

# Complaint and Affidavit of Official Oppression and Abuse of Official Capacity upon Udo Birnbaum

SEC. 39.03, 39.02, SECOND DEGREE FELONY

## synopsis

My name is UDO BIRNBAUM. I am 78 years old, reside in Van Zandt County, Texas, and am competent to make this affidavit.

This complaint arises out of a \$67,885 unconditional punishment upon me, by a Judge PAUL BANNER, by civil process, titled Order on Motion for Sanctions, for having made a cross-claim in a court of law, a First Amendment Right:

(HINT: civil process cannot unconditionally punish for past conduct – can only “coerce” into compliance – with some Order. Has to provide “keys to own release”)

*“In assessing the sanctions, the Court has taken into consideration that although Mr. Birnbaum may be well-intentioned and may believe that he had some kind of real claim as far as RICO there was nothing presented to the court in any of the proceedings since I’ve been involved that suggest he had any basis in law or in fact to support his suits against the individuals, and I think – can find that such sanctions as I’ve determined are appropriate”. (Judge Paul Banner, Transcript, Sanction hearing)*

## details

On or about the 14th day of November, 2014, Senior “visiting” Judge PAUL BANNER, in Van Zandt County, Texas, did then and there, under color of the 294th District Court of Van Zandt County, and after having been made fully aware by said UDO BIRNBAUM at such proceeding, that his action was unlawful, on or about such 14th day of November, 2014, did Official Oppression and Abuse of Official Capacity upon said UDO BIRNBAUM.

Such Official Oppression and Abuse of Official Capacity – by said Judge PAUL BANNER - in a non-adjudicative setting - on such 14th day of November, 2014 – by magisterially breathing life anew – and color of legitimacy - onto Order on Motion for Sanctions – as it was up that day for “revival” by Application for Writ of Scire Facias to Revive Judgment. (HINT: An Order in need of “revival”? – something STINKS)

Such fresh life by on such 14th day of November, 2014, “visiting” Judge Paul Banner magisterially signing into the records of the 294th District Court of Van Zandt County, a document titled Order Reviving Judgment - upon the July 30, 2002 \$67,885 Order on Motion for Sanctions - as he had unlawfully oppressed upon same UDO BIRNBAUM in 2002. (HINT: there ain’t no such as a thing as a “visiting magistrate”)

Again, such Official Oppression and \$67,885 Abuse of Official Capacity by said Judge PAUL BANNER upon said UDO BIRNBAUM – as punishment - for having dared to exercise a First Amendment Right – to make a counter-claim – in said 294th District Court – when said UDO BIRNBAUM was sued:

*“In assessing the **sanctions**, the Court has taken into consideration that although Mr. Birnbaum may be **well-intentioned** and may believe that he **had** some kind of real claim as far as RICO there **was** nothing presented to the court in any of the proceedings since I’ve been involved **that suggest** he **had** any basis in law or **in fact** to support his **suits** against the individuals, **and I think** – can find that such **sanctions** as I’ve determined are appropriate”. (Judge Paul Banner, Transcript, Sanction hearing July 30, 2002)*

The attached documents speak for themselves:

- Transcript Sanction Hearing - 2002 – finding of “well-intentioned”
- Order on Motion for Sanctions - 2002 – [\$67,885] “no-mention-anything”
- Findings of Fact and Conclusions of Law - 2003 – re his \$67,885 Order on Motion for Sanction – suddenly “all-venom” - no more “well-intentioned”
- Order Reviving Judgment - 2014 – fresh life upon unlawful [\$67,885] Order on Motion for Sanctions – and conceal as “Sanction Judgment”

(details at [www.OpenJustice.US](http://www.OpenJustice.US))

**summary**

(all “venom” - no more “well-intentioned”)

Here, a few quotes from Judge Paul Banner’s Findings of Fact and Conclusions of Law as go with his [\$67,885] Order on Motion for Sanctions – which Order he re-executed on Nov. 14, 2014, by reviving same that day.

THINK – why would any judge want or have to make a FINDING on his own ORDER in the first place – and “revive” such own 2002 Order - in 2014? Something really STINKS.

Was of course a **JURY** cause. Findings had to be by **JURY**, but ... ..

11. ... **punitive** damages awarded **by the Court** ... .. prevent similar **future** action p3
14. ... the relief **which the Court seeks** ... .. **and others** similarly situated from **filing** ... .. lawsuits. p3
15. ... **punitive** damage ... .. conduct to be **punished** p3
4. ... on the evidence **presented to the Court** p5
9. ... **punitive** damages ... .. for the **filing** ... .. **lawsuit** p5
10. ... [for] **filing** ..... this claim ... .. **calls out** for ... **punitive** damages p6
15. ... The award of **punitive** damages ... .. harm done p6
16. ... The award of **punitive** damages is not excessive. p5
- 17.... **Punitive** damages ... .. gain the **relief sought** which is to stop ... .. **and others like him**, from **filing** ... .. **lawsuits**. p6
18. ... **punitive** damage award ... .. to the harm done. p7
19. ... Authority for the **punitive** damage award ... .. etc. ... .. common law of Texas. p7

Totally “inconsistent with due process”. Filing a lawsuit (I did NOT – only made a counter and cross-claim) is a First Amendment Right. **ANY** adverse action – by a public official – for exercising a Right (and Judge Banner says that is why he did it) **is** official oppression. He also cannot impose **punitive** sanction by **civil** process – only “coercive” – where one has the “keys to one’s own release” – i.e. by complying with some Order – of which there was none – to purge a contempt!

And all these poison words? At his **very sanction hearing**, he found me “**well-intentioned**”, only that HE did not see my **evidence** as showing my **counter-claim**. Weighing the evidence is of course for the jury. And he even states – that he is **punishing** (“*sanctions*”) me – for **having** made a counter-claim – a **First Amendment Right!** Civil contempt cannot punish for past conduct. Period. US Supreme Court. Plum mad. So, once again:

*“In assessing the **sanctions**, the Court has taken into consideration that although Mr. Birnbaum may be **well-intentioned** and may believe that he **had** some kind of real claim as far as RICO there **was** nothing presented to the court in any of the proceedings since I’ve been involved **that suggest** he **had** any basis in law or **in fact** to support his **suits** against the individuals, **and I think** – can find that such **sanctions** as I’ve determined are appropriate”. (Judge Paul Banner, Transcript, Sanction hearing)*

**Indicated real reason:** - to stop this defendant **“and others like him”** (Judge Paul Banner Findings ) - from going Pro Se with civil RACKETEERING counter-claims – against **fraudulent suits** – by lawyers - for that holiest-of-holies - LEGAL FEES!

**summary**

So, what happened to **“well-intentioned”**? ANSWER: All one big cover-up – and the Order Reviving Judgment of November 14, 2014 – of the \$67,885 sanction – is nothing less than a fresh re-execution – **on November 14, 2014**, of Official Oppression and Abuse of Official Capacity.

All statements upon personal knowledge, all attached documents true copies of the originals, except for obvious markups all by me, all of which also upon personal knowledge. Lots more “stuff” at [www.OpenJustice.US](http://www.OpenJustice.US)

**Attached: See page 2 for list**

\_\_\_\_\_  
UDO BIRNBAUM  
540 Van Zandt CR 2916  
Eustace, TX 75124  
(903) 479-3929  
brnbn@aol.com

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME on this \_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Notary Public, State of Texas