

CAUSE NO. CV07404

UDO BIRNBAUM	\$	
Plaintiff	\$	IN THE COUNTY
v	\$	
	\$	COURT AT LAW
ROBERT O. DOW	\$	
Defendant	\$	OF VAN ZANDT COUNTY, TX

**RESPONSE TO MOTION TO DISMISS
AND FOR REAL LIVE HEARING THEREON**

1. Defendant Robert O. Dow ("Dow"), by FOURTEEN (14) PAGE Motion to Dismiss, makes all kinds of claims, but utterly fails to address the key issue about the 294th District Court, namely that Judge Chris Martin did ALL in clear violation of Udo Birnbaum's ("Birnbaum") Right to a trial¹, indeed a jury trial², the jury fee having been paid long ago:

Black's Law Dictionary, Sixth Edition, p. 1574:

Void judgment. One which has no legal force or effect, invalidity of which may be asserted by any person whose rights are affected at any time and at any place directly or collaterally. Reynolds v. Volunteer State Life Ins. Co., Tex.Civ.App., 80 S.W.2d 1087, 1092. One which **from its inception is and forever continues to be absolutely null**, without legal efficacy, ineffectual to bind parties or support a right, of no legal force and effect whatever, and incapable of confirmation, ratification, or enforcement in any manner or to any degree. Judgment is a "void judgment" if court that rendered judgment **lacked jurisdiction of the subject matter**, or of the parties, or **acted in a manner inconsistent with due process**. Klugh v. U.S., D.C.S.C., 610 F.Supp. 892, 901. See also Voidable judgment.
[Black's Law Dictionary, Sixth Edition, p. 1574]

¹ Texas Bill of Rights Sec. 15. RIGHT OF TRIAL BY JURY. The right of trial by jury shall remain inviolate. The Legislature shall pass such laws as maybe needed to regulate the same, and to maintain its purity and efficiency

² Texas Constitution. Sec. 10. TRIAL BY JURY IN CIVIL CASES. In the trial of all causes in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury

2. Birnbaum's Original Petition for a Bill of Review details exactly how he was, by the fraud of Dow and his CSD Van Zandt LLC ("CSD"), how Birnbaum was prevented from presenting his defense, i.e. by Dow causing there not having been a trial, indeed never even a hearing. The instrument of deception by Dow having been his 10-20-2022 proposed Order on Motion for Summary Judgment, signed 8-17-2023, with its fraudulent "**GRANTED . . . in all things**".

3. But even that aside, whether or not the no-trial was by reason of fraud by Dow, the court Docket Sheet clearly shows that there never was a trial, such no-trial *per se* inconsistent with due process, voiding all and everything against Birnbaum by the 294th , *ab initio* and *ad aeternum* - - - from the start and forever.

4. But even that aside, a district court has no jurisdiction whatsoever over eviction, such ONLY by the JP justice court of the precinct³, and even there only upon right to a trial, regardless whether 'entry and detainer', generally landlord / tenant, or 'forcible entry and detainer', generally intruder such as a squatter. What Dow did upon Birnbaum was forcible dispossession by Dow, by Dow duping Judge Chris Martin into unlawfully appropriating Birnbaum's homestead. (Exh. 1: - - - How Judge Chris Martin Stole My Homestead)

SUMMARY

5. Plaintiff Birnbaum had been in 'visible, open, exclusive, unequivocal possession' (*Madison v. Gordon* 39 S. W.3d 604, 606, Tex. 2001), for FOURTY TWO (42) YEARS. Defendant Robert O. Dow came upon Birnbaum and forcibly dispossessed him. Whether such was by original cuttings of lock and chain when appearing by skid steer bulldozer removing internal fences and gates, or by duping

³ Texas Property Code Sec. 24.004(b), a justice court in the precinct in which the real property is located has jurisdiction in eviction suits. Eviction suits include forcible entry and detainer and forcible detainer suits.

Judge Chris Martin into sending an 8-man SWAT mob, it does not matter. It was *de facto* forcible entry and detainer, indeed a home invasion, indeed outright theft⁴.

(Exhibit 1: How Judge Chris Martin Stole My Homestead). Details as on file:

- *First Amended Original Petition*
- *Response to Motion for Sanctions, etc.*
- *Motion for Personal Protection*
- Attached Exhibit 1

PRAYER

Birnbaum prays for a timely real live hearing, to fully present these matters, and for Dow to bring with him, for examination, his claimed chain of regular conveyance of title, i.e. his claimed DEEDS, as he claims out of the 2006 estate of a Gwendolyn Wright Thibodeaux, with the 150 acres however never in there.


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

CERTIFICATE OF SERVICE

Today May 7, 2025, CMRR 9589 0710 5270 2057 7945 40 to:

- County Clerk, 121 E. Dallas St., Suite 302, Canton, TX 75103

Also, email attach:

- Corey Kellam, corey@sullivanlawoffices.com
- Nicole Faragan, nicole@sullivanlawoffices.com
- Kent Canada, kent@sullivanlawoffices.com
- County Clerk, countyclerks@vanzandtcounty.org
- Court at Law, countycourtatlaw@vanzandtcounty.org 

⁴ Texas Penal Sec. 31.03. THEFT. (a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

Texas Penal Sec. 31.01 THEFT. "Appropriate" means: (A) to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another; or (B) etc

NOTE: for details see my YouTube, Just google for:
"how judge chris martin stole my homestead"
(else go to website for FULL background)

Exhibit - 1
3 pages

DamnCourthouseCriminals.com

How Judge Chris Martin stole my homestead



1. A real estate deed fraud ring fabricates a deed to my 150 acres and sues me.
2. Without even a hearing Judge Martin evicts me and takes my land. (Exhibit 1)
3. A district court cannot even do eviction, ONLY the JP court of the precinct¹
4. And NOT WITHOUT A TRIAL, in Texas indeed a jury trial². (Exhibit 2)
5. Perpetrated by an 8 armed officer mob - - - including Sheriff Joe Carter himself



WARNING

A Writ of Possession has been issued by 294th
Judicial District Court of Van Zandt County
Case No. 22-00106
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 Sheriff's Office
Posted by S.D. Henson
05 Day of September, 2023 at 2:54pm

¹ Texas Property Code Sec. 24.004(b), a justice court in the precinct in which the real property is located has jurisdiction in eviction suits. Eviction suits include forcible entry and detainer and forcible detainer suits.

² Texas Constitution. Sec. 10. TRIAL BY JURY IN CIVIL CASES. In the trial of all causes in the district courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury

~~EXHIBIT 1~~: a "forcible entry and detainer" - - indeed an armed HOME INVASION - - a staged physical confrontation. Details below.

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

EXHIBIT 1: "tenant" eviction. But a district court cannot do eviction, ONLY the JP justice court. Property Code 24.004(b). It was by ROBERT O. DOW and his lawyers having succeeded in duping Judge Chris Martin into doing this, else pressuring him, else worse. That makes it a "forcible entry and detainer" by Dow - - indeed a HOME INVASION by ANY AND ALL "bringing this about". See Exhibit 2 re penal 31.03 THEFT

EXHIBIT 2: upon Judge Martin's "opinion" - - upon a mere "opinion" - - Mr. Dow gets himself a 150 acre homestead worth \$850,000 - - and Mr. Birnbaum, an 88 year old - - out into the ditch - - without a trial or ever even a hearing - - by the mere stroke of a pen. SOMETHING STINKS. See below re THEFT - - by ANY AND ALL

CSD VAN ZANDT LLC

Plaintiff

v.

UDO BIRNBAUM

Defendant

§
§
§
§
§
§
§

IN THE DISTRICT COURT

JUDITH WILSON
DIST. CLERK VAN ZANDT CO. TX
BY Kara DEP

294th JUDICIAL DISTRICT

VAN ZANDT COUNTY, TEXAS

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 17th day of August 2023.



Judge Chris Martin

EXHIBIT 2: Texas Penal Sec. 31.03. THEFT. (a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

Texas Penal Sec. 31.01 THEFT. "Appropriate" means: (A) to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another; or (B) etc

CMRR 9589 0710 5270 2057 7945 40

May 7, 2025

To: Susan Strickland, County Clerk
121 E. Dallas St., Room 202
Canton TX, 75103

Att: Emilee Bell

From: Udo Birnbaum
119 AN County Road 2501
Tennessee Colony, TX 75861

**Re: Udo Birnbaum vs. Robert O. Dow
No. CV07404**

Herewith Response to Motion to Dismiss.

Would appreciate a file marked copy to email address below.

Thank you,


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

CMRR 9589 0710 5270 2057 7945 40