

THANK YOU, JUDGE CHAPMAN - for putting this stuff down on paper - so the whole world can see - in official documents - just how EVIL or CRAZY you are.

No. 00-00619

2006 OCT 25 11:51 AM

THE LAW OFFICES OF  
G. DAVID WESTFALL, P.C.

Plaintiff

v.

UDO BIRNBAUM

Defendant/Counter-Plaintiff

G. DAVID WESTFALL, CHRISTINA  
WESTFALL, and STEFANI PODVIN,

Counter-Defendants

IN THE DISTRICT COURT

"inconsistent with DUE PROCESS" -- just read this stuff - - Ravings of a madman. Markups throughout this document.

294<sup>th</sup> JUDICIAL DISTRICT

Trial before a JURY was April 8-11, 2002. Why is he sitting on the bench on April Fools Day in 2004? And not sign till 2006? Where did Judge Chapman come up with all this "stuff" - he was NOT the trial judge!

VAN ZANDT COUNTY, TEXAS

ORDER ON MOTIONS FOR SANCTIONS

On April 1, 2004, came on to be heard, defendant, Udo Birnbaum's ("Birnbaum") Motion for Recusal of Judge Paul Banner. Prior to the hearing, the Court and Mr. Birnbaum were each served with notice of a Motion for Sanctions filed by G. David Westfall, P.C., Christina Westfall, and Stefani Podvin (referred to herein collectively as the "Sanctions Movants") and that Motion for Sanctions was also heard. The Sanctions Movants appeared by their attorney of record. Birnbaum, appeared in person, pro se. All parties announced ready for the hearing.

Based upon the pleadings of the parties, the evidence presented at the motion hearing, and the arguments of counsel and the arguments of the pro se defendant, the Court is of the opinion that Birnbaum's Motion to Recuse Judge Paul Banner should be in all things be denied.

At this point he should have gone HOME. Period.

Based upon the pleadings of the parties, the evidence presented at the motion hearing, and the arguments of counsel and the arguments of the pro se defendant, the Court is of the opinion that the Sanctions Movants are entitled to prevail on their claim for sanctions against the Defendant, Udo Birnbaum.

Exhibit  
14

It is therefore, **ORDERED, ADJUDGED, and DECREED** that the motion by the defendant, Udo Birbaum, that Judge Paul Banner be recused from further matters effecting this cause of action is denied.

It is therefore, **FURTHER ORDERED, ADJUDGED, and DECREED** that the Plaintiff, G. David Westfall, P.C., and Counter-Defendants, Christina Westfall and Stefani Podvin, are awarded damages as a sanction against and to be paid by defendant, Udo Birbaum, to G. David Westfall, P.C., Christina Westfall, and Stefani Podvin as follows:

A. A monetary sanction in the amount of **\$1,000.00** as actual damages, representing the reasonable value of the legal services rendered to the Sanctions Movants by their attorney for the defense of Birbaum's Motion to Recuse and the prosecution of the Sanctions Movants' Motion for Sanctions.

B. A monetary sanction in the amount of **\$124,770.00** as exemplary and/or punitive damages to serve as a deterrent to prevent Birbaum from committing further similar acts again in the future.

**IT IS FURTHER ORDERED THAT** the judgment here rendered shall bear interest at the rate of five percent (5%) from the date of the signing of this order, until paid.

All other relief regarding any motions for relief on file in this cause of action not expressly granted in this order is hereby denied.

With regard to the award of sanctions, the Court makes the following findings and conclusions in support of the Court's award of sanctions and in support of the type and dollar amount of the sanctions imposed:

## Findings of Fact

1. Birnbaum's claims regarding the attempt to have Judge Paul Banner recused were **groundless, vacuous, manufactured,** and totally unsupported by any credible evidence whatsoever.
2. Birnbaum's claims regarding the attempt to have Judge Paul Banner recused were without merit and brought for the purpose of **harassment** and/or **delay.**
3. The testimony of Birnbaum regarding the attempt to have Judge Paul Banner recused was **biased, not credible,** and totally uncorroborated by any other evidence.
4. The sole purpose of Birnbaum filing the motion regarding the attempt to have Judge Paul Banner recused was an attempt to **harass, intimidate,** and inconvenience the Sanctions Movants.
5. Birnbaum has a track record and history of filing lawsuits, motions, and writs of mandamus against judges that rule against him in litigation.
6. Birnbaum filed a pleading containing a completely false and **outrageous** allegation that **Judge Paul Banner** had conducted himself in a manner that showed bias and a **lack of impartiality.**
7. Birnbaum's difficulties with judges and the repeated allegations of a lack of impartiality have had nothing at all to do with the conduct of the judges that Birnbaum has appeared before, but instead, is a **delusional belief held only inside the mind of Birnbaum.**
8. Birnbaum will seemingly go to any length, even filing new lawsuits in State and Federal courts in an attempt to re-litigate issues which a court has already ruled upon and which all appropriate courts of appeal have affirmed.
9. Birnbaum's filing of this Motion to recuse Judge Banner was consistent with a **proven pattern** and **practice** of **behavior** engaged in by Birnbaum **over many years** and currently ongoing now in this court **and in other federal courts.**

Go diagnose yourself, you idiot

Where did you get all this stuff from? You were NOT the trial judge. We hardly met. Is everybody talking about me? Seems like it.

10. Birnbaum has a track record and history of bickering and quarreling with judges that have ruled against him in litigation.

11. Birnbaum has a track record and history of filing lawsuits without merit against judges, attorneys, and other individuals in an attempt to gain tactical advantage in other ongoing litigation.

12. Prior to this hearing, Birnbaum filed in March 2004, **new legal action** in Federal District Court against Judge Paul Banner, G. David Westfall, Christina Westfall, and Stefani Podvin. **This new Federal lawsuit** attempts to re-litigate the same issues Birnbaum unsuccessfully raised in this lawsuit.

Judge Ron Chapman -- you were assigned to hear a Motion for Recusal, rule, then go HOME. Why are you all tight up? Where did you get all this stuff?

13. Prior to this hearing, Birnbaum has initiated a lawsuit against the attorney for the Sanctions Movants, Frank C. Fleming. Birnbaum admitted in open court that he has never had any dealings with Frank C. Fleming other than in connection with Mr. Fleming's representation of the Plaintiff and the counter-defendants in this cause of action. Birnbaum admitted in open court that the legal basis of his lawsuit against Mr. Fleming, civil RICO, is the same basis Birnbaum was previously sanctioned in this lawsuit for attempting to bring against Christina Westfall and Stefani Podvin.

14. The behavior of Birnbaum himself in prosecuting the Motion to recuse Judge Banner has been **vindictive, unwarranted, mean-spirited, frivolous**, and totally without substantiation on any legally viable theory for the recusal of Judge Banner.

15. The Motion itself to Recuse Judge Banner without any ounce of evidence to support it, was **frivolous, vindictive**, and brought for the purpose of **harassment**.

16. The conduct of Birnbaum giving rise to the award of exemplary and/or **punitive** damages was engaged in by Birnbaum **willfully** and **maliciously** with the intent to **harm** the Sanctions Movants, Judge Paul Banner, and the attorney for the Sanctions Movants, Mr. Fleming.

YES - out in the halls - around the coffee pot - around the table in the jury room - ALL WITHOUT A COURT REPORTER - yes you threatened me. YES - this was ALL BEFORE we went into the courtroom - and before a COURT REPORTER.

17. Prior to the hearing on the Motion to Recuse, the Court admonished Birnbaum that if his Motion to Recuse Judge Banner was not withdrawn, that if it became appropriate, the Court would hear the Motion for Sanctions. In response to this admonition, Birnbaum unequivocally elected to move forward with a hearing on his Motion in an attempt to have Judge Banner recused.

18. The type and dollar amount of the sanctions award is directly related to the harm done. The Court has not been presented with any evidence to believe that the amount of the sanctions award is excessive in relation to the net worth of Birnbaum. a truly AMAZING "Finding of Fact". lol

19. The type and dollar amount of the sanctions award is appropriate in order to gain the relief which the Court seeks, which is to stop this litigant and others similarly situated from filing frivolous motions, frivolous lawsuits, frivolous defenses, frivolous counter-claims, and new lawsuits which attempt to re-litigate matters already litigated to a conclusion. Official Oppression per se.

20. The amount of the exemplary and/or punitive damage award is an amount narrowly tailored to the amount of harm caused by the offensive conduct to be punished. UNLAWFUL by CIVIL process

21. The Sanctions Movants have suffered damages as a result of Birnbaum's frivolous counter-claims and Birnbaum's motion to recuse. These damages include expenses (in addition to taxable court costs), attorney's fees, harassment, inconvenience, intimidation, and threats.

### Conclusions of Law

1. On the issue of the recusal of Judge Paul Banner, Birnbaum wholly failed to provide any credible evidence to substantiate any of his claims.

2. All of Birnbaum's claims were as a matter of law unproved and untenable on the evidence presented at the hearing.

3. The court concludes as a matter of law that Birnbaum's claim that Judge Paul Banner acted biased and with a lack of impartiality, was brought for the purpose of harassment. The Court makes

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this conclusion based upon the fact that Birnbaum was not a credible witness, that other credible witnesses totally contradicted Birnbaum's version of the facts, and that evidence was presented establishing that Birnbaum has had a track record and history of harassment towards other opposing litigants, opposing counsels, and other judges before whom Birnbaum has appeared.

4. The Plaintiffs behavior in bringing and prosecuting this frivolous motion to recuse Judge Banner was a violation of one or more of the following: §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

GOOD SHOPPING LIST. Well - exactly which one - and HOW?

5. The Court has the power to award both actual and exemplary (and/or punitive) damages against Birnbaum for the filing and prosecution of a frivolous motion. This authority stems from one or more of the following: §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

AGAIN - sort of lacking specificity. But, at least no violation of MOTHERHOOD and APPLE PIE?

6. The behavior and attitude of Birnbaum in filing and prosecuting this Motion to Recuse claim against Judge Paul Banner calls out for the award of both actual and exemplary (and/or punitive) damages to be assessed against Birnbaum.

AGAIN - can't do "punitive" in CIVIL process. Requires "keys to own release"

7. The appropriate award for actual damages as a result of the filing and prosecution of the frivolous Motion to Recuse, is an award of \$1,000.00 in attorney's fees. The Court makes this award under power granted to the Court by §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

???"and/or" sort of like "maybe"

8. The appropriate exemplary and/or punitive sanction for the filing and full prosecution of the frivolous Motion to Recuse is an award of \$124,770.00 to be paid by Birnbaum to the Sanctions Movants.

\$124,770.00 - Judge Ron Chapman. One might overlook this if you had been DRUNK - but to put this stuff on paper - and actually SIGN IT? CRAZY.

9. The award of exemplary and/or punitive damages is directly related to the harm done.

10. The award of exemplary and/or punitive damages is not excessive.

PLUM CRAZY

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11. The award of exemplary and/or punitive damages is an appropriate amount to seek to gain the relief sought by the Court which is to stop Birnbaum and others like him from filing similar frivolous motions and other frivolous lawsuits.

OFFICIAL OPPRESSION - retaliation for exercising a First Amendment Right. CRAZY

12. The amount of the exemplary and/or punitive damage award is narrowly tailored to the harm done.

13. The amount of the exemplary and/or punitive damages is narrowly tailored to exactly coincide with the amount (in total) assessed against Birnbaum to date in this litigation. This amount was selected by the Court deliberately and on purpose to send a clear message to Birnbaum. The message this award of damages is intended to relay to Mr. Birnbaum is that this litigation is over, final, and ended. The message is that further attempts to re-open, re-visit, and re-litigate matters which have already been decided in court, reduced to judgment, and affirmed on appeal will not be tolerated; and that further attempts by this litigant to engage in such activity will not be conducted without the imposition of very serious and substantial monetary sanctions imposed upon Mr. Birnbaum.

THANK YOU, JUDGE CHAPMAN - for putting this stuff down on paper - so the whole world can see - in official documents - just how EVIL or CRAZY you are.

14. Authority for an exemplary and/or punitive damage award is derived from §§10.001, et seq., Tex. Civ. Prac. & Rem. Code, Rule 13, T.R.C.P., and/or the common law of Texas.

Any finding of fact herein which is later determined to be a conclusion of law, is to be deemed a conclusion of law regardless of its designation in this document as a finding of fact. Any conclusion of law herein which is later determined to be a finding of fact, is to be deemed a finding of fact regardless of its designation in this document as a conclusion of law.

THIS **JUDGMENT** RENDERED ON APRIL 1, 2004, AND SIGNED THIS

24 day of Oct, 2006.

  
JUDGE PRESIDING

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WOULD YOU BELIEVE - "The Westfalls" actually got the 294th District Clerk to issue an "Abstract of Judgment" on this ORDER - for close to \$250,000 with interest.  
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Filed it with the County Records, to put liens on all my property, did a "writ of execution" to send the sheriff out to seize my property.  
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While at the SAME TIME doing a "scire facias" to revive the FIRST judgment in the case (2002) which had gone "dormant" after TEN YEARS. (There can be only ONE judgment - this mess has THREE - over a period of SIX years or so! )  
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Lots more detail - at "home" - [www.OpenJustice.US](http://www.OpenJustice.US)