

Complaint and Affidavit of Securing Execution of Document by Deception upon Udo Birnbaum.

SEC. 32.46 SECOND DEGREE FELONY

On or about the 14th day of November, 2014, CHRISTINA WESTFALL, STEFANI PODVIN, AND FRANK C. FLEMING, in Van Zandt County, Texas, did then and there, with intent to harm or defraud UDO BIRNBAUM, by deception, to-wit by submitting fraudulent court papers, caused JUDGE PAUL BANNER, as officer of the Court, to execute by signing a document affecting the pecuniary interest of UDO BIRNBAUM, the value of said pecuniary interest being \$100,000.00 or more, and said documents are of the tenor following:

Court Transcript – July 30, 2002 “Sanctions Hearing”. Note the “*well-intentioned*” **Order on Motion for Sanctions** (Aug. 9, 2002) - is the **document deceptively used** **Findings of Fact and Conclusions of Law** of Sept. 30, **2003** – upon the above **Order**
(Note: A judge making “Findings” upon his own **Order**? ONE year later? Something STINKS. **Findings** is official oppression per se – plum unlawful. The whole **Finding** is a CYA FRAUD!)
Application for Writ of Scire Facias to Revive Judgment - upon the above **Order**
(Note: “reviving” – in 2014 – an **Order** made in 2002? Something STINKS)
Order Reviving Judgment - on Nov. 14, 2014 - is the **document deceptively secured**

For background - FRAUD – right out of the chute:

Attorney Retainer Agreement of May 5, 1998 – re \$20,000 prepaid non-refundable
Original Petition of Sept 20, 2000 – FRAUDULENT suit of “**sworn open account**” !

This Strange “Order on Motion for Sanctions”

FIRST, why would ANYONE need to or want to revive an ORDER?

SECOND, why Findings of Fact and Conclusion of Law – upon an ORDER?

But it does read, “*This judgment rendered July 30, 2002, signed August 9, 2002*”.

But the JUDGE himself making the findings of fact – in a JURY case?

And a \$62,770 PUNISHMENT for having exercised a FIRST AMENDMENT RIGHT of making a counter-claim when sued (and “*well-intentioned*” at that):

*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. (Transcript, end of Sanctions hearing July 30, 2002)*

So, let us look very carefully at this really strange 2002 Order on Motion for Sanctions, and the Findings thereto, for if these were indeed a fraud, and deceptively used

to secure execution of the Order Reviving Judgment in 2014 – that would be securing, by deception, execution of a document affecting property – in 2014. It is that simple.

So all and everything hinges on the true nature of this document titled Order on Motion for Sanctions. Yes, it was issued by a court, but

There already existed a **Final Judgment**, “*This judgment rendered April 11, 2002, signed July 30, 2002*”. (“FIRST judgment”) – and it says **FINAL**.

Then much later yet another “judgment”, also titled Order on Motion for Sanction, by Judge Ron Chapman (“*This judgment rendered April 1, 2004, signed October 24, 2006*”) (“THIRD judgment”)

But back to this **Order on Motion for Sanctions**, “*This judgment rendered July 30, 2002, signed August 9, 2002*” (“SECOND judgment”), and **Findings** thereto:

This “judgment” reads like the ravings of a madman! No more “*well-intentioned*”!
This “judgment” says the \$62,885 punishment is “narrowly tailored”!
This “judgment” was done without a jury – but this was a jury cause!
This “judgment” was awarded to someone who was not a plaintiff!
This “judgment” punishes for filing a counter-claim, a First Amendment Right!
This “judgment” seeks punishment – “*which the Court seeks*” (the State seeks!)
This “judgment” **unconditionally** punishes. (CIVIL can only do “coercive”)

This BEAST is clearly and absolutely UNLAWFUL and VOID. Furthermore, a public servant, the judge, taking ANY adverse action against having exercised a First Amendment Right of access to the courts, by making a counter-claim - and he said that is why he is punishing – is official oppression per se. WHAT IS GOING ON?

THE ANSWER, upon my personal knowledge, including of the intermediary documents, is that attorney Frank C. Fleming personally crafted this outrageous Order on Motion for Sanctions, schemed the phrase “*this judgment rendered etc*” at the end, presented it to Judge Paul Banner, and the judge just executed it by signing it – SECURING EXECUTION OF DOCUMENTS BY DECEPTION by itself, in 2002, but by now outside the 7 year statute of limitations.

But it is the deceptive use of this 2002 Order, on or about **November 14, 2014** by attorney FRANK C. FLEMING, CHRISTINA WESTFALL (plaintiff law offices bookkeeper), and STEFANI PODVIN (plaintiff law offices attorney) that constitutes the

fresh SECURING OF EXECUTION OF DOCUMENTS BY DECEPTION (securing Order Reviving Judgment) – which is the **Nov. 14, 2014** crime I am reporting today.

And even if Fleming had not indeed been the perpetrator in creating this 2002 Order, FRANK C. FLEMING, as an attorney, CHRISTINA WESTFALL, as the law offices bookkeeper, and STEFANI PODVIN, as an attorney, knew or should have known, that this Order on Motion for Sanctions they were presenting to obtain revival of judgment, was a FRAUD, as well as was EVERYTHING ELSE FROM THE START.

All statements upon personal knowledge, all attached documents true copies of the originals, except for obvious markups all by me, all also upon personal knowledge.

Attached:

Court Transcript – July 30, 2002 “Sanctions Hearing”. Note the “*well-intentioned*” **Order on Motion for Sanctions** (Aug. 9, 2002) - is the **document deceptively used** Findings of Fact and Conclusions of Law of Sept. 30, **2003** – upon the above Order
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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