

CAUSE NO. 06-00857

UDO BIRNBAUM

Plaintiff

v.

PAUL BANNER

Defendant

RON CHAPMAN

Defendant

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IN THE DISTRICT COURT

294th JUDICIAL DISTRICT

VAN ZANDT COUNTY, TEXAS

FIRST INTERROGATORIES TO JUDGE PAUL BANNER

PLEASE NOTE: Standard rules apply: responses to be verified, answers to be preceded by the question, 30 days, etc.

Background to Interrogatories No. 1, No. 2, No. 3, No. 4

Regarding a certain **\$62,885.00 Sanction** titled **Order on Motion for Sanctions**, as you rendered at a hearing on July 30, 2002, and as you signed Aug. 9, 2002, **Findings of Fact and Conclusions of Law** thereon made **over one year later**, Sept. 30, 2003, all in Cause 00-619, **The Law Offices of G. David Westfall, P.C. vs. Udo Birnbaum**, 294th District Court of Van Zandt County, you found:

“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. And if you will provide me with an appropriate sanctions order, I will reflect it.” Hearing transcript, July 30, 2002.

“8. The conduct of the Defendant/Counter-Plaintiff giving rise to the award of **punitive damages** was engaged in **willfully** and **maliciously** by the Defendant/Counter-Plaintiff with the **intent to harm** the Plaintiff and the Counter-Defendants.” Findings p.3.

“7. The court concludes as a **matter of law** that Defendant/Counter-Plaintiff’s claims concerning RICO civil conspiracy were brought **for the purpose of harassment**. Findings p. 5.

INTERROGATORY NO. 1

RECONCILE, with specificity, your **extemporaneous** pronouncement of “**well-intentioned**”, as documented by the court reporter at the hearing on *Motion for Sanctions* on **July 30, 2002**, with all the “**willfully**”, “**maliciously**”, “**intent to harm**”, “**for the purpose of harassment**”, and all those other negative words in your *Findings of Fact and Conclusions of Law* as you signed on **Sept. 30, 2003**.

INTERROGATORY NO. 2

IDENTIFY, with specificity, **what necessity**, and **what jurisdiction**, if any, you had on **Sept. 30, 2003**, to sign and journalize with the Clerk *Findings of Fact and Conclusions of Law*, you having signed *Final Judgment* way back on **July 30, 2002**.

INTERROGATORY NO. 3

IDENTIFY, with specificity, the “**keys to your own release**”, if any, as you provided to Birnbaum **to purge** this contempt, so as to make this sanction indeed “**coercive**” and **civil** in nature, rather than **unconditional** and upon a **completed act** and **punitive** and “**criminal**” in nature, such contempt being **unlawful under civil process**, as requiring the due constitutional safeguards of full criminal process, including a finding of “**beyond a reasonable doubt**”, instead of “*and I think*” as you expressed at the sanctions hearing.

INTERROGATORY NO. 4

IDENTIFY, with specificity, the **circumstances and date** on which you first learned that the **\$62,885 FINE** you were imposing on Birnbaum was **outlawed** under civil process, **and such action**, if any, as you thereupon took to keep Birnbaum **from being harmed** by what you had rendered and entered.

Background to Interrogatory No. 5, No. 6, No. 7

In same *Findings of Fact and Conclusions of Law*, you state:

“14. The sanctions award is an appropriate amount in order to gain the relief which the Court seeks, which is **to stop** the Defendant/Counter-Plaintiff **and others** similarly situated **from filing frivolous lawsuits.**” Findings p. 4.

INTERROGATORY NO. 5

IDENTIFY, with specificity, **exactly how and why** this particular **\$62,885 sanction** for **filing a lawsuit**, does not run afoul of the **First Amendment Right** of free and unfettered access to the courts, without fear of adverse action thereon, of **this litigant**, and **others**.

INTERROGATORY NO.6

IDENTIFY, with specificity, the **circumstances and date** on which you **first learned** that the **\$62,885 FINE** you were imposing on Birnbaum violated the First Amendment, **and such action**, if any, as you thereupon took to keep Birnbaum **from being harmed** by what you had rendered and entered.

INTERROGATORY NO. 7

EXPLAIN, with specificity, how you, a **public official**, taking a **\$62,885 exemplary and/or punitive** action for filing a lawsuit, as your Order states, why such does not satisfy all of the elements of the offense of **Official Oppression**.

Background to Interrogatory No. 8

On April 1, 2004, Judge Ron Chapman held a hearing in your old Cause No. 00-619, assignment for *Motion to Recuse Judge Banner*, at which you appeared **as a witness**, and at which Judge Chapman rendered and entered **\$125,770** sanction against Birnbaum, exactly TWO TIMES such **\$62,885** as you had previously assessed against Birnbaum.

INTERROGATORY NO. 8

EXPLAIN, with specificity, **why it would not strike you as sort of strange**, to see Judge Chapman, on **April 1, 2004**, conduct a hearing on ***Motion to Recuse Judge Banner***, much less impose **\$125,770 FINE** on Birnbaum, when you knew that neither he nor you could have jurisdiction, you yourself having signed and journalized with the Clerk ***Final Judgment*** on **July 30, 2002, and such action**, if any, as you thereupon took to keep Birnbaum **from being harmed** by what you had just seen and learned.

INTERROGATORY NO. 9

IDENTIFY, with specificity, the **circumstances and date** on which you **first learned** that Judge Ron Chapman had on **Oct. 24, 2006**, over FOUR (4) YEARS after you, as trial judge in 00-619 had entered ***Final Judgment*** on **July 30, 2002**, that Judge Chapman had actually signed and journal entered his ***Order on Motion for Sanctions*** for **\$125,770, and such action**, if any, as you thereupon took to keep Birnbaum **from being harmed** by what Judge Chapman had done..

UDO BIRNBAUM, *Pro Se*
540 VZ 2916
Eustace, Texas 75124
(903) 479-3929

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of this document, together with the cover letter as to the US Attorneys Office in New Orleans, including copies of all attachments as therein and below indicated, was this day provided as follows:

John M. Bales, US Attorney
350 Magnolia Ave, Suite 150, Beaumont, TX, 77701-2237
CERTIFIED MAIL
RESTRICTED DELIVERY
7008 1300 0001 4353 5112

Judge Paul Banner, 24599 CR 3107, Gladewater, TX 75647-9620
CERTIFIED MAIL
7008 1300 0001 4353 5129

Judge Ron Chapman, 108 Ellen Lane, Trinidad, TX 75163
CERTIFIED MAIL
7008 1300 0001 4353 5136

Gregg Abbott, Texas A/G
Office of the Attorney General, 300 W. 15th Street, Austin, TX 78701
CERTIFIED MAIL
RESTRICTED DELIVERY
7008 1300 0001 435 5143

Judge John Ovard, Presiding Judge, First Administrative Judicial Region
133 N. Industrial / LB50, Dallas, TX 75207
CERTIFIED MAIL
RESTRICTED DELIVERY
7008 1300 0001 4353 5150

Attachments:

- First Interrogatories to Judge Ron Chapman
- First Interrogatories to Judge Paul Banner
- Original Petition – has Chapman \$125,770 sanction
- Findings of Fact and Conclusions of Law – re Banner \$62,770 sanction
- Happy April Fools Day
- CD – video “deposition” re trip to Tyler FBI, Tyler US Attorney
- Yet another sanction – Judge Andrew Kupper

This the 20th day of May, 2009

UDO BIRNBAUM