF JUDGES

(a) At least ten days before the date set for trial or other hearing in any court other than the Supreme Court, the Court of Criminal Appeals or the court of appeals, any party may file with the clerk of the court a motion stating grounds why the judge before whom the case is pending should not sit in the case. The grounds may include any disability of the judge to sit in the case. The motion shall be verified and must state with particularity the grounds why the judge before whom the case is pending should not sit. The motion shall be made on personal knowledge and shall set forth such facts as would be admissible in evidence provided that facts may be stated upon information and belief if the grounds of such belief are specifically stated.

(b) On the day the motion is filed, copies shall be served on all other parties or their counsel of record, together with a notice that movant expects the motion to be presented to the judge three days after the filing of such motion unless otherwise ordered by the judge.

Any other party may file with the clerk an opposing or concurring statement at any time before the motion is heard.

(c) Prior to any further proceedings in the case, the judge shall either recuse himself or request the presiding judge of the administrative judicial district to assign a judge to hear such motion. If the judge recuses himself, he shall enter an order of recusal and request the presiding judge of the administrative judicial district to assign another judge to sit, and shall make no further orders and shall take no further action in the case except for good cause stated in the order in which such action is taken.

(d) If the judge declines to recuse himself, he shall forward to the presiding judge of the administrative judicial district, in either original form or certified copy, an order of referral, the motion, and all opposing and concurring statements. Except for good cause stated in the order in which further action is taken, the judge shall make no further orders and shall take no further action in the case after filing of the motion and prior to a hearing on the motion. The presiding judge of the administrative judicial district shall immediately set a hearing before himself or some other judge designated by him, shall cause notice of such hearing to be given to all parties or their counsel, and shall make such other orders including orders on interim or ancillary relief in the pending cause as justice may require.

(e) If within ten days of the date set for trial or other hearing a judge is assigned to a case, the motion shall be filed at the earliest practicable time prior to the commencement of the trial or other hearing.

(f) If the motion is denied, it may be reviewed for abuse of discretion on appeal from the final judgment. If the motion is granted, the order shall not be reviewable, and the presiding judge shall assign another judge to sit in the case.

(g) The Chief Justice of the Supreme Court may also appoint and assign judges in conformity with this rule and pursuant to statute.

(h) If a party files a motion to recuse under this rule and it is determined by the presiding judge or the judge designated by him at the hearing and on motion of the opposite party, that the motion to recuse is brought solely for the purpose of delay and without sufficient cause, the judge hearing the motion may, in the interest of justice, impose any sanction authorized by Rule 215(2)(b).

(Added June 10, 1980, eff. Jan. 1, 1981; amended Dec. 5, 1983, eff. April 1, 1984; April 10, 1986, eff. Sept. 1, 1986; July 15, 1987, eff. Jan. 1, 1988; April 24, 1990, eff. Sept. 1, 1990.)

### Notes and Comments

This is a new rule.

Change by amendment effective April 1, 1984: Section (a) is changed textually.

April 3, 1998

CERTIFIED:

2 131 074 791

Thomas R. Phillips, Chief Justice  
The Supreme Court of Texas  
201 West 14th St., Room 104  
Austin, Texas 78701

Re: Assignment of judge for recusal hearing  
Cause 95-63, 294th District Court  
~~~~~

Your Honor:

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Please assign a judge to bring an end to the local tampering.

Sincerely,

Udo Birnbaum

UDO BIRNBAUM
PRO SE DEFENDANT
RT. 1, BOX 295
EUSTACE, TEXAS 75124
(903) 479-3929

attached:

letter from Pat McDowell	Feb. 23, 1998
re: motion for recusal	Feb. 20, 1998
motion for recusal	Feb. 3, 1998
call for the DA	Jan. 21, 1998
to Pat McDowell	Jul. 21, 1997
Notification etc.	Mar. 11, 1997 w/o attachments

(attachments can be found in file 95-63,
where the judge dumped the "Notification")

D. W. MILLER
Private Investigator
1030 W. Dallas St.
Canton, TX. 75103
903/567-2399
State Lic. No. A-07603

TO: Udo H. Birnbaum
Rt 1 Box Box 295
Eustace, Texas 75124

RE: Jones vs Birnbaum; Cause No. 95-63

INVESTIGATION REPORT

Investigation Requested

Inspect and make recommendations regarding *Steve's Creek* that flows in an easterly direction across property belonging to William B. Jones and then continues across property owned by Udo Birnbaum. Investigation to be focused on any obstructions on Birnbaum's property, including man made or natural that would alter the natural condition of said spring fed creek, so as to change the natural course and flow of water, causing said water to overflow into and upon Jones' property.

Investigation

On Friday, September 15, 1995, I contacted the USDA Stabilization and Conservation Service, on Hw. 19 N., Canton, Texas, wherein I spoke to Christi Hurley, Soil Conservationist. Records of this agency showed that in January, 1983, Udo Birnbaum requested and received a Soil Conservation Plan, including recommendations, concerning his property located at Rt 1 Box 295, Eustace, Van Zandt County, Texas.

Said Conservation Plan included Pasture Planting, Pasture Management, Critical Area Planting, Hay Land Management and Wildlife Management. The Wildlife Management segment of the study was confined to the area in question, being that portion of land that *Steve's Creek* traverses, being approximately 50 acres along the south border of Birnbaum's property. The Wildlife Study recommends that Mr. Birnbaum "leave all trees and brush on the creek area to provide escape and nesting area for wildlife."

Further check of the records of the Soil Conservation Service reflect that William B. Jones has never requested any study or plan for his property from this agency.

On Wednesday, September 20, 1995, I proceeded to the area in question to interview neighbors and property owners in the area and to make a brief inspection of the property. Neighbors and property owners in the area indicate that for many years prior to the year 1994 the spring fed creek, known as *Steve's Creek*, flowed through Jones and Birnbaum's property in a natural course, during all stages of its water level.

On Thursday, September 21, 1995, I returned to the area and upon a physical examination of the creek it was observed and it appeared that within the past year Mr. Jones had done extensive work with a bulldozer on the creek area on his property and into and upon Mr. Birnbaum's property a distance of approximately 15 feet. This altered the natural and normal flow of the creek. Mr. Jones removed all trees and other vegetation from the creek and its banks, causing erosion and the water to flow much faster than before the excavation. It appears when this excessive flow of water reaches Mr. Birnbaum's property it is slowed to its natural flow by the natural erosion preventatives left by Mr. Birnbaum, as suggested by the Soil Conservation Service.

A physical examination of the creek from the west side of Birnbaum's property to the east side (wherein photographs were taken at different intervals) no man made restrictions, such as a dam, was found. No beaver dams were found. The only restrictions found in the creek on Birnbaum's property were natural vegetation restrictions or sand, driftwood, and debris that had washed into the creek on Birnbaum's property from Jones' property after Jones excavated the creek on his property. None of the restrictions observed were to the extent that they would stop the natural flow of water. However, Mr. Jones has excavated the creek on his property causing an unnatural excessive flow of water to enter into and upon Birnbaum's property.

My investigation, including physical examination of the creek in question, revealed that Mr. Birnbaum not only obtained expert and professional advice about the management of his land, but followed the plan provided by the Soil Conservation Service.

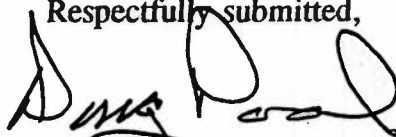
Conclusion

Mr. Jones undertook to claim land from nature, by excavating the creek on his property, without acquiring professional advice or guidance, thereby creating an unnatural situation in the creek flowing across his property and into and upon Mr. Birnbaum's property. It is obvious to this investigator that Mr. Jones' actions has created rapid erosion in the area of the creek on his property and has caused sand, driftwood, and debris to be washed down the creek into and upon Mr. Birnbaum's property.

RECOMMENDATION

Mr. Jones and Mr. Birnbaum should request a study and evaluation from the Soil Conservation Service and the Natural Water Resource Service of the property and creek in question and abide by their recommendations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Doug Pool". The signature is stylized with a large, looped "D" and "P".

Doug Pool
Private Investigator
State License # A-07603

Incident No. **95000870**

Van Zandt County Sheriff's Office Incident Report

Date & Time Reported **2-8-95 2:27 PM**

In of Incident VZ 2916 at FM 1256				Related Incident Number	Incident Status <input type="checkbox"/> Active <input checked="" type="checkbox"/> Inactive <input type="checkbox"/> Adult Arrest <input type="checkbox"/> Adult e/Keypin <input type="checkbox"/> Juvenile Custody <input type="checkbox"/> Juvenile e/Keypin <input type="checkbox"/> Unfounded	Exceptional Status <input type="checkbox"/> Death Of Offender <input type="checkbox"/> Prosecution Declined <input type="checkbox"/> Extradition Declined <input type="checkbox"/> Refused To Cooperate <input type="checkbox"/> Juvenile, No Custody <input type="checkbox"/> Warrant
City CANTON TX	Grid 29	Beat	Sheet	Number of Officers Killed By Accident/Negligence		
Earliest Date & Time Occurred 2-8-95 2pm		Latest Date & Time Occurred 2-8-95 2pm		Incident Status Date		

REPORTING PARTY		
Name (Last, First Middle) Same as below	Home Phone	Work Phone
Address	City, State Zip	

VICTIM											
Victim (Last, First Middle) Bienbaum, Udo Herman						Victim Type: <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial <input type="checkbox"/> Government <input type="checkbox"/> Religious <input type="checkbox"/> Society <input type="checkbox"/> Other <input type="checkbox"/> Unknown			Date Of Birth (Month/Day/Year) or Age Range 11-28-36		
Address RT 1 Box 295						City, State Zip Eustance TX			Resident Yes		
Phone 903 479 3929		Social Security Number		OLN		OLS		OLY		Hispanic? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Employer						Relative (Last, First Middle)					
Employer's Address						Address					
City, State Zip						City, State Zip					
Extension						Phone			Relation To Victim		
Injury/Marks/Scars						Type Of Injury			<input checked="" type="checkbox"/> Broken Bones <input type="checkbox"/> Internal Injury <input type="checkbox"/> Severe Laceration <input type="checkbox"/> Loss of Teeth <input type="checkbox"/> Scalds/Burns <input type="checkbox"/> Unconsciousness <input type="checkbox"/> Other Major Injury <input type="checkbox"/> Minor Injury <input type="checkbox"/> None		

LEOKA Victims	Type of Activity	Body Armor	Type of Assignment
Only Killed by Felonious Act? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> 1 Disturbance Call <input type="checkbox"/> 2 Burglary <input type="checkbox"/> 3 Robbery <input type="checkbox"/> 4 Other Arrest <input type="checkbox"/> 5 Civil Disorder <input type="checkbox"/> 6 Handling Prisoners <input type="checkbox"/> 7 Investigating Suspicious Persons/Circumstances <input type="checkbox"/> 8 Ambush <input type="checkbox"/> 9 Mentally Deranged <input type="checkbox"/> 10 Traffic Pursuit/Stop <input type="checkbox"/> 11 All Other	<input type="checkbox"/> 1 Wearing-Protected <input type="checkbox"/> 2 Wearing-Not Protected <input type="checkbox"/> 3 Not Wearing	<input type="checkbox"/> 1 1-Man Car-Uniformed-Alone <input type="checkbox"/> 2 1-Man Car-Uniformed-Assisted <input type="checkbox"/> 3 1-Man Car-Pain-Alone <input type="checkbox"/> 4 1-Man Car-Pain-Assisted <input type="checkbox"/> 5 2-Man Car-Uniformed <input type="checkbox"/> 6 2-Man Car-Pain <input type="checkbox"/> 7 Other Alone <input type="checkbox"/> 8 Other Assisted

Aggravated Assault/Homicide Circumstances			Additional Justifiable Homicide Circumstances
Aggravated Assault/Murder/Non-Neg Manslaughter (max 2)	Negligent Manslaughter (max 1)	Justifiable Homicide (max 1)	
<input type="checkbox"/> 1 Argument <input type="checkbox"/> 2 Assault On LE Officer <input type="checkbox"/> 3 Drug Dealing <input type="checkbox"/> 4 Gangland <input type="checkbox"/> 5 Juvenile Gang <input type="checkbox"/> 6 Lovers' Quarrel <input type="checkbox"/> 7 Mercy Killing <input type="checkbox"/> 8 Other Felony Involved <input type="checkbox"/> 9 Other Circumstances <input type="checkbox"/> 10 Unknown Circumstances	<input type="checkbox"/> 11 Child Playing with Weapon <input type="checkbox"/> 12 Gun-Cleaning Accident <input type="checkbox"/> 13 Hunting Accident <input type="checkbox"/> 14 Other Negligent Weapon Handling <input type="checkbox"/> 15 Other Negligent Killing	<input type="checkbox"/> 16 Criminal Killed by Private Citizen <input type="checkbox"/> 17 Criminal Killed by Police Officer	<input type="checkbox"/> 18 Criminal Attacked Police Officer <input type="checkbox"/> 19 Criminal Attacked Fellow Police Officer <input type="checkbox"/> 20 Criminal Attacked Civilian <input type="checkbox"/> 21 Criminal Attempted Flight from a Crime <input type="checkbox"/> 22 Criminal Killed in Commission of a Crime <input type="checkbox"/> 23 Criminal Resisted Arrest <input type="checkbox"/> 24 Unable to Determine/Not Enough Info

Mate-Bias Crimes Only	Type Of Bias	Target
<input type="checkbox"/> 1 Black <input type="checkbox"/> 2 Asian/Pacific Islander <input type="checkbox"/> 3 American Indian	<input type="checkbox"/> 4 White <input type="checkbox"/> 5 Other Race/Color <input type="checkbox"/> 6 Hispanic <input type="checkbox"/> 7 Anti-Semitic <input type="checkbox"/> 8 Other Religion <input type="checkbox"/> 9 Ethnic/National Origin	<input type="checkbox"/> 10 Sexual Orientation <input type="checkbox"/> 11 Age <input type="checkbox"/> 12 Gender <input type="checkbox"/> 13 Disability <input type="checkbox"/> 14 Political
Circumstances		<input type="checkbox"/> 1 Place of Worship <input type="checkbox"/> 2 Other Group Property <input type="checkbox"/> 3 Public Property <input type="checkbox"/> 4 Business <input type="checkbox"/> 5 Residence <input type="checkbox"/> 6 Other Property <input type="checkbox"/> 7 Clergy <input type="checkbox"/> 8 Other Person

Domestic Abuse Cases Only	Children <input type="checkbox"/> Harmed <input type="checkbox"/> Unharmed <input type="checkbox"/> None Present	Reerrals <input type="checkbox"/> Counseling <input type="checkbox"/> Financial <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Shelter <input type="checkbox"/> Other <input type="checkbox"/> None	Reporter <input checked="" type="checkbox"/> Victim <input type="checkbox"/> Other
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OTHER NAMES

Name (Last, First Middle) <i>Towes, William B</i>	Involvement	Home Phone	Work Phone
Address	City, State Zip		
Name (Last, First Middle)	Involvement	Home Phone	Work Phone
is	City, State Zip		
Name (Last, First Middle)	Involvement	Home Phone	Work Phone
Address	City, State Zip		

NARRATIVE

On today's dates and times the constable Aldo Bienbaum came to the Van Zandt Sheriff's Dept. while at the Sheriff's dept. Mr. Bienbaum informed me that he had received civil papers on today's date from deputy Sheriff. Mr. Bienbaum stated that he has been having civil problems with a William B. Towes who's land backs up to his land. Mr. Bienbaum stated that Mr. Towes had torn down his fence and had done a lot of damage to his property. Mr. Bienbaum asked if I would go with him to his property and observe the conditions. I did go with Mr. Bienbaum to his property and did observe approx. 300-400 yards of fence that was missing. Also I observed a lot of brush and trees along with sand that had washed onto Mr. Bienbaum's property. I also observed what I believed to be large tractor tracks in the ground around the fence area and along the creek. Mr. Bienbaum stated that Mr. Towes had destroyed the creek which caused the creek to over flow causing the land and brush to wash onto Mr. Bienbaum's land. This caused ~~the~~ ~~water~~ ~~to~~ ~~back~~ ~~up~~ ~~onto~~ ~~Mr.~~ ~~Towes~~ ~~land~~ ~~and~~ ~~Mr.~~ ~~Towes~~ ~~land~~ ~~appeared~~ ~~to~~ ~~be~~ ~~natural~~ ~~wet~~ ~~lands~~ ~~at~~ ~~one~~ ~~time~~. I told Mr. Bienbaum that this was a civil action and not a criminal action. Mr. Bienbaum wanted a report for his records.

Reporting Officer (ID & Name) <i>Scott Johnson</i>	Assisting Officer (ID & Name)	Supervisor (ID & Name)
---	-------------------------------	------------------------

FILING A FALSE REPORT WITH A LAW ENFORCEMENT AGENCY IS A CRIMINAL OFFENSE

I hereby certify that the information contained in this report is accurate to the best of my knowledge and I will prosecute the offender if found.

2895
Date

Signature

NOV 15 1994

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO. 1 OF 1 PAGES

I, Edward Womble, AM NOT UNDER ARREST, NOR AM I BEING DETAINED FOR ANY CRIMINAL OFFENSE CONCERNING THE EVENTS I AM ABOUT TO MAKE KNOWN TO

WITHOUT BEING ACCUSED OF OR QUESTIONED ABOUT ANY CRIMINAL OFFENSES REGARDING THE FACTS I AM ABOUT TO STATE, I VOLUNTEER THE FOLLOWING INFORMATION OF MY OWN FREE WILL, FOR WHATEVER PURPOSES IT MAY SERVE.

I AM 35 YEARS OF AGE, AND I LIVE AT Rt. 1 Box 292 A Eustace Tx.

I have lived in this community for approximately 28 years, except for 2 years (1985-1987) at which time I lived in Tulsa Ok.

I grew up as a boy playing up and down Steve Creek. As more beavers populated this area (probably late 1970's) there were some beaver damms formed in several locations up and down Steve Creek. In saying up and down I mean East and West of CR 2916. To my knowledge there was never an attempt to destroy those beaver damms until Mr. Jones destroyed the damms on his property.

Shortly after these damms were destroyed by dynamite on Mr. Jones property, I visited the area in question with Mr. Birnbaum and several others. At that time there were no damms on Mr. Birnbaum's property. There was however a considerable amount of debris washed down upon Mr. Birnbaum's property. There were

I HAVE READ EACH PAGE OF THIS STATEMENT CONSISTING OF 1 PAGES, EACH PAGE OF WHICH BEARS MY SIGNATURE, AND CORRECTIONS, IF ANY, BEAR MY INITIALS, AND I CERTIFY THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT.

DATED AT _____ THIS _____ DAY OF _____, 19 _____.

WITNESS: _____

WITNESS: _____

Edward Womble
SIGNATURE OF PERSON GIVING VOLUNTARY STATEMENT

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO. 2 OF 2 PAGES

I, Edward Womble, AM NOT UNDER ARREST, NOR AM I BEING DETAINED FOR ANY CRIMINAL OFFENSE CONCERNING THE EVENTS I AM ABOUT TO MAKE KNOWN TO

WITHOUT BEING ACCUSED OF OR QUESTIONED ABOUT ANY CRIMINAL OFFENSES REGARDING THE FACTS I AM ABOUT TO STATE, I VOLUNTEER THE FOLLOWING INFORMATION OF MY OWN FREE WILL, FOR WHATEVER PURPOSES IT MAY SERVE.

I AM _____ YEARS OF AGE, AND I LIVE AT _____

no obstructions in the creek. The water was running freely and staying well within the creek channel. I will mention also that the creek was not down due to dry weather. There was a generous amount of water flowing.

I will also state that there has never been a man made structure on any area of this creek that I have visited.

I HAVE READ EACH PAGE OF THIS STATEMENT CONSISTING OF 2 PAGES, EACH PAGE OF WHICH BEARS MY SIGNATURE, AND CORRECTIONS, IF ANY, BEAR MY INITIALS, AND I CERTIFY THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT.

DATED AT _____ THIS _____ DAY OF _____, 19 _____.

WITNESS: _____

WITNESS: _____

Edward Womble
SIGNATURE OF PERSON GIVING VOLUNTARY STATEMENT

4-8-88

Visited Roy Phillips. Said Jones was back by at least 5 PM yesterday. ~~Said Jones had Jones~~ told him he'd been in hospital to have knee replaced.

Visited Adam Kerron. Had not helped to pm in 6 years. Had had a falling out 8 years ago.

Was taking care of Jones's cattle, Jones suddenly had a falling out to him.

~~When I said~~
was told Jones was home. I said I did not want to go over there. Adam ~~said~~ ~~he~~ volunteered that he would not either.

Both Roy and Adam present workers Em.

11:45 AM

Adam said Jones would suddenly snap, that he also ran his wife off by not allowing her to see her kids. Adam said the best thing was to avoid him. He had for 6 years. ~
Paul

September 28, 1995

Natural Resource Conservation Commission
Rt. 14 Box 254
Tyler, Texas 75707

Ladies and/or Gentlemen:

I request the assistance of this agency regarding water and erosion problems I am experiencing because of recent extensive upstream drainage and terrain modifications.

Since 1983 I have had a soil conservation plan in place for all of my farm and a wildlife management plan for the area adjacent to Steve's Creek, one of three live creeks that join on the upstream end of my property.

The stability of the entire area has been disturbed by the bulldozing operations of the adjacent landowner, Mr. William B. Jones. The modification and drainage of his wetlands is destroying my wetlands.

I request your assistance with the water and erosion problems I am experiencing. Feel free to confer with the USDA Stabilization and Conservation Service, on Hwy.. 19N, Canton, Texas.

Your prompt attention would be appreciated.

Sincerely,

Udo Birnbaum

Udo Birnbaum

Udo Birnbaum
Rt. 1 Box 295
Eustace, Texas 75124
(903) 479-3929

October 5, 1995

James Mirabal
Texas Natural Resource Conservation Commission
P.O. Box 13087-MC160
Austin, Texas 78711

Dear Mr. Mirabal:

Pursuant to our telephone conversation of October 4, 1995 I am sending the information you requested.

Also attached are several relevant documents that bear on my request, as well as my initial letter to the Tyler Office of the TNRCC.

The area of my property we are talking about is the wooded strip surrounding Steve Creek, which flows in an easterly direction on the southern end of my property.

The adjacent landowner I am referring to joins me on the southwestern end of my property. All land is in Van Zandt County.

Thank you for your prompt response.

Sincerely,

Udo Birnbaum

Udo Birnbaum

Udo Birnbaum
Rt. 1 Box 295
Eustace, Texas 75124
(903) 479-3929

Encl:

Request for assistance
Marked up location map
Soil Conservation Plan
Sheriff's Report
Complaint to District Attorney
Investigation Report

Barry R. McBee, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

November 27, 1995

Mr. William B. Jones
Route 1 - Box 355
Eustace, Texas 75124

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Re: Unauthorized Channel Modifications on Steve Creek in Van Zandt County, Texas

Dear Mr. Jones:

The Texas Natural Resource Conservation Commission (TRNCC) notes that you have modified the channel of Steve Creek in Van Zandt County, Texas. Such construction in the floodplain may be in violation of Texas statutes. Specifically, Section 16.236 of the Texas Water Code which requires that plans for levees or other such improvements which control, regulate, or otherwise change the floodwater of a stream must be approved by the TNRCC.

The Commission has no record of an application for approval of plans for levee construction at the referenced location. We are therefore requesting that you take immediate steps to assure that the construction of the project is in compliance with the law. To do this you must demonstrate with an engineering study by a registered professional engineer what effect the project will have upon the flood flows of Steve Creek. If it can be shown that the project will not raise the flood levels of the Steve Creek significantly, the structure's plans and structural stability can be approved by the Commission.

This process requires submission of an application. To help you, the pertinent section of the Rules and Regulations of the TNRCC relating to approval of plans for reclamation engineer projects and a sample application form are enclosed.

Please give this matter your prompt attention. If we do not hear from you within 90 days from the date of this letter, we will refer this matter to our Legal Division for appropriate action under Section 16.236. Should you have any questions, contact me at the letterhead address or by calling 512/239-4771.

Sincerely,

A handwritten signature in black ink that reads "James Mirabal".

James Mirabal, P.E.
State Reclamation Engineer

Enclosures

cc: Mr. Steve Groseclose, Legal-TNRCC
Mr. Udo Birnbaum, Route 1, Box 295, Eustace, Texas 75124

RICHARD L. RAY, P.C.

A Professional Corporation
Attorney at Law

300 S. TRADE DAYS BLVD.
(300 S. HWY. 19)
CANTON, TEXAS 75103

(903)567-2051
(903)567-6101
TELECOPIER: (903)567-6998

January 24, 1996

TEXAS NATURAL RESOURCE CONSERVATION COMMISSION
Attention: James Mirabal, P.E.
P. O. Box 13087
Austin, TX 78711-3087

Dear Mr. Mirabal:

Re: Cause No.95-63
William B. Jones v. Udo Birnbaum
(Unauthorized Channel Modifications
on Steve Creek in Van Zandt County)

I represent Mr. William B. Jones relative to the above referenced cause. Mr. Jones brought your letter dated November 27, 1996 to my office for response.

Your correspondence indicates that Mr. Jones has modified the channel of Steve Creek. Such is entirely untrue. Mr. Birnbaum is using your office to harass Mr. Jones because of the pending litigation which began well before your letter. I request that you immediately provide a letter to Mr. Jones closing the actions which you have initiated. In addition, I strongly urge you to view Mr. Birnbaum's property with regard to the purported channel modification charges.

If you insist on pursuing this matter, please provide a more definitive statement with respect to the alleged channel changes. If you do not respond as requested, it is my intention to add your commission to the suit as a defendant and to contact Mr. David Cain, State Senator and Dr. Bob Glaze, State Representative for an investigation of your actions.

Sincerely,

COPY

Richard L. Ray

RLR:cj

cc: Mr. William B. Jones

Barry R. McBee, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
John M. Baker, *Commissioner*
Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

February 14, 1996

Mr. William B. Jones
Route 1 - Box 355
Eustace, Texas 75124

Re: Unauthorized Channel Modifications on Steve Creek in Van Zandt County, Texas

Dear Mr. Jones:

This is in followup to your attorney's January 24, 1996, letter and our February 5, 1996, telephone conference concerning the referenced matter. We have reviewed the additional information you supplied and our flood maps.

Our findings indicate that your activity has consisted of the removal of vegetation. No channel modifications have taken place. Additionally, should channel modifications have taken place, the drainage area above what would be the lowest point of construction is less than five square miles. The Texas Natural Resources Conservation Commission (TNRCC) has no jurisdiction over the removal of vegetation or on channel modification less than five square miles.

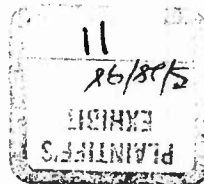
Thank you for your assistance on this matter. Should you have any additional questions, please do not hesitate to contact me at 512/239-4771.

Sincerely,

A handwritten signature in cursive script that reads "James Mirabal".

James Mirabal, P.E.
State Reclamation Engineer

cc: Mr. Steve Groseclose, Legal-TNRCC
Mr. Udo Birnbaum, Route 1, Box 295, Eustace, Texas 75124



VAN ZANDT COUNTY APPRAISAL DISTRICT

W. Hwy. 64 P.O. Box 926
Canton, Texas 75103

Tele. 903/567-6171
903/567-4956
Fax 903/567-6600

March 9, 1995

Udo H. Birnbaum
Rt. 1 Box 295
Eustace, TX 75124

Acct: #52-0978-202-0000-0000

Abst: 978 Survey: Young Acres: 18.000

Dear Property Owner:

The Van Zandt County Appraisal District is in the process of reviewing open-space land applications that we have on file. I recently stopped by your property, but found no evidence of an agriculture operation.

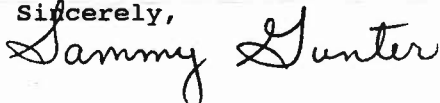
As you know, the land subject to your application must be currently devoted principally to agricultural use and must have been for five (5) of the last seven years.

It is possible that we were looking at the wrong property, or that there is some other explanation, but, we do need to get together within 30 days of the date of this letter to discuss this matter.

If we do not hear from you as requested, we will then notify you of the removal of the productivity value from the subject property and the procedure for appealing our decision. Also, under certain circumstances, a rollback tax may be due on the property. (See attached rollback example.)

If you have any questions, please contact me on Thursdays at the above number. I am usually in the field Monday through Wednesday.

Sincerely,



Sammy Gunter
Agriculture Appraiser

/csh

ROLLBACK EXAMPLE

Market value (50 ac.tr.)	\$65,000.00
x a tax rate of \$2/\$100	1,300.00 taxes

VS

Ag value (50 ac.tr.)	\$ 6,050.00
x a tax rate of \$2/\$100	121.00 taxes

The rollback tax would be:

Market value taxes	\$ 1,300.00
Less ag value taxes	<u>121.00</u>

Rollback taxes due	\$ 1,179.00
Plus 7% Interest	<u>83.00</u>

1 YEAR ROLLBACK	\$ 1,262.00
-----------------	-------------

March 22, 1995

Sammy Gunter
Agriculture Appraiser
Van Zandt County Appraisal District
W. Hwy. 64 P.O. Box 926
Canton, Texas 75103

Dear Agriculture Appraiser:

I am puzzled by your letter of March 9, 1995.

You stated that it is possible that you were looking at the wrong property. I have to assume that you probably were looking at the wrong property.

You surely could not have been looking at my farm.

By the way, please inform me of the criteria that are currently in effect for evaluating agricultural activity in my area. I periodically review my agricultural operation so that I can remain well within the law as far as agricultural intensity is concerned.

I need to know the following:

1. How do you determine the area within which agricultural intensity is compared, and in particular **WHAT IS MY AREA?**
2. How do you correlate agricultural intensity between different segments of agriculture, particularly between exotic birds, nursery industry, cattle, timber, and dairy?
3. Which percentile of agricultural intensity currently qualifies for open space classification and **WHERE WAS I RANKED WITHIN MY AREA?**

Please do not hesitate to contact me if you have any questions about my requests or if I can be of any further help to you.

Sincerely,

UB.

Udo Birnbaum
Route 1, Box 295
Eustace, TX 75124

VAN ZANDT COUNTY APPRAISAL DISTRICT

W. Hwy. 64 P.O. Box 926
Canton, Texas 75103

April 24, 1995

Tele. 903/567-6171
903/567-4956

Udo H. Birnbaum
Rt. 1 Box 295
Eustace, TX 75124

Acct. # 52-0978-0212-0000-0000 Abst: 978
Acres: 18.000 Survey: Young

Dear Mr. Birnbaum:

We appreciate, very much, your cooperation and patience in the processing and/or review of your open-space land application.

Your application, which has been under review, has been approved and your land will be taxed, or will continue to be taxed, whichever is applicable, based on its "productivity value" in lieu of its "fair market value". But, please note: If at any time in the future, you cease to use this land for agriculture purposes, the five (5) year rollback will be applied immediately and you will be required to pay the back taxes due. Be sure you understand this statement for the rollback taxes can be severe. Again, if you change the use of this property after it is approved, the rollback tax penalty will be applied immediately. A typical rollback example is as follows:

Market value (50 ac.tr.) \$65,000.00
x a tax rate of \$2/\$100 1,300.00 taxes

VS

Ag value (50 ac.tr.) \$ 6,050.00
x a tax rate of \$2/\$100 121.00 taxes

The rollback tax would be:

Market value taxes \$ 1,300.00
less ag value taxes 121.00

Rollback taxes due \$ 1,179.00
Plus 7% Interest 83.88

1 YEAR ROLLBACK \$ 1,262.00

It is very important that you stay in compliance to avoid this severe penalty that could apply for up to five (5) years.

Thank you!

Sincerely,

Sammy Gunter
Agriculture Appraiser

SVG/csh

October 2, 1995

The Hon. James B. Zimmerman
First Administrative Judicial Region
George Allen Courts Bldg.
6000 Commerce, Rm 611
Dallas, Texas 75202

Re: Recusal of Judge
Cause 95-63
294th District Court
Canton, Texas

Your Honor:

I was summoned into 294th District Court in Canton, Texas in February 1995 as a result of the fabrications of the suing attorney. I am still in Court in October because of the protection given to the attorney by the Court. In light of previous cover-ups I have experienced by the Court, I am now forced to believe that EVEN MY MOTION FOR RECUSAL OF JUDGE IS BEING OBSTRUCTED BY NOT BEING FORWARDED. I have never been notified by the Court or by your office. I complain of the following:

I

Because of a too close working relationship with then Court, the suing attorney was able to infiltrate the Process and trick the Court into actually PROCEEDING with a Default Judgment. No such motion and no such documents had been filed. THE DOCUMENT THE COURT WAS ACTING ON HAS DISAPPEARED.

II

Both the Court and the attorney were surprised by the appearance of the Defendant and his objection to the proceedings before the bench. The Court ever-after has shielded the attorney by suppressing what truly transpired before the bench, including the private discussion between the attorney and the judge. Between the judge and the attorney they rolled these proceedings into a pre-trial hearing.

III

The Court then proceeded with a pre-trial hearing, which was itself improper, since no such request had been made to the Court. Without an evidentiary hearing, and in the absence of the Plaintiff, the judge was willing to accept the Plaintiff's Original Petition, despite the Defendant's Pleading complaining of false charges and assault by the attorney. THE DEFENDANT HAS BEEN UNABLE TO OBTAIN THE TRANSCRIPT OF THE PROCEEDINGS BEFORE THE BENCH IN OPEN COURT.

IV

There has never been an evidentiary hearing and the Plaintiff has NEVER been before the Court, despite numerous requests by the Defendant to hear from the Plaintiff. The Defendant has challenged the attorney's authority from the beginning.

V

The Court has suppressed evidence by failing to comply with the Defendant's numerous requests for transcripts of this and other hearings. The Court never questioned the actions of the suing attorney or attempted to correct its own mistakes.

VI

The Court has failed to pursue the Defendant's complaints of fraudulent charges and perjury by the attorney, even in the face of a Sheriff's report and a crime report to the District Attorney.

VII

Defendant is entitled to fair and impartial treatment based on the facts. THE DEFENDANT'S EXPOSURE AND VULNERABILITY MUST NOT BE EXTENDED BECAUSE OF FAVORITISM, COVER-UPS, AND TAMPERING.

VIII

My defense has been obstructed, and I was forced to ask for the recusal of the judge. But I have never been notified by the Court or your office regarding the status of the motion for recusal.

We the citizens of Van Zandt County have had a history of questionable behavior by our elected officials. But it is only now that I find myself personally confronted by individuals who are or who have been in high public positions.

My farm constitutes a sizeable investment. I find it totally unacceptable to have such persons, by fraudulent means, appropriate what is rightfully mine.

I have filed a complaint with the District Attorney of Van Zandt County regarding the above matters.

It is time to restore confidence. A DEFENDANT SHOULD NOT BE FORCED TO DEFEND HIMSELF AGAINST THE MACHINATIONS OF A SUING ATTORNEY IN A MANIPULATED COURT.

I now petition your office to refer the above matters to the Attorney General of the State of Texas and the Commission on Judicial Revue.

Please inform me regarding the status of recusal of judge.

Certified Article
z 036 253 982

This the 2nd day of October, 1995

Udo Birnbaum

Udo Birnbaum
Rt. 1 Box 295
Eustace, Texas 75124
(903) 479-3929

UDO BIRNBAUM
PRO SE DEFENDANT

Encl: Motion for recusal of judge

COPY

WILLIAM B. JONES
VS.
UDO BIRNBAUM

*
*
*

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

MOTION FOR RECUSAL OF JUDGE
=====

The Plaintiff's attorney is being shielded by his too close working relationship with this Court and my Rights are being trampled.

Due to the simplicity of the case, any proper action by this Court at any stage would have disposed of Cause 95-63 and resolved this whole matter.

What I, as a Defendant, have experienced in your Court is a mockery of Justice that must not be permitted in these United States.

This Court has failed to comply with the rules of Law and Conduct. File 95-63 speaks for itself and needs no elaboration.

I find it impossible to defend myself under such conditions.

In light of the above, your recusal is in order.

This the 15th day of August, 1995

Udo Birnbaum

UDO BIRNBAUM
ENGINEER, RANCHER, TEACHER
PRO SE DEFENDANT
RT. 1, BOX 295
EUSTACE, TEXAS 75124
(903) 479-3924
NANCY YOUNG
DIST. CLERK VAN ZANDT CO. TX

FORWARDED TO
DISTRICT CLERK
8-16-95

95 AUG 23 PM 1:45

FILED FOR RECORD
8-23-95

Granted

[Handwritten signature]

WILLIAM B. JONES * IN THE DISTRICT COURT
VS. * OF VAN ZANDT COUNTY, TEXAS
UDO BIRNBAUM * 294TH JUDICIAL DISTRICT

MOTION FOR RECUSAL AND DISQUALIFICATION
=====

Cause 95-63 is not now, and never has been, a legitimate process, but only one aspect of the attempt of a powerful attorney to overwhelm me and steal from me by the misuse of his authority, aided and abetted by this Court, and another legal body which he has manipulated against me.

You and the Administrative District have refused to do your duty of policing and bringing this Court into compliance.

You have refused to enter my complaints of obstruction of process on the District's official agenda. I have entered SIX (6) petitions, motions, and complaints starting October 2, 1995, without receiving a single reply!

You have sneaked into a courtroom for a secret kangaroo hearing in support of cronies. You have not addressed the reason for my calling on the District, namely OBSTRUCTION OF PROCESS, and the reason for my motion of recusal, CRIMES IN THE COURT, and the refusal of judge Wallace to address crimes. There has been no notification of any kind from the District!

You and the District have had all the time in the world to act. Judge Zimmerman, you have failed to address what is before the Court. Your subsequent distancing yourself from the serious charges before the Court, by interposing one too close to those I have been complaining about, robs me of process, procedure, and the right to be heard by an impartial judge.

I am unwilling to endure any more of this charade and put off.

It is obvious to anyone that the parties I have been complaining about should have been suspended long ago, and that the coverup reaches to the highest levels.

In light of the above, your immediate recusal and the disqualification, from Cause 95-63, of all judges and ex-judges of the First Administrative District is in order.

This the 10th day of June, 1996

Udo Birnbaum

UDO BIRNBAUM
PRO SE DEFENDANT
RT. 1, BOX 295
EUSTACE, TEXAS 75124
(903) 479-3929

The Hon. James B. Zimmerman
First Administrative Judicial Region
George Allen Courts Bldg.
6000 Commerce, Rm 611
Dallas, Texas 75202

Re: Cause 95-63
294th District Court
Canton, Texas

DEFENDANT'S COMPLAINTS
~~~~~

Defendant is the victim of racketeering under color of law in a hijacked Court.

Defendant initially was the victim of the Plaintiff's irresponsible terrain modification.

Defendant next became the victim of the machinations of the attorney, starting with his Petition not based on facts, but crafted to get the attorney into his Court. THE ATTORNEY IS THE REAL PLAINTIFF.

Defendant next became the victim of a conspiracy involving the Plaintiff and his attorney, because of the failure of the Plaintiff either to have the Petition corrected or to notify the Court of the fabrications.

Not only did the Defendant's property become the object of the attorney's attention, but it also received the close scrutiny of the Van Zandt County Appraisal District. The attorney is a past County Judge and is presently the attorney for the Appraisal District.

The Court itself became a party to the conspiracy, by aiding and abetting the attorney, obstructing the Defense, denying Defendant due Process, and providing cover for the attorney. IT IS THE CONTINUOUS COVER-UP THAT HAS MADE THE WHOLE ORCHESTRATION VISIBLE.

Defendant is entitled to have the above crimes pursued in order to reveal the extent of involvement of all parties. Defendant should not be forced into the role of a prosecutor.

Defendant's adversaries have enjoyed many influential positions, both elected and appointed. Defendant is vulnerable to Byzantine reprisals.

This the 25th day of October, 1995

Udo Birnbaum

UDO BIRNBAUM  
PRO SE DEFENDANT  
RT. 1, BOX 295  
EUSTACE, TEXAS 75124  
(903) 479-3929

Certified Article  
Z 036 254 019



Presiding Judge  
First Administrative Judicial Region  
George Allen Courts Bldg.  
6000 Commerce, Rm 611  
Dallas, Texas 75202

Re: Cause 95-63  
294th District Court  
Canton, Texas

PETITION FOR COURT ORDER AND SPECIAL PROSECUTOR

I have not received any replies to my previous complaints to this Office dated October 2, 1995 and October 25, 1995.

The past Court's refusal to provide this Defendant with Court documents is obstruction of the discovery process.

Defendant has been unable to obtain the following for Cause 95-63:

1. The transcript of the April 4, 1995 hearing, together with the Default Judgment document the Court was acting upon.
2. The transcript of the June 12, 1995 hearing.
3. Documents of all proceedings or attempted proceedings after Defendant's motion for recusal of judge, regardless of whether administrative, private, or in open Court, and in particular for September 11, 1995.

Defendant petitions the assigned presiding judge for the following:

- \* The issuance of a Court Order to Betty Davis, Court Administrator for the 294th District Court, to release items 1, 2, and 3 above, and to provide them to the Defendant.
- \* The appointment of a special prosecutor to pursue an in-depth investigation of violations of laws and procedure of the entire scope of Cause 95-63.

Defendant has documented continuous intentional violations of his Civil Rights, and has complained of assault by the attorney from the beginning.

This the 20th day of December, 1995

Certified Letter:  
Z 036 254 043

Udo Birnbaum

UDO BIRNBAUM  
PRO SE DEFENDANT  
RT. 1, BOX 295  
EUSTACE, TEXAS 75124  
(903) 479-3929

Presiding Judge  
First Administrative Judicial Region  
George Allen Courts Bldg.  
6000 Commerce, Rm 611  
Dallas, Texas 75202

Re: Cause 95-63  
294th District Court  
Canton, Texas

PETITION FOR COURT TO RESPOND  
~~~~~

Defendant's motions and petitions before the Court are not being addressed.

It is time to get the Process moving in a timely manner, and to act upon what is before the Court.

Your action is required to bring the Court into compliance.

This the 3rd day of January, 1996

Udo Birnbaum

UDO BIRNBAUM
PRO SE DEFENDANT
RT. 1, BOX 295
EUSTACE, TEXAS 75124
(903) 479-3929

Certified Letter:

Z 036 254 372

Presiding Judge
First Administrative Judicial Region
George Allen Courts Bldg.
6000 Commerce, Rm 611
Dallas, Texas 75202

Re: Cause 95-63
294th District Court
Canton, Texas

DEFENDANT'S OBJECTION
~~~~~

This is NOT! NOT! NOT! NOT! NOT! a normal recusal!

I should be hearing from your Special Prosecutor and not from those I have complained about. I should not be forced to acknowledge any more communication from the 294th District Court. I therefore turn over the enclosed letter, unopened, to your Office.

My complaints to your Office are about the INTENTIONAL CRIMINAL misuse of procedure by the 294th District Court and the refusal of Judge Wallace to address the crimes he has been made aware of.

I have complained to your Office for some time, and have sought:

- \* Acknowledgement and proof of recusal.
- \* The issuance of a Court Order for the production of evidence.
- \* The appointment of a Special Prosecutor.

After SIX (6) MONTHS of your revue, your official action is overdue. No hearing is requested, necessary, or appropriate at this time.

That which you may have been told was a recusal, is a subterfuge to provide cover for an ongoing conspiracy of official oppression between Judge Wallace, Richard Ray, Betty Davis, and others. I have also complained of the misuse of another legal body, the Van Zandt County Appraisal District.

Because of the seriousness of the ongoing crimes I have been complaining about, I am entitled to the protection of a Special Prosecutor, and without any further delay.

The response from your Office should come through a Special Prosecutor and YOUR personal administrator.

In light of all of the above, I object to all proceedings other than your appointment of a Special Prosecutor and the issuance of the Court Order I have requested.



Any premature action, public or private, whether by hearing, procedure, decree, administrative, or other, will only jeopardize my defense and rights.

Any further action without a PRIOR in-depth investigation of these crimes by a Special Prosecutor would only serve those I have been complaining about, and would further prejudice my rights, by a continuation, at a higher level, of these very same crimes.

This the 14th day of February, 1996

Udo Birnbaum

Encl:  
Unopened Letter  
from 294th District Court

UDO BIRNBAUM  
PRO SE DEFENDANT  
RT. 1, BOX 295  
EUSTACE, TEXAS 75124  
(903) 479-3929

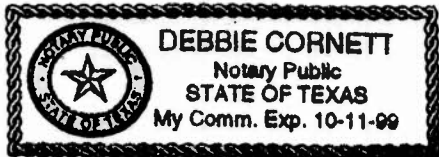
THE STATE OF TEXAS \*  
\*  
COUNTY OF VAN ZANDT \*

Before me the undersigned, a Notary Public in and for said County, State of Texas, on this day personally appeared UDO BIRNBAUM to me well known, and who, after being by me duly sworn, deposes and says upon information and belief that these are his FIFTH (5) statements and OJECTIONS to the JUDICIAL DISTRICT, and that they are true and correct.

Udo Birnbaum  
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME by the said UDO BIRNBAUM on this the 15<sup>th</sup> day of February, 1996

Debbie Cornett  
Notary Public, State of Texas



April 11, 1996

Court Administrator  
First Administrative Judicial Region  
George Allen Courts Bldg.  
6000 Commerce, Rm 611  
Dallas, Texas 75202

Re: OBSTRUCTION OF PROCESS  
Cause 95-63  
294th District Court  
Canton, Texas

In my previous communications I have documented the criminal misuse of procedure and identified my assailants.

I, as the Pro Se Defendant, am entitled to pursue and reveal the truth in my Defense.

NO ONE, regardless of their position, has the right to obstruct the Process. NO ONE is entitled to more rights than the Defendant.

Now, after five (5) official complaints to this Office, and having received no reply, I have reason to believe that the Process is further being obstructed by never permitting my complaints to be entered on the District's official agenda for proper address and action by this council.

The failure to act and police constitutes additional violations of 18 USCS § 241 and 18 USCS § 242, and I am entitled to have the District's internal obstructions removed. I therefore demand that this council avail itself of the expertise of the U.S. Justice Department to assist the District to remove the obstruction and to monitor the Process.

I request that you make each and all administrative judges of this council aware of this request by providing a separate copy to each, including all attachments.

Udo Birnbaum

UDO BIRNBAUM  
PRO SE DEFENDANT  
RT. 1, BOX 295  
EUSTACE, TEXAS 75124  
(903) 479-3929

Encl:

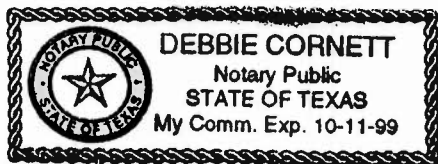
|                  |               |
|------------------|---------------|
| Certified Letter | Oct. 2, 1995  |
| Certified Letter | Oct. 25, 1995 |
| Certified Letter | Dec. 20, 1995 |
| Certified Letter | Jan. 3, 1996  |
| Certified Letter | Feb. 14, 1996 |

THE STATE OF TEXAS     \*  
                                  \*  
COUNTY OF VAN ZANDT    \*

Before me the undersigned, a Notary Public in and for said County, State of Texas, on this day personally appeared UDO BIRNBAUM to me well known, and who, after being by me duly sworn, deposes and says upon information and belief that this is his SIXTH (6) complaint to the COURT ADMINISTRATOR OF THE 1ST JUDICIAL DISTRICT AND THIS COUNCIL.

Udo Birnbaum  
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME by the said UDO BIRNBAUM on this the 11<sup>th</sup> day of April, 1996



Debbie Cornett  
Notary Public, State of Texas



# *First Administrative Judicial Region*

**PAT McDOWELL**

*Presiding Judge*

133 N. Industrial Blvd., LB 50

Dallas, Texas 75207

Telephone

(214) 653-2943

Fax (214) 653-2957

*Administrative Assistant*

**SANDY HUGHES**

*Office Manager*

**GEORGE COWART**

February 23, 1998

Mr. Udo Birnbaum  
Rt. 1, Box 295  
Eustace, Texas, 75124

Re: 95-63 Jones v. Birnbaum # 95-63 Van Zandt County, Texas

Dear Mr. Birnbaum:

I denied your previously filed Motion seeking to remove Judge Zimmermann and apparently seeking to remove me as well from any connection with this case.

You did not appear this morning to present anything in support of the Motion. Further it presents no grounds which would support a recusal or disqualification. Finally it is not procedurally sufficient.

After I returned to Dallas Ms. Davis faxed me another motion you apparently had filed and which was not opened until later Monday morning. I read it and except that the date you signed it is more recent than the first one, it does not present anything for review and is also denied.

Yours very truly,

A handwritten signature in cursive script that reads "Pat McDowell".

Pat McDowell

cc: 294th District Court