

# FRANK C. FLEMING

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September 28, 2015

VIA FAX: 903-567-6854

Mary Barker, Court Manager  
District Court, Van Zandt County  
121 East Dallas Street  
Canton, TX 75103

Re:    Cause No.: CV05297  
      *Udo Birnbaum*  
      v.  
      *Christina Westfall*  
      *Stefani Podvin*  
      *Frank C. Fleming*

Dear Ms. Barker:

On Friday, September 25, 2015, you faxed me a Notice of Court Setting in the above referenced matter. However, I am not familiar with this matter. To my knowledge, neither I, nor my two clients, have ever been served with citation in this matter. I have never received any pleadings and I do not know anything about the issues that will be the subject of the hearing set for Thursday, October 8, 2015 at 10:30 A.M. I respectfully request that the hearing be postponed until such time as the plaintiff abides by the Texas Rules of Civil Procedure in bringing this action.

Please note that this plaintiff, Udo Birnbaum has been sanctioned on two separate occasions with respect to other legal matters he has attempted to bring against me and my clients. He has been deemed by two separate visiting judges in this court of being a vexatious litigant that brings forth frivolous claims. He has been sanctioned under Chapter 9 of the Civil Practices and Remedies Code in excess of \$150,000 for bringing unfounded and trumped up charges in an attempt to gain advantage in litigation.

I would welcome the opportunity to put Mr. Birnbaum's sanity at issue in court. However, based upon prior experiences with him, he is no doubt attempting to put Judge Banner's sanity on trial and not his own. At any rate, as much as I would enjoy the opportunity to be in court with Mr. Birnbaum and to see him make a complete fool of himself one more time, I would appreciate being relieved of the obligation to appear in your court next week until such time as Mr. Birnbaum follows the rules of court. Please forward my message to Judge Leonard as you deem appropriate.

If you have any questions do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Frank C. Fleming". The signature is written in a cursive style with some loops and flourishes.

**FRANK C. FLEMING**