

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

2

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

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

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

Attach "C" - page 1 / 3

NOTICE OF NONPAYMENT OF RENT

August 18, 2023

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

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

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

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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



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

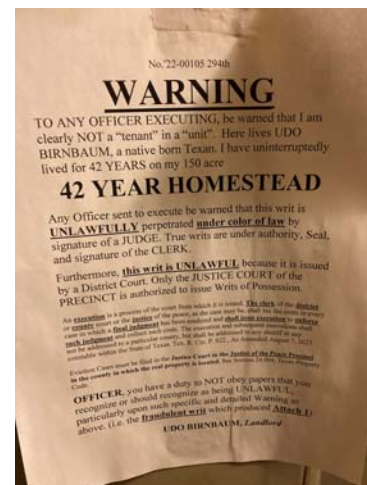
Starting	Ending	Status	Rent	Late Fee	Total
06/24/2022	07/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
07/24/2022	08/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
08/24/2022	09/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
09/24/2022	10/23/2022	Past Due	\$2,195.83	\$263.49	\$2,459.32
10/24/2022	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

Red

Rent Made Payable To:

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

42 YEARS of me and my parents' "STUFF"
– clearly NOT a "renter"



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!

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

CAUSE NO. 22-00105

CSD VAN ZANDT LLC

VS.

UDO BIRNBAUM

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§

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

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

ORDER DENYING MOTION TO RECUSE

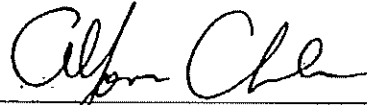
On September 19, 2023, the undersigned, heard the defendant's, Udo Birnbaum, Motion to Recuse and First Amended Motion to Recuse, pursuant to Rule 18a (g) of the Texas Rules of Civil Procedure (TRCP). The hearing was conducted remotely, via Zoom. All parties announced ready. The undersigned heard the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

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!

CAUSE NO. 22-00105

CSD VAN ZANDT LLC
Plaintiff

v.

UDO BIRNBAUM
Defendant

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§

IN THE DISTRICT COURT

294th JUDICIAL DISTRICT

VAN ZANDT COUNTY, TEXAS

FILED FOR RECORD
2023 AUG 17 AM 11:23
KAREN 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