

No. 14-00266

UDO BIRNBAUM
Plaintiff

v.

Christina Westfall, Stefani Podvin, and
Frank C Fleming
"The Westfall Bunch", reference only

THREE PIECES OF PAPER
At Issue ("defendants"?)

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IN THE
VAN ZANDT COUNTY
COURT AT LAW,
TEXAS

FILED FOR RECORDS
15 JUL 27 AM 9:21
CLERK OF DISTRICT COURT
VAN ZANDT COUNTY TEXAS
DEP

Synopsis upon Transfer

TO THIS COURT:

This matter is now before THIS court. (Order of Voluntary Recusal, Order Transferring)

Here is what they did – to this old man – in America:

1. Started over a beaver dam on Steve’s Creek, a natural stream on my farm in South Van Zandt County – with Canton Lawyer Richard Ray seeking damages for me being the one who was building that dam – and that I was in violation of Section 11.086 of the Texas Water Code - by “unlawfully constructing and maintaining” said dam. All-week jury trial on that – and despite a unanimous verdict of zero damages – “visiting judge” James B. Zimmermann had hearing after hearing after hearing as to what the jury “meant”, to impose a perpetual mandatory injunction and \$10,000 in attorney’s fees upon me. Enough said.

2. Along comes another shyster lawyer, G. David Westfall (deceased), and cons me into paying him a \$20,000 up-front non-refundable retainer –

promising to clear up this mess – by suing the whole bunch – including then District Judge Tommy Wallace, Judge Zimmermann, that time District Attorney Leslie Dixon, etc. etc. – under “civil RICO” - for a “pattern of racketeering activity” – and telling me, “you have a very good case”.
Enough said.

3. And after I finally fired Westfall – he then fabricates a “bill” of \$38,000 (\$18,000 above the \$20,000) – and sues me claiming the existence of an unpaid “open account” – which is of course a total fraud - and filed suit in Tommy Wallace’s 294th District Court – to collect on “legal fees” – and “legal fees” – for collecting on “legal fees” - for having sued this very same judge!

4. Then somehow appeared “visiting judge” Paul Banner, and with unconscionable jury instructions – and unconscionable process in general - they imposed a \$85,000 judgment – plus a sanction judgment of \$62,000 – plus an additional sanction judgment of \$125,000 – for my having made a counter-claim - - a First Amendment Right! Also to impose unconditional “relief which the Court seeks” (the STATE seeks!) “to stop Birnbaum and others like him – from filing lawsuits”, and, as a finding of law – a finding of “a delusional belief held only inside the mind of Birnbaum”. Enough said.

5. I have, at this time, a detailed sworn criminal complaint before our District Attorney upon this matter – and have been complaining to that Office – and others – ever since the days of Leslie Dixon – way back in 1995. And at my last visit with the FBI and Justice Department in Tyler –

believe it or not – they actually suggested that I “just shoot them”. (I do have proof).

6. In Review of File and Voluntary Order of Recusal (upon the Judge Paul Banner matter, no. 00-00619) – 294th District Judge Teresa Drum gives the reason for removing herself from that cause – as she states, because “Defendant, UDO BIRNBAUM, was and still is a personal friend of mine” – and “my impartiality might reasonably be questioned”.

7. And upon my July 9, 2015 filing (in THIS cause, no. 14-00266) of Notice of Concurrent Criminal Complaint upon this Matter, Judge Drum on same July 9, 2015 signed her Order of Voluntary Recusal regarding THIS cause (no. 14-00266) – with the subsequent July 14, 2015 Order Transferring bringing this matter into THIS court. And again, “Defendant, UDO BIRNBAUM, was and still is a personal friend of mine.” And, “because my impartiality might reasonably be questioned.”

8. So, I guess, I am blessed, that with this transfer to this Van Zandt County Court at Law, my complaint UPON the 294th – is finally OUT OF the 294th – and that with this court and me not knowing each other – this court is under no such handicap.

PRAYER

9. With this said, I request a timely hearing upon my First Amended Original Petition to Declare three judgments as inconsistent with due process, unlawful, criminal, and void and my Notice of Concurrent Criminal Complaint upon this Matter.

Udo Birnbaum

Udo Birnbaum, Pro Se
540 VZ County Road 2916
Eustace, TX 75124
903-479-3929
brnbn@aol.com

attached – this cause no. 14-00266 - physical:

- Order of Voluntary Recusal – re this cause no. 14-00266
- Order Transferring – re this cause no. 14-00266
- Review of File and Order of Voluntary Recusal – re no. 00-00619

attached – this cause no. 14-00266 - by reference:

- First Amended Original Petition to Declare three judgments as inconsistent with due process, unlawful, criminal, and void
- Notice of Concurrent Criminal Complaint upon this Matter

Attached – no. 00-00619 (Westfall case) – as reference - for details

- FIRST Judgment – “Final Judgment” - annotated
- SECOND Judgment – “Order on Motion for Sanctions” - annotated
- SECOND Judgment – “Findings of Fact and Conclusions of Law” – annotated
- THIRD Judgment – “Order on Motion for Sanctions” - annotated
- “Securing Execution of Documents by Deception”
- “Complaint of Official Oppression”
- “Cease and Desist”
- “Motion for Recusal of Judge Banner” – latest, same subject matter
- ALSO – all that fraudulent BEAVER DAM SCHEME stuff
- ALSO - EVERYTHING ELSE openly available at www.OpenJustice.US

Cause No: 14-00266

FILED FOR RECORD
15 JUL 16 PM 2:24
KARL W. WESTFALL
DIST. CLERK, VAN ZANDT CO., TX
BY _____ DEP

UDO BIRNBAUM
Plaintiff

vs.

**CHRISTINA WESTFALL, STEFANI
PODVIN and FRANK FLEMING**
Defendants

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IN THE DISTRICT COURT
294th DISTRICT COURT
VAN ZANDT COUNTY, TX

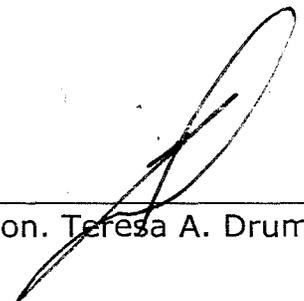
ORDER OF VOLUNTARY RECUSAL

On January 1, 2003, I, Teresa A. Drum, was sworn in as Judge of 294th District Court. Defendant, UDO BIRNBAUM, was and still is a personal friend of mine. In addition, for several years Mr. Birnbaum attended a Sunday School class which I taught at Lakeside Baptist Church. Upon taking the bench, I voluntarily recused myself from all matters regarding Mr. Udo Birnbaum because my impartiality might reasonably be questioned.

Accordingly, I, Judge Teresa A. Drum, voluntarily recuse myself from any and all rulings in this cause.

IT IS, THEREFORE, ORDERED that proceedings in the above entitled and numbered cause are stayed until the 1st Administrative Judge may assign another judge.

SIGNED this 9th day of July, 2015.



Hon. Teresa A. Drum

CAUSE NO. 14-00266

FILED FOR RECORDS
15 JUL 16 PM 2:24
CLERK VAN ZANDT CO. TX
DEP

UDO BIRNBAUM

V.

CHRISTINA WESTFALL, STEFANI
PODVIN, AND FRANK FLEMING

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IN THE DISTRICT COURT

294th JUDICIAL DISTRICT

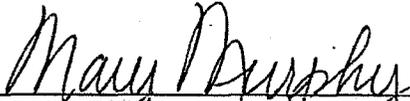
VAN ZANDT COUNTY, TEXAS

ORDER TRANSFERRING

Based on a recusal, this case is transferred to the County Court at Law of Van Zandt County, Texas.

IT IS SO ORDERED.

Signed this 14 day of July, 2015.


MARY MURPHY, Presiding Judge
First Administrative Judicial Region

UDO BIRNBAUM,
Plaintiff

v.

CHRISTINA WESTFALL, et al

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THE COUNTY COURT

AT LAW OF

VAN ZANDT COUNTY, TEXAS

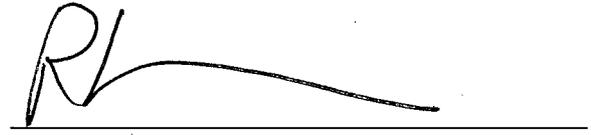
FILED FOR RECORD
15 JUL 17 PM 3:52
COUNTY CLERK, VAN ZANDT CO., TX

FILED FOR RECORD
2015 AUG - 6 AM 11:17
PAM PEARMAN
COUNTY CLERK, VAN ZANDT CO., TX

ORDER OF VOLUNTARY RECUSAL

The undersigned, sua sponte, recuses himself in the above referenced matter.

Signed the 17th day of July, 2015.



JUDGE PRESIDING



www.OpenJustice.US

TERESA A. DRUM
DISTRICT JUDGE
294th Judicial District Court

121 East Dallas Street
Room 301

Canton, Texas 75103-1465

Tel: (903) 567-4422 Fax: (903) 567-5652

Pamela Pearman
Court Administrator

To: Judge Banner Via Facsimile 903-845-5982
Hon. Frank Fleming Via Facsimile 469-327-2930
Mr. Udo Birnbaum Via Email
From: Pam Pearman
Date: September 29, 2014
Subject: Cause No.00-00619, The Law Office of G. David Westfall
Vs. Udo Birnbaum

Please find Review of File and Order of Voluntary Recusal on the above Referenced cause number.

Thank You

A handwritten signature in cursive script, appearing to read "Pam Pearman".

First Administrative Judicial Region Judge Mary Murphy - what about all the horrible
unlawful Judge Drums meticulously detailed to YOU as part of this "voluntary recusal"?
"Motion for Sanctions for \$62,885.00" and "PUNITIVE Sanction of \$124,770.00"
You KNOW that a court cannot UNCONDITIONALLY PUNISH by civil process!
And so you RE-ASSIGN the very judge - who committed all these crimes! SHAME

Cause No: 00-00619

THE LAW OFFICE OF	§	IN THE DISTRICT COURT
G. DAVID WESTFALL, P.C.	§	
Plaintiff	§	
vs.	§	294th DISTRICT COURT
	§	
UDO BIRNBAUM	§	
Defendant	§	VAN ZANDT COUNTY, TX

REVIEW OF FILE AND ORDER OF VOLUNTARY RECUSAL

In reviewing this **rather voluminous file**, I find in a nutshell that on September 21, 2000, Plaintiff, THE LAW OFFICE OF G. DAVID WESTFALL, P.C. (hereinafter referred to as "WESTFALL"), filed suit complaining of Defendant, UDO BIRNBAUM (hereinafter referred to as "BIRNBAUM"). On October 3, 2000, Defendant, BIRNBAUM, filed Defendant's Answer, Counterclaim and Cross-Complaint. Defendant, BIRNBAUM filed counterclaims and cross-claims against G. DAVID WESTFALL, CHRISTINA WESTFALL, (hereinafter referred to as "CHRISTINA") and STEFANI PODVIN (hereinafter referred to as "PODVIN").

On January 26, 2001, John Ovard, Presiding Judge, First Administrative Judicial Region appointed the Honorable Paul Banner, pursuant to Art. 74.056 of the Texas Government Code.

On August 20, 2001, Third-Party Defendants, CHRISTINA and PODVIN filed motions for summary judgment. On September 7, 2001, a hearing was had on Third-Party Defendants' motions for summary judgment.

On or about September 10, 2001, it appears that Defendant, BIRNBAUM filed a Motion for Recusal of Hon. Paul Banner. On September 21, 2001, Judge Ovard appointed the Honorable Ron Chapman, pursuant to Rule 18a, to hear the aforementioned Motion for Recusal of Hon. Paul Banner. On October 1, 2001, a hearing was had on Defendant's Motion for Recusal of Hon. Paul Banner.

In addition on September 10, 2001, the Defendant, BIRNBAUM, filed a Notice of Appeal of the granting of CHRISTINA and PODVIN's motion for summary judgment and a Writ of Mandamus with the Twelfth Court of Appeals. On November 7, 2001, the Twelfth Court of Appeals denied Defendant BIRNBAUM's Writ of Mandamus. On March 11, 2002, the Twelfth Court of Appeals dismissed Defendant BIRNBAUM'S appeal for want of prosecution.

It is PLUM UNLAWFUL - for CIVIL process to unconditionally PUNISH. Can only "coerce" - has to provide "keys to your own release" to purge the contempt - by complying with some Order or mandate. U.S. Supreme Court, no less

On November 13, 2001, Presiding Judge Paul Banner signed Order Sustaining Motions for Summary Judgment, sustaining the motions for summary judgment of CHRISTINA and STEFANI.

On or about April 8, 2002 a jury trial began and on April 11, 2002, the jury returned with a verdict for Plaintiff WESTFALL against Defendant BIRNBAUM for \$59,280.66.

On May 9, 2002, Third Party Defendants WESTFALL, CHRISTINA and PODVIN filed a Motion for Sanctions.

On July 30, 2002, Final Judgment was signed.

In addition on July 30, 2002, Judge Banner heard and granted Third Party Defendants WESTFALL, CHRISTINA and PODVIN's Motion for Sanctions for \$62,885.00.

On August 28, 2002, Defendant BIRNBAUM filed a Motion for New Trial.

On September 3, 2002, Defendant BIRNBAUM filed a Notice of Appeal of both the Final Jury Verdict as well as the Order for Sanctions.

On September 30, 2003, Defendant, BIRNBAUM filed a Motion for Recusal of Judge Banner.

On October 23, 2003, the Fifth Court of Appeals affirmed the trial court. No writ was filed with the Texas Supreme Court.

On April 1, 2004, a hearing was heard on Defendant BIRNBAUM's Motion for Recusal of Judge Banner. Judge Chapman was assigned to hear the Recusal. Judge Chapman also heard the Motion for Sanctions filed by WESTFALL, CHRISTINA and STEFANI.

On October 24, 2006, Judge Chapman signed Order on Motions for Sanctions denying Defendant's Motion for Recusal of Judge Banner and granted Third-Party Defendant's Motion for Sanctions for \$1,000 in Attorney's Fees and exemplary and/or punitive sanction of \$124,770.00.

On December 2, 2006, in the 294th District Court, cause No:06-00857, BIRNBAUM filed suit against Judge Paul Banner and Judge Ron Chapman. Judge John McCraw was assigned to hear. A plea to the jurisdiction was granted on August 25, 2009.

On March 27, 2014, CHRISTINA WESTFALL, as successor in interest of a final judgment filed an Application for Writ of Scire Facias to Revive the Judgment.

On June 12, 2014, Defendant BIRNBAUM filed a Motion for Recusal of Judge Paul Banner.

Cannot do PUNITIVE by CIVIL process. Period. U.S. Supreme Court, various

assigned ONLY to do recusal. No jurisdiction to hear Motion for Sanctions

Also, access to the courts is a First Amendment Right - and a public official PUNISHING thereon - is official oppression per se

www.OpenJustice.US

NO. Not because his authority had "lapsed" - but because he NEVER had it. Was assigned specifically to do a recusal hearing - and the assignment specifically stated his assignment terminated upon him having ruled on that.

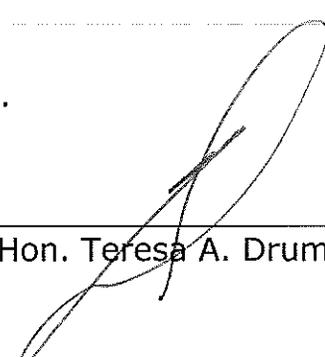
On June 13, 2014, Defendant BIRNBAUM's Motion for Recusal of Judge Paul Banner was denied and the Order Reviving the Judgment was signed.

On August 20, 2014, Defendant BIRNBAUM filed a Petition to set aside Judgments alleging among other things that when Judge Chapman signed the Order on Motions for Sanctions on October 24, 2006, the Court was without jurisdiction as his authority to hear the Motion for Sanctions had lapsed. In addition, BIRNBAUM alleges the Court having granted third-Party Defendants, CHRISTINA and PODVIN motions for summary judgment on November 13, 2001, third-party Defendants CHRISTINA and STEFANI lacked standing to bring a Motion for Sanctions on July 20, 2002 and April 1, 2004.

On January 1, 2003, I, Teresa A. Drum, was sworn in as Judge of 294th District Court. Defendant, UDO BIRNBAUM, was and still is a personal friend of mine. He was instrumental in my campaign for the 294th District Court. In addition, for several years Mr. Birnbaum attended a Sunday School class which I taught at Lakeside Baptist Church. Upon taking the bench, I voluntarily recused myself from all matters regarding Mr. Udo Birnbaum because my impartiality might reasonably be questioned.

Accordingly, I, Judge Teresa A. Drum, voluntarily recuses herself from any and all rulings in this cause.

SIGNED this 29th day of September, 2014.



Hon. Teresa A. Drum

Judge Mary Murphy:

Did you INTENTIONALLY not notice all the horrible unlawfuls as documented in Judge Drums meticulous details referred to YOU as part of this voluntary recusal?

Did not even the phrases therein of "Motion for Sanctions for \$62,885.00" and "PUNITIVE Sanction of \$124,770.00" - move YOU to do something about this?

Both YOU, Judge Drum, Judge Banner, and Judge Chapman KNOW that a court cannot UNCONDITIONALLY PUNISH by CIVIL process - can ONLY "coerce".

This matter must, however, have rung your bell - why else would you have jumped through hoops to come up with your specifically tailored "assignment" for this mere case - to include the phrase "regardless of whether the proceedings involve matters that arise after the original judgment or final order"?

And all that fancy formatting - instead of the ordinary "fill in the blanks" as in your previous assignment "till plenary power expires" - which it had - some time in 2002. You were very careful NOT to do that again.

But NOW - stop this outrage - CEASE AND DESIST - IMMEDIATELY