

Complaint of
Securing Execution of Document by Deception.
SEC. 32.46 SECOND DEGREE FELONY

On or about the 26th day of March 2014, 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 VANIA RILEY to sign and execute 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:

Order on Motion for Sanctions is the document deceptively used.
Abstract of Judgment and Writ of Execution are the documents deceptively secured.
(all three attached hereto)

This Strange Beast

Per the documents themselves, i.e. the headings, dates, and amounts, the execution secured was clearly upon the document titled Order on Motion for Sanctions. This should of course immediately raise a flag: An abstract of judgment upon a mere order? Almost everything a court does – is an Order! And how exactly does one abstract, inter alia, “*to stop Birnbaum and others like him” or “relief which the Court seeks”?”*

But then, strangely, this Order on Motion for Sanctions does indeed say “***This judgment rendered April 1, 2004, signed October 24, 2006***”. But the whole thing reads like the ravings of a madman - - a \$125,770.00 punishment for having filed a mere motion to recuse? And punishment for having exercised a First Amendment Right of filing a lawsuit? (actually only a counter-claim)

So, let us look at this really strange BEAST very carefully, for if this Order on Motion for Sanctions were indeed a fraud, or the opportunities that surround it, had indeed been used deceptively to get the clerk to execute the other two documents, then that would indeed be securing execution of documents by deception.

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

There already was **Final Judgment** way back in 2002, "*This judgment rendered April 11, 2002, signed July 30, 2002*". ("FIRST judgment") – and it says **FINAL**.

Then **yet another judgment** just thereafter, "*This judgment rendered July 30, 2002, signed August 9, 2002*" ("SECOND judgment")

But back to this belated BEAST - Order on Motion for Sanction ("*This judgment rendered April 1, 2004, signed October 24, 2006*") ("THIRD judgment"):

This "judgment" reads like the ravings of a madman!

This "judgment" says the \$125,770 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" was signed a judge who was not the trial judge and cannot sign!

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 Frank C. Fleming personally crafted this Order on Motion for Sanctions, schemed the phrase "*this judgment rendered etc*" at the end, presented it to Judge Ron Chapman, and the judge just executed it by signing it – SECURING EXECUTION OF DOCUMENTS BY DECEPTION by itself, sometime around 2004-2006, but by now outside the 7 year statute of limitations.

But it is Fleming's deceptive use of this, his document, on or about March 26, 2014 that constitutes the fresh SECURING OF EXECUTION OF DOCUMENTS BY DECEPTION – which is the crime I am reporting today.

And even if Fleming had not indeed been the perpetrator in creating this BEAST, nevertheless, FRANK C. FLEMING, as an attorney, knew or should have known, that this Order on Motion for Sanctions he was presenting to obtain execution, was a FRAUD.

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.

Attached:

Order on Motion for Sanctions (signed Oct. 24, 2006) - - annotated -- "The BEAST"
Abstract of Judgment (Mar. 26, 2014)
Writ of Execution (Mar. 26, 2014)

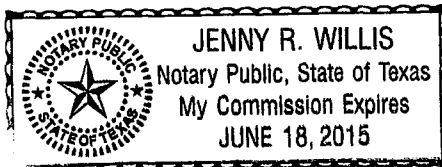
Udo Birnbaum
UDO BIRNBAUM
540 Van Zandt CR 2916
Eustace, TX 75124
(903) 479-3929
brnbn@aol.com

SIGNED this 20 day of March, 2015

Udo Birnbaum
UDO BIRNBAUM

SUBSCRIBED AND SWORN TO BEFORE ME on this 20 day of March 2015

Jenny R. Willis
Notary Public, State of Texas



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.

294th 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

Order on Sanctions

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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

Order on Sanctions

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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

-
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.
--
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.
--
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

ABSTRACT OF JUDGMENT – Prop.Code ch. 52

CAUSE NO. 00-00619

THE LAW OFFICES OF	§	IN THE 294th DISTRICT COURT
G. DAVID WESTFALL, P. C.,	§	
PLAINTIFF,	§	
VS.	§	OF
UDO BIRNBAUM	§	
DEFENDANT/COUNTER-PLAINTIFF	§	
VS.	§	
G. DAVID WESTFALL, CHRISTINA	§	
WESTFALL, AND STEFANI PODVIN,	§	VAN ZANDT COUNTY, TEXAS

Attorney for Plaintiff/Judgment Creditor:

Frank C. Fleming
3326 Rosedale
Dallas, Texas 75205

Name of Plaintiff/Judgment Creditor in Judgment:

G. David Westfall, P.C. and Counter-Defendant,
Christina Westfall and Stefani Podvin

Address of Plaintiff/Judgment Creditor:

3326 Rosedale
Dallas, Texas 75205

Defendant/Judgment Debtor's Information:

Name:

Udo Birnbaum

Address or where citation was served:

540 VZCR 2916
Eustace, Texas 75124

Birth date, if available:

N/A

Last three numbers of driver's license, if available:

xxxxxxx

Last three numbers of Social Security No., if available:

xxxx-xx-xxxx

Date of Judgment:	October 24, 2006
Amount of Judgment:	\$124,770.00
Attorney's Fees:	\$ 1,000.00
Amount of Cost:	\$ 492.00
Post-Judgment Interest Rate:	5% per annum
Amount of Credits:	\$-0-
Balance Due on Judgment:	\$126,262.00 plus 5% per annum

I, KAREN WILSON, CLERK of the District Court of Van Zandt County, Texas, do hereby certify that the above and foregoing is a true and correct Abstract of the Judgment rendered in said Court in the above numbered and styled cause as it appears in the Records of said Court.

WITNESS my hand and seal of said court at office in Canton, Texas on this the 26th day of March, 2014.

Karen Wilson, District Clerk
Van Zandt County, Texas

By Janie Riley Deputy

SHERIFF'S RETURN

Came to hand the 28 day of MARCH 2014 at 11:27 o'clock A M and executed at _____ in _____ County, Texas on the _____ day of _____ 20____ at _____ o'clock _____ M by levying upon and seizing the following described property as property of the defendant, and situated in _____ County, Texas, viz: Deputy unable to locate Judgment Debtor to make demand.

Unable to locate Assets sufficient to satisfy the judgments

And afterwards, on the _____ day of _____ 20____ advertised the same for sale at the courthouse door of _____ County/ _____ on the _____ day of _____ 20____ being the _____ of the month (*by advertisement in the English language, published once a week for 3 consecutive weeks preceding such sale, the first publication appearing not less than 20 days immediately preceding the day of sale, beginning on the _____ day of _____ 20____ in the _____, a newspaper published in the County of _____ stating in said advertisement the authority by virtue of which said sale was to be made, the time of levy, the time and place of sale, a brief description of the property to be sold, the number of acres, the original survey, its locality in the county and the name by which the land is generally known), (by written advertisement posted for _____ successive days next before the day of sale at 3 public places in the county of _____ on of which is at the Courthouse door of said County, and one was at the place of sale) ** and also delivered/mailed one to each of the within named defendants a copy of said notice of sale; and also mailed a copy of said notice of sale to _____ defendant's attorney of record in said cause.

And on said _____ day of _____ 20____ between the hours of 10 o'clock AM and 4 o'clock PM at the Courthouse door of said County, _____ in pursuance to said advertisement, sold said property at public sale to _____ to whom the same was struck off for the sum of \$ _____ Dollars, that being the highest secure bid for the same; and the said _____ having been paid the sum so bid by _____ h _____ l executed to _____ h _____ a _____ for said property. And after first satisfying the Sheriff's costs accruing under this writ, amounting to the sum of \$ _____ an itemized bill of which appears below, and the further sum of \$ _____ original Court costs; the remainder, being the sum of \$ _____ was paid to _____ whose receipt for the same is herewith presented, and this writ is hereby returned on this the _____ day of _____ 20____.

SHERIFF'S FEES

Executing Writ & return	\$ _____
Executing deeds	\$ _____
Executing _____ bill of sale	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL.....	\$ _____
Original court costs.....	\$ _____
TOTAL AMT IN COSTS	\$ _____

Michael L. Ray Sheriff
Van Zandt County, Texas
By Samuel D. Henson Deputy

*If no newspaper will publish said advertisement then strike out the first clause and leave the clause showing advertisement "posted", etc. If published in newspaper, strike out the clause in regard to posting. ** I sale was at a courthouse of said county, then strike out this last clause, but if sale is elsewhere, strike out and make your form read accordingly.

RETURNED AND FILED this the _____ day of _____ 2000 at _____ o'clock _____ M
LINDA UECKER District Clerk, Kerr County
By _____ Deputy