

CAUSE NO. 25-00024

UDO BIRNBAUM	\$	IN THE DISTRICT COURT
Plaintiff	\$	
v.	\$	294TH JUDICIAL DISTRICT
CSD VAN ZANDT LLC	\$	
Defendant	\$	VAN ZANDT COUNTY, TX

MOTION FOR RECUSAL
OF JUDGE ALFONSO CHARLES

UDO BIRNBAUM ("Birnbaum"), Plaintiff in this cause of Petition for Bill of Review, hereby moves for the recusal of Judge Alfonso Charles from determining which judge is to hear the pending motion to recuse of Judge Chris Martin, and in support will show the following:

**THE IMPARTIALITY OF JUDGE CHARLES
CAN REASONABLY BE QUESTIONED**

1. Such by JUDGE CHARLES upon earlier motion for recusal of JUDGE CHRIS MARTIN, Judge Charles showing lack of judicial temperament, by actual lashing out upon Birnbaum, by unlawful punitive sanction.

2. Such by \$500 FINE, for "*the language used*" – not to the liking of Judge Charles - - - not at the hearing, but in the motion – the sanction itself so states (Exhibit 1). We do, after all, we do have the First Amendment.

3. And the US Supreme Court has ruled upon the nature of a sanction, whether it is coercive, i.e. civil in nature, i.e. that it provides "the keys to ones own release", to purge the contempt, by complying with some Order, like stop doing something, or do something.

4. And on the other hand a punitive sanction, for a completed act, no opportunity to purge such contempt. The contempt by Judge Charles was punitive, upon that most sacred of Rights, the First Amendment.

5. Attached is the criminal complaint I made to the US Justice Department upon such conduct of Judge Chris Martin, Sheriff Joe Carter, and Judge Alfonso Charles. (Exhibit 2)

6. Also attached is an earlier sanction against me, also upon a motion for recusal, such a FINE of \$125,770, such fine, among other similar, being the underlying cause of this whole matter upon me. (Exh. 3)

7. Recusal reasons RCP 18b (1) the judge's impartiality might reasonably be questioned; (2) the judge has a personal bias or prejudice concerning the subject matter or a party; (3) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;

**JUDGE CHARLES HAS ACQUIRED
AN INTEREST IN THE OUTCOME**

7. Details as above.

8. Recusal reasons RCP 18b (1) the judge's impartiality might reasonably be questioned; (2) the judge has a personal bias or prejudice concerning the subject matter or a party; (3) the judge has personal knowledge of disputed evidentiary facts concerning the proceeding;



UDO BIRNBAUM

119 AN County Road 2501

Tennessee Colony, TX 75861

903-922-5996

BRNBM@AOL.COM

EXHIBITS

Exhibit 1 - - - \$500 FINE - - - for a motion to recuse - - - for "the language used" - - - First Amendment Retaliation

Exhibit 2 - - - criminal complaint - - - Civil Rights Violation - - - by Judge Chris Martin, Sheriff Joe Carter, Judge Alfonso Charles

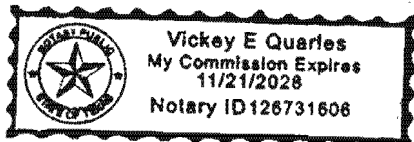
Exhibit 3 - - - \$125,770 FINE - - - also upon a motion to recuse - - - the underlying cause of this whole matter

VERIFICATION

All upon personal knowledge and investigation, all true and correct. Exhibits 1 to 3, true copies of the originals, all mark ups by me.

Udo Birnbaum
Udo Birnbaum

SUBSCRIBED AND SWORN TO before me, the undersigned authority, by UDO BIRNBAUM, on this the 10th day of April, 2025, to certify which witness my hand and seal of office.



Vickey E Quarles
Notary Public, State of Texas

CERTIFICATE OF SERVICE

Today April 10, 2025 by CMRR 9589 0710 5270 0944 2831 46 to Karen Wilson, District Clerk, 121 E. Dallas St., Suite 302, Canton, TX 75103.

Also email attach to:

Corey Kellam, corey@sullivanlawoffices.com

Karen Wilson, District Clerk at districtclerk@vanzandtcounty.org

Judge Chris Martin c/o Waynette Barker at wbarker@vanzandtcounty.org

Udo Birnbaum
Udo Birnbaum

Exhibit 1

4

"due to the language used in the motion" - that makes it First Amendment Retaliation!

Attach "E" - \$500 Court FINE - page 1 / 2

CAUSE NO. 22-00105

CSD VAN ZANDT LLC

VS.

UDO BIRNBAUM

§
§
§
§
§

IN THE 294TH DISTRICT COURT
IN AND FOR
VAN ZANDT COUNTY, TEXAS

FILED FOR RECORD
2023 SEP 19 PM 3:11
DISTRICT COURT
KARL WILSON
CLERK
VAN ZANDT CO. TX
DEP

ORDER DENYING MOTION TO RECUSE

On September 19, 2023, the undersigned, heard the defendant's, Udo Birnbaum, Motion to Recuse and First Amended Motion to Recuse, pursuant to Rule 18a (g) of the Texas Rules of Civil Procedure (TRCP). The hearing was conducted remotely, via Zoom. All parties announced ready. The undersigned heard the arguments of the defendant and plaintiff's counsel.

The undersigned considered the motions, the arguments of the parties and the case law. The undersigned denied the motions. The undersigned found that the motions did comply with Rule 18a(a) TRCP in that the motions were not verified, they failed to assert one or more grounds listed in Rule 18b, and they did not state with detail and particularity facts that would be admissible. The undersigned further found that the motions were based solely on the judge's rulings and orders in the case. The undersigned found that the motion was without merit.

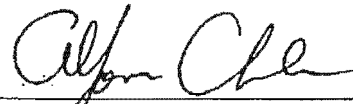
The undersigned further found that due to the language used in the motion and that it was without merit, that sanctions were appropriate. The undersigned awarded sanctions in the form of attorney fees to plaintiff in the amount of \$500.00, payable 30 days from the date of this order.

IT IS THEREFORE ORDERED that the Motion to Recuse and First Amended Motion to Recuse are **DENIED** and sanctions are **GRANTED**.

9

5

Signed this SEP 19 day of 2023, 20 .



ALFONSO CHARLES, Presiding Judge
Tenth Administrative Judicial Region

~~10~~

Exhibit 2

6
See page 9

To: U. S. Attorneys Office, 110 N College Ave, Tyler, TX 75702
CMRR 9589 0710 5270 0944 2828 28, August 15, 2024

COMPLAINT OF VIOLATION OF RIGHTS

1. Due Process: Theft of my 42 year 150 acre homestead, under color of due process, perpetrated by a Texas district judge.
2. First Amendment: Under color of court civil sanction, unlawful First Amendment retaliation by a Texas administrative judge. This sanction is punitive in nature (unconditional, not coercive, no “keys to own release”) – requiring full criminal process (i.e. a jury trial)

I, UDO BIRNBAUM, an 87 year old of Van Zandt County, Texas, report the theft of my 42 year 150 acre homestead at 540 VZ County Road 2916, such theft under color of law, of me being a supposed mere “tenant”, in a “unit”, which I certainly was not, and violent de facto ejectment of me and all my belongings, by a Texas district judge, by writ of possession.

Under color of law, I was verily robbed of my right to a trial, to defend myself, by showing onto a JURY, how it was all fraud.

The district court, which did this “eviction” onto me, had no authority to do eviction, even if I had been a tenant, which I was not. In Texas, ONLY the justice court (JP court), OF THE PRECINCT, has jurisdiction to do tenant eviction. Tex. Prop. Code 24.004. (See Attach “B”)

And as for the district court which did this ejectment upon me, Tex. Prop. Code 22.001(b): “the action of ejectment is not available in this state”.

Furthermore, the writ of possession was issued, despite there being NO JUDGMENT OF POSSESSION to execute upon, a judgment of course being a prerequisite to do execution upon.

Also, such writ was unlawfully issued by signature of the judge, who has no authority to issue such. Writs of possession are under signature OF THE CLERK (See Attach “B”), and issued under her executive authority – upon a judgment – of which there was none.

The conduct of District Judge CHRIS MARTIN and Van Zandt County Sheriff JOE CARTER was objectively unreasonable. It was also clearly criminal. This was not an accident or oversight.

This is Tex. Penal 31.03. THEFT (a): “unlawful appropriation of property”. Such by Tex. Penal 31.01(4)(a) definition of “appropriate”: “to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another”.

To summarize, this sham “eviction” was:

- Upon an 87 year old
- out of his 42 year 150 acre own HOMESTEAD
- by an 8-man armed officer crew
- executed under physical direction of the SHERIFF HIMSELF
- executed by a district court which has NO jurisdiction over landlord / tenant – in Texas ONLY the justice court (JP) of the PRECINCT
- swindled out of his right to a TRIAL - to show how it was all fraud
- and the taking of his personal property and STEALING his 150 acres
- on top of that – an unlawful \$500 FINE – First Amendment retaliation – for speaking his complaint – peaceably on paper
- God save America!

And as evidence:

- A Posting - Notice of Eviction - as a supposed “tenant” in a “unit”.
(besides, in Texas, ONLY the JP court can do tenant eviction)
- B My counter-posting - as to exactly why the eviction was unlawful
- C Supposed \$33,954.48 - 14 months back rent – something STINKS.
(Belated calculated – to the penny - upon 6 arbitrary houses – to make me appear as having been a tenant)
- D Sample of damages – all this “stuff” – me clearly NOT a mere renter
- E \$500 Court FINE - for complaining – First Amendment retaliation
- F By a mere ORDER, on a mere MOTION, I was swindled of my
Right to a TRIAL - by the stroke of a pen – by 294th District Judge
CHRIS MARTIN, and assist by Sheriff JOE CARTER

Today, August 15, 2024, to US Justice Dept., Tyler, Texas

UDO BIRNBAUM
119 An County Road 2501
Tennessee Colony, Texas 75861
903-922-5996
BRNBM@AOL.COM

temporary refuge only

HINT: ONLY THE JUSTICE COURT (JP) OF THE
PRECINCT CAN DO TENANT EVICTION. TEXAS
PROPERTY CODE 24.004

Attach "A" - Notice of
eviction - onto my door

WARNING

A Writ of Possession has been issued by 294th
Judicial District Court of Van Zandt County,
Case No. 22-00105

All tenants and their personal property should be
removed from 540 Van Zandt County Road
2916, Eustace, Texas 75124 by

SEPTEMBER 07, 2023 at
9:00AM

Tenants and personal property remaining on the
premises after that date and time will be subject to
removal. The unit will be turned over to:

CSD Van Zandt, LLC

Van Zandt County Sheriffs Office
Posted by S.D. Henson

05 Day of September, 2023 at 2:54 pm

9

ONLY THE JUSTICE COURT
(JP) OF THE PRECINCT etc

Attach "B" - my counter-
posting - onto my door

No. 22-00105 294th

WARNING

TO ANY OFFICER EXECUTING, be warned that I am clearly NOT a "tenant" in a "unit". Here lives UDO BIRNBAUM, a native born Texan. I have uninterruptedly lived for 42 YEARS on my 150 acre

42 YEAR HOMESTEAD

Any Officer sent to execute be warned that this writ is **UNLAWFULLY** perpetrated **under color of law** by signature of a JUDGE. True writs are under authority, Seal, and signature of the CLERK.

Furthermore, **this writ is UNLAWFUL** because it is issued by a District Court. Only the JUSTICE COURT of the PRECINCT is authorized to issue Writs of Possession.

An **execution** is a process of the court from which it is issued. **The clerk** of the **district** or **county** court or the **justice** of the peace, as the case may be, shall tax the costs in every case in which a **final judgment** has been rendered and **shall issue execution** to **enforce such judgment** and collect such costs. The execution and subsequent executions shall not be addressed to a particular county, but shall be addressed to any sheriff or any constable within the State of Texas. Tex. R. Civ. P. 622, As Amended August 7, 2023

Eviction Cases must be filed in the **Justice Court in the Justice of the Peace Precinct in the county in which the real property is located**. See Section 24.004, Texas Property Code.

OFFICER, you have a duty to NOT obey papers that you recognize or should recognize as being UNLAWFUL, particularly upon such specific and detailed Warning as above. (i.e. the **fraudulent writ** which produced **Attach 1**)

UDO BIRNBAUM, Landlord

4

Threatening to sue me? Been
suing me for over a YEAR

Attach "C" - page 1 / 3

NOTICE OF NONPAYMENT OF RENT

Attach "C" - Supposed \$33,954.48 back
rent 14 months - they could not even
figure out what the "rent" was!

August 18, 2023

Mr. Udo Birnbaum
540 VZ County Road 2916
Eustace, Van Zandt County, Texas 75124

As outlined in Article 24.005, Texas Property Code, you are hereby notified that three (3) days after delivery of this notice, I demand possession of said property listed above, now occupied by you.

You now owe **\$33,954.48** for rent and late fees from June 24, 2022 thru August 17, 2023.

I HEREBY DEMAND that you pay all past due rent AND vacate the property at once, or I shall proceed against you as the law directs.

SIGNED this 18th day of August, 2023.



Robert O. Dow, Manager

CSD Van Zandt LLC
6115 Owens St Ste 201
Dallas, TX 75235

Cc: Corey Kellam, Esq.

SERVICE OF NOTICE

This "Notice of Nonpayment of Rent" was executed at the above address on the 18th day of August, 2023 and delivered to Mr. Udo Birnbaum via USPS First Class Mail and USPS Certified Mail/Return Receipt #7022 2410 00002 5526 4187.

SIGNED this 18th day of August, 2023.



Robert O. Dow

ACKNOWLEDGEMENT

STATE OF TEXAS

5

RENT COMPARISON ANALYSIS

Owner:

CSD Van Zandt LLC
6115 Owens St Ste 201
Dallas, TX 75235

Attach "C" - Supposed \$33,954.48 back rent 14 months - they could not even figure out what the "rent" was!

Property:

540 VZ County Road 2916
Eustace, Van Zandt County, Texas 75124
Living Area: 2,178.00 sq ft

27 days ago



\$2,500/mo
3 bds 2.5 ba 2,360 sqft House for rent
3370 Vz County Road 2602, Willis Pt TX 75169

23 days ago



\$2,275/mo
3 bds 3 ba 2,470 sqft House for rent
950 Vz County Road 2304, Canton, TX 75103

1 day ago



\$2,800/mo
4 bds 2 ba 2,452 sqft House for rent
32530 Fm 47, Canton, Tx 75103

1 hour ago



\$2,200/mo
2 bds 2 ba 2,000 sqft House for rent
23632 Interstate Highway 20, Willis Point, TX 75169

87 days ago



\$1,900/mo
Studio - ba 2,970 sqft Apartment for rent
303 W Dallas St #1, Canton, Tx 75103

57 days ago



\$1,500/mo
Studio - ba 2,050 sqft Apartment for rent
11517 Houston St #1, Edgewood, TX 75117

Average: \$2,195.83/mo

RENT STATEMENT

Attach "C" - page 3 / 3

Tenant:

Mr. Udo Birnbaum
540 VZ County Road 2916
Eustace, Texas 75124

Attach "C" - Supposed \$33,954.48 back
rent 14 months - they could not even
figure out what the "rent" was!

Property:

540 VZ County Road 2916
Eustace, Van Zandt County, Texas 75124
Living Area: 2,178.00 sq ft

Starting	Ending	Status	Rent	Late Fee	Total
06/24/2022	07/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
07/24/2022	08/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
08/24/2022	09/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
09/24/2022	10/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
10/24/2022	11/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
11/24/2022	12/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
12/24/2022	01/23/2023	Past Due	\$2,195.83	\$263.49	\$2,459.32
01/24/2023	02/23/2023	Past Due	\$2,195.83	\$263.49	\$2,459.32
02/24/2023	03/23/2023	Past Due	\$2,195.83	\$263.49	\$2,459.32
03/24/2023	04/23/2023	Past Due	\$2,195.83	\$263.49	\$2,459.32
04/24/2023	05/23/2023	Past Due	\$2,195.83	\$263.49	\$2,459.32
05/24/2023	06/23/2023	Past Due	\$2,195.83	\$263.49	\$2,459.32
06/23/2023	07/23/2023	Past Due	\$2,195.83	\$263.49	\$2,459.32
07/24/2023	08/17/2023	Past Due	\$1,770.83	\$212.49	\$1,983.32
				TOTAL	\$33,954.48

RJD

Rent Made Payable To:

CSD Van Zandt LLC
Attn: Robert O. Dow
6115 Owens St Ste 201
Dallas, TX 75235

A black and white photograph showing a wooded area. In the foreground, there is a pile of debris, including what appears to be a car's front end and other mechanical parts, lying on a grassy or dirt surface. To the right of the debris, there is a small, light-colored structure or shed. In the background, a car is parked on a road or path, and a dense line of trees forms a backdrop. The sky is overcast.



Sampling of my “STUFF” – including my mother’s, and now MY wheelchair

"due to the language used in the motion" - that makes it First Amendment Retaliation!

14
Attach "E" - \$500 Court FINE - page 1 / 2

CAUSE NO. 22-00105

CSD VAN ZANDT LLC

VS.

UDO BIRNBAUM

§
§
§
§
§

IN THE 294TH DISTRICT COURT
IN AND FOR
VAN ZANDT COUNTY, TEXAS

FILED FOR RECORD
2023 SEP 19 PM 3:11
KARL WILSON
DISTRICT CLERK
VAN ZANDT CO. TX
DEP
STORM

ORDER DENYING MOTION TO RECUSE

On September 19, 2023, the undersigned, heard the defendant's, Udo Birnbaum, Motion to Recuse and First Amended Motion to Recuse, pursuant to Rule 18a (g) of the Texas Rules of Civil Procedure (TRCP). The hearing was conducted remotely, via Zoom. All parties announced ready. The undersigned heard the arguments of the defendant and plaintiff's counsel.

The undersigned considered the motions, the arguments of the parties and the case law. The undersigned denied the motions. The undersigned found that the motions did comply with Rule 18a(a) TRCP in that the motions were not verified, they failed to assert one or more grounds listed in Rule 18b, and they did not state with detail and particularity facts that would be admissible. The undersigned further found that the motions were based solely on the judge's rulings and orders in the case. The undersigned found that the motion was without merit.

The undersigned further found that due to the language used in the motion and that it was without merit, that sanctions were appropriate. The undersigned awarded sanctions in the form of attorney fees to plaintiff in the amount of \$500.00, payable 30 days from the date of this order.

IT IS THEREFORE ORDERED that the Motion to Recuse and First Amended Motion to Recuse are **DENIED** and sanctions are **GRANTED**.

Signed this SEP 19 day of 2023, 20



ALFONSO CHARLES, Presiding Judge
Tenth Administrative Judicial Region

Plaintiff's PLEADINGS "GRANTED in all things" -
what happened to my Right to a TRIAL!
(jury fee paid been on the jury docket over a year
7 page DOCKET SHEET)

Attach "F" - swindled out of the
Right to a TRIAL!

16

CAUSE NO. 22-00105

CSD VAN ZANDT LLC
Plaintiff

v.

UDO BIRNBAUM
Defendant

§
§
§
§
§
§
§

IN THE DISTRICT COURT

294th JUDICIAL DISTRICT

VAN ZANDT COUNTY, TEXAS

FILED FOR RECORD
2023 AUG 17 AM 11:23
KARA WILSON
DIST CLERK VAN ZANDT CO. TX
BY Kara DEP

**ORDER GRANTING
PLAINTIFF'S TRADITIONAL MOTION FOR SUMMARY JUDGMENT**

On August 17, 2023, came on to be considered *Plaintiff's Traditional Motion for Summary Judgment*. The Court, having considered said *Motion*, and all Responses and Replies, if any, is of the opinion that Plaintiff is entitled to judgment as a matter of law.

IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that *Plaintiff's Traditional Motion for Summary Judgment* is hereby GRANTED in all things.

IT IS SO ORDERED.

SIGNED this the 17th day of August 2023.



Judge Chris Martin

Exhibit 3
\$125,770 Court
Fine!

2006 OCT 21 11:34 AM
DIST COURT

УВАЖАЈТЕ СЕБЕ И ОСТАЉЕ

IN THE DISTRICT COURT

"inconsistent with DUE PROCESS" -- just read this stuff -- Ravings of a madman. Markups throughout this document.

294th JUDICIAL DISTRICT

trial before a JURY was April 8-11, 2002.
Why is he sitting on the bench on April Fools
Day in 2004? And not sign till 2006?
Where did Judge Chapman come up with all
this "stuff" - he was NOT the trial judge!

VAN ZANDT COUNTY, TEXAS

ORDER ON MOTIONS FOR SANCTIONS

At this point he should have gone HOME. Period.

Based upon the pleadings of the parties, the evidence presented at the motion hearing, and the arguments of counsel and the arguments of the pro se defendant, the Court is of the opinion that the Sanctions Movants are entitled to prevail on their claim for sanctions against the Defendant, Udo Birnbaum.

Exhibit
14

It is therefore, **ORDERED, ADJUDGED, and DECREED** that the motion by the defendant, Udo Birnbaum, that Judge Paul Banner be recused from further matters effecting this cause of action is denied.

It is therefore, **FURTHER ORDERED, ADJUDGED, and DECREED** that the Plaintiff, G. David Westfall, P.C., and Counter-Defendants, Christina Westfall and Stefani Podvin, are awarded damages as a sanction against and to be paid by defendant, Udo Birnbaum, to G. David Westfall, P.C., Christina Westfall, and Stefani Podvin as follows:

A. A monetary sanction in the amount of \$1,000.00 as actual damages, representing the reasonable value of the legal services rendered to the Sanctions Movants by their attorney for the defense of Birnbaum's Motion to Recuse and the prosecution of the Sanctions Movants' Motion for Sanctions.

B. A monetary sanction in the amount of \$124,770.00 as exemplary and/or punitive damages to serve as a deterrent to prevent Birnbaum from committing further similar acts again in the future.

PUNITIVE

IT IS FURTHER ORDERED THAT the judgment here rendered shall bear interest at the rate of five percent (5%) from the date of the signing of this order, until paid.

All other relief regarding any motions for relief on file in this cause of action not expressly granted in this order is hereby denied.

With regard to the award of sanctions, the Court makes the following findings and conclusions in support of the Court's award of sanctions and in support of the type and dollar amount of the sanctions imposed:

Findings of Fact

1. Birnbaum's claims regarding the attempt to have Judge Paul Banner recused were groundless, vacuous, **manufactured**, and totally unsupported by any credible evidence whatsoever.
2. Birnbaum's claims regarding the attempt to have Judge Paul Banner recused were without merit and brought for the purpose of **harassment** and/or **delay**.
3. The testimony of Birnbaum regarding the attempt to have Judge Paul Banner recused was **biased**, **not credible**, and totally uncorroborated by any other evidence.
4. The sole purpose of Birnbaum filing the motion regarding the attempt to have Judge Paul Banner recused was an attempt to **harass**, **intimidate**, and inconvenience the Sanctions Movants.
5. Birnbaum has a track record and history of filing lawsuits, motions, and writs of mandamus against judges that rule against him in litigation.
6. Birnbaum filed a pleading containing a completely false and **outrageous** allegation that Judge Paul Banner had conducted himself in a manner that showed bias and a lack of impartiality.
7. Birnbaum's difficulties with judges and the repeated allegations of a lack of impartiality have had nothing at all to do with the conduct of the judges that Birnbaum has appeared before, but instead, is a **delusional belief held only inside the mind of Birnbaum**.
8. Birnbaum will seemingly go to any length, even filing new lawsuits in State and Federal courts in an attempt to re-litigate issues which a court has already ruled upon and which all appropriate courts of appeal have affirmed.
9. Birnbaum's filing of this Motion to recuse Judge Banner was consistent with a proven pattern and practice of behavior engaged in by Birnbaum over many years and currently ongoing now in this court and in other federal courts.

Go diagnose yourself, you idiot

Where did you get all this stuff from? You were NOT the trial judge. We hardly met. Is everybody talking about me? Seems like it.

10. Birnbaum has a track record and history of bickering and quarreling with judges that have ruled against him in litigation.

11. Birnbaum has a track record and history of filing lawsuits without merit against judges, attorneys, and other individuals in an attempt to gain tactical advantage in other ongoing litigation.

12. Prior to this hearing, Birnbaum filed in March 2004, new legal action in Federal District Court against Judge Paul Banner, G. David Westfall, Christina Westfall, and Stefani Podvin. This new Federal lawsuit attempts to re-litigate the same issues Birnbaum unsuccessfully raised in this lawsuit.

Judge Ron Chapman -- you were assigned to hear a Motion for Recusal, rule, then go HOME. Why are you all tight up? Where did you get all this stuff?

13. Prior to this hearing, Birnbaum has initiated a lawsuit against the attorney for the Sanctions Movants, Frank C. Fleming. Birnbaum admitted in open court that he has never had any dealings with Frank C. Fleming other than in connection with Mr. Fleming's representation of the Plaintiff and the counter-defendants in this cause of action. Birnbaum admitted in open court that the legal basis of his lawsuit against Mr. Fleming, civil RICO, is the same basis Birnbaum was previously sanctioned in this lawsuit for attempting to bring against Christina Westfall and Stefani Podvin.

14. The behavior of Birnbaum himself in prosecuting the Motion to recuse Judge Banner has been vindictive, unwarranted, mean-spirited, frivolous, and totally without substantiation on any legally viable theory for the recusal of Judge Banner.

15. The Motion itself to Recuse Judge Banner without any ounce of evidence to support it, was frivolous, vindictive, and brought for the purpose of harassment.

16. The conduct of Birnbaum giving rise to the award of exemplary and/or punitive damages was engaged in by Birnbaum willfully and maliciously with the intent to harm the Sanctions Movants, Judge Paul Banner, and the attorney for the Sanctions Movants, Mr. Fleming.

YES - out in the halls - around the coffee pot - around the table in the jury room - ALL WITHOUT A COURT REPORTER - yes you threatened me. YES - this was ALL BEFORE we went into the courtroom - and before a COURT REPORTER.

(21)

17. Prior to the hearing on the Motion to Recuse, the Court admonished Birnbaum that if his

Motion to Recuse Judge Banner was not withdrawn, that if it became appropriate, the Court would hear the Motion for Sanctions. In response to this admonition, Birnbaum unequivocally elected to move forward with a hearing on his Motion in an attempt to have Judge Banner recused.

18. The type and dollar amount of the sanctions award is directly related to the harm done. The Court has not been presented with any evidence to believe that the amount of the sanctions award is excessive in relation to the net worth of Birnbaum.

a truly AMAZING "Finding of Fact". lol

19. The type and dollar amount of the sanctions award is appropriate in order to gain the relief which the Court seeks, which is to stop this litigant and others similarly situated from filing frivolous motions, frivolous lawsuits, frivolous defenses, frivolous counter-claims, and new lawsuits which attempt to re-litigate matters already litigated to a conclusion.

Official Oppression
per se.

20. The amount of the exemplary and/or punitive damage award is an amount narrowly tailored to the amount of harm caused by the offensive conduct to be punished.

UNLAWFUL by CIVIL
process

21. The Sanctions Movants have suffered damages as a result of Birnbaum's frivolous counter-claims and Birnbaum's motion to recuse. These damages include expenses (in addition to taxable court costs), attorney's fees, harassment, inconvenience, intimidation, and threats.

Conclusions of Law

1. On the issue of the recusal of Judge Paul Banner, Birnbaum wholly failed to provide any credible evidence to substantiate any of his claims.

2. All of Birnbaum's claims were as a matter of law unproved and untenable on the evidence presented at the hearing.

3. The court concludes as a matter of law that Birnbaum's claim that Judge Paul Banner acted biased and with a lack of impartiality, was brought for the purpose of harassment. The Court makes

Order on Sanctions

PAGE 5 of 8

westfall\udo\pleadings\Order 02

this conclusion based upon the fact that Birnbaum was not a credible witness, that other credible witnesses totally contradicted Birnbaum's version of the facts, and that evidence was presented establishing that Birnbaum has had a track record and history of harassment towards other opposing litigants, opposing counsels, and other judges before whom Birnbaum has appeared.

4. The Plaintiffs behavior in bringing and prosecuting this frivolous motion to recuse Judge Banner was a violation of one or more of the following: §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

GOOD SHOPPING LIST. Well - exactly which one - and HOW?

5. The Court has the power to award both actual and exemplary (and/or punitive) damages against Birnbaum for the filing and prosecution of a frivolous motion. This authority stems from one or more of the following: §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

AGAIN - sort of lacking specificity. But, at least no violation of MOTHERHOOD and APPLE PIE?

6. The behavior and attitude of Birnbaum in filing and prosecuting this Motion to Recuse claim against Judge Paul Banner calls out for the award of both actual and exemplary (and/or punitive) damages to be assessed against Birnbaum.

AGAIN - can't do "punitive" in CIVIL process. Requires "keys to own release"

7. The appropriate award for actual damages as a result of the filing and prosecution of the frivolous Motion to Recuse, is an award of \$1,000.00 in attorney's fees. The Court makes this award under power granted to the Court by §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

??? "and/or" sort of like "maybe"

8. The appropriate exemplary and/or punitive sanction for the filing and full prosecution of the frivolous Motion to Recuse is an award of \$124,770.00 to be paid by Birnbaum to the Sanctions Movants.

\$124,770.00 - Judge Ron Chapman. One might overlook this if you had been DRUNK - but to put this stuff on paper - and actually SIGN IT? CRAZY.

9. The award of exemplary and/or punitive damages is directly related to the harm done.

10. The award of exemplary and/or punitive damages is not excessive.

PLUM CRAZY

11. The award of exemplary and/or punitive damages is an appropriate amount to seek to gain

the relief sought by the Court which is to stop Birnbaum and others like him from filing similar frivolous motions and other frivolous lawsuits.

OFFICIAL OPPRESSION - retaliation for exercising a First Amendment Right. CRAZY

12. The amount of the exemplary and/or punitive damage award is narrowly tailored to the harm done.

13. The amount of the exemplary and/or punitive damages is narrowly tailored to exactly coincide with the amount (in total) assessed against Birnbaum to date in this litigation. This amount was selected by the Court deliberately and on purpose to send a clear message to Birnbaum. The message this award of damages is intended to relay to Mr. Birnbaum is that this litigation is over, final, and ended. The message is that further attempts to re-open, re-visit, and re-litigate matters which have already been decided in court, reduced to judgment, and affirmed on appeal will not be tolerated; and that further attempts by this litigant to engage in such activity will not be conducted without the imposition of very serious and substantial monetary sanctions imposed upon Mr. Birnbaum.

THANK YOU, JUDGE CHAPMAN - for putting this stuff down on paper - so the whole world can see - in official documents - just how EVIL or CRAZY you are.

14. Authority for an exemplary and/or punitive damage award is derived from §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

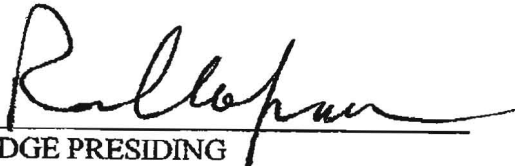
Any finding of fact herein which is later determined to be a conclusion of law, is to be deemed a conclusion of law regardless of its designation in this document as a finding of fact. Any conclusion of law herein which is later determined to be a finding of fact, is to be deemed a finding of fact regardless of its designation in this document as a conclusion of law.

Was NOT a "Judgment"

24

THIS JUDGMENT RENDERED ON APRIL 1, 2004, AND SIGNED THIS

24 day of Oct, 2006.


JUDGE PRESIDING

WOULD YOU BELIEVE "The Westfalls" actually got the 294th District Clerk to issue an "Abstract of Judgment" on this ORDER - for close to \$250,000 with interest.

Filed it with the County Records, to put liens on all my property, did a "writ of execution" to send the sheriff out to seize my property.

While at the SAME TIME doing a "scire facias" to revive the FIRST judgment in the case (2002) which had gone "dormant" after TEN YEARS. (There can be only ONE judgment - this mess has THREE - over a period of SIX years or so!)

Lots more detail - at "home" - www.OpenJustice.US

Attached in below pages is:

*

1. MOTION FOR RECUSAL OF JUDGE BANNER - clearly indicating that my MOTION was to STOP Judge Banner from "ex parte" concocting a "Finding" - diametrically opposite of his extemporaneous finding of "well-intentioned" - and while Banner had NO JURISDICTION.

*

2. ASSIGNMENT OF JUDGE CHAPMAN - for Chapman solely to "do" a RECUSAL HEARING - a purely ADMINISTRATIVE assignment, i.e. NO jurisdiction to DO anything "in" the case. (There was of course no case left - case was OVER)

*

3. LETTER TO JUDGE CHAPMAN - that there be no "surprises" - i.e. me telling Chapman exactly why I had made my Motion for Recusal of Banner - i.e. that my Motion - was a "whistle blow", a CRY FOR HELP - and a complaint of CRIMES.