

CAUSE NO. 25-00024

UDO BIRNBAUM
Plaintiff,

v.

CSD VAN ZANDT, LLC
Defendant.

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IN THE DISTRICT COURT

294TH JUDICIAL DISTRICT

VAN ZANDT COUNTY, TEXAS

DEFENDANT CSD VAN ZANDT, LLC'S
GENERAL DENIAL AND AFFIRMATIVE DEFENSES

Defendant, CSD VAN ZANDT, LLC, through its attorneys, The Law Office of Christopher J. Sullivan, PLLC, respectfully submits this General Denial and Affirmative Defenses.

GENERAL DENIAL

Defendant, CSD VAN ZANDT, LLC, enters a general denial.

AFFIRMATIVE DEFENSES

1. Res Judicata

Defendant asserts that the claims asserted by Plaintiff have been or could have been finally determined in a prior proceeding, and therefore, are barred by the doctrine of res judicata.

2. Issue Preclusion

Defendant asserts that issues previously litigated and determined in prior proceedings cannot be re-litigated in the present action.

3. Claim Preclusion.

Defendant asserts that Plaintiff's claims are barred as they arise from matters that were or could have been fully litigated in a prior action.

4. Lack of New and Material Evidence:

There is no evidence presented by the Plaintiff which rises to the level required to show that the prior judgment was procured by fraud, mistake, or some other grounds justifying a review, as Texas law demands a showing of truly new evidence.

5. Unclean Hands:

Plaintiff's disregard of judicial norms, disrespect of the Texas courts and disrespect of Defendant's rights precludes Plaintiff from obtaining equitable relief through a bill of review.

6. Vexatious Litigant.

Defendant asserts that Plaintiff, Udo Birnbaum, is a vexatious litigant and is therefore prohibited from filing pro se any new litigation in the 294th District Court and County Court at Law of Van Zandt County without the permission of the Local Administrative Judge of the First Administrative Region.

SANCTIONS

Defendant alleges that Plaintiff has willfully violated the PreFiling Order issued pursuant to Chapter 11 of the Texas Civil Practice and Remedies Code. In furtherance of such misconduct, Plaintiff has filed a lawsuit that is frivolous and without merit, in violation of Rule 13 of the Texas Rules of Civil Procedure. Plaintiff's actions not only disregard the binding requirements set forth by the Court but also serve to unnecessarily burden the judicial system and impose undue expense on Defendant. Accordingly, Defendant requests that the Court impose appropriate sanctions against Plaintiff, including, but not limited to, an award of reasonable attorney fees and costs incurred as a result of this frivolous litigation, and any other relief that the Court deems just and proper.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that upon hearing or trial:

1. The Petition be dismissed with prejudice;
2. Defendant be awarded a reasonable attorney fee and the costs of court;
3. The Plaintiff be sanctioned and Defendant be awarded judgment against Plaintiff for additional damages, including statutory damages in amounts to be proven upon hearing or trial; and
4. The Court grant such other and further relief, both at law and in equity, as may be just and proper.

Respectfully submitted,

**THE LAW OFFICE OF
CHRISTOHPER J. SULLIVAN, PLLC**

/s/ Corey Kellam

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**ATTORNEYS FOR CSD VAN ZANDT,
LLC**

CERTIFICATE OF SERVICE

I certify that on March 19th, 2025, a true and correct copy of the foregoing document was electronically served upon all counsel of record and to Udo Birnbaum via email in accordance with the TEXAS RULE CIVIL PROCEDURE.

Udo Birnbaum
brnbm@aol.com

/s/ Corey Kellam
Corey Kellam