

CAUSE NO. 06-00857

UDO BIRNBAUM	§	IN THE DISTRICT COURT
Plaintiff	§	
v.	§	
	§	294th JUDICIAL DISTRICT
PAUL BANNER	§	
Defendant	§	
	§	VAN ZANDT COUNTY, TEXAS
RON CHAPMAN	§	
Defendant	§	

FIRST INTERROGATORIES TO JUDGE RON CHAPMAN

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

Background to Interrogatory No. 1 and No. 2

Regarding a **\$125,770.00 Sanction** titled ***Order on Motion for Sanctions*** (Original Petition, “A”) in Cause No. 00-619, The Law Offices of G. David Westfall, P.C. vs. Udo Birnbaum, Texas 294th District Court of Van Zandt County, Texas, as you signed on Oct. 24, **2006**, your hearing and rendering thereon having been on April 1, **2004**,

Your assignment reading:

“Persuant (sic) to Rule 18a, Texas Rules of Civil Procedure, I hearby (sic) assign the: Honorable Ron Chapman, Senior Judge of the 5th Court of Appeals To the 294th District Court of Van Zandt County, Texas.

“This assignment is for the purpose of the assigned judge hearing a **Motion to Recuse** as stated in the Conditions of Assignment. This assignment is effective immediately and shall continue for such time as may be necessary for the assigned judge to hear and pass **on such motion**.

“CONDITION(S) OF ASSIGNMENT: Cause No. 00-619; Westfall vs. Birnbaum

“ORDERED this 8th day of Oct., 2003.

“JOHN OVARD, Presiding Judge, First Administrative Judicial Region.”

Notice of Setting, dated Mar. 17, 2004, reading:

“The new hearing date is Thursday, April 1, 2004 at 9:00 a.m.

“Action as indicated: **Motion to Recuse Judge Banner**

“By copy of this letter I am notifying all parties listed below.

“PAM KELLY, Court Coordinator

Hon. Ron Chapman, via fax 903-778-2819

Hon. Judge Paul Banner, 24599 CR 3107, Gladewater, TX 75646

Hon. Frank Fleming, via fax 214-265-1979

Mr. Udo Birnbaum, 540 VZCR 2916, Eustace, TX 75124”

INTERROGATORY NO. 1

IDENTIFY, with specificity, such **jurisdiction**, if any, as you had **over the person of Udo Birnbaum, on April 1, 2004**, to hear *Motion for Sanctions* filed against Udo Birnbaum, and to render and enter on the docket sheet a **\$125,770 FINE**, your assignment having been solely to hear a **motion for recusal of Judge Banner**.

INTERROGATORY NO. 2

IDENTIFY, with specificity, the **circumstances and date** on which you **first learned** that you had imposed a **\$125,770 FINE** in the absence of jurisdiction **over the person of Udo Birnbaum, 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. 3 and No. 4

Regarding Judge Paul Banner, as trial judge, having on **July 30, 2002** signed *Final Judgment* in Cause 00-619, The Law Offices of G. David Westfall, P.C. vs. Udo Birnbaum, 294th District Court of Van Zandt County, Texas, such *Final Judgment* reading:

“THIS JUDGMENT RENDERED ON APRIL 11, 20020 (sic), AND SIGNED THIS 30 day of July, 2002, PAUL BANNER, JUDGE PRESIDING”

INTERROGATORY NO. 3

IDENTIFY, with specificity, such **jurisdiction**, if any, as you had **on Oct. 24, 2006**, to sign and journal enter with the Clerk *Order on Motion for Sanctions* for **\$125,770**, Judge Banner, the trial judge, having signed *Final Judgment* on **July 30, 2002**.

INTERROGATORY NO. 4

IDENTIFY, with specificity, the **circumstances and date** on which you **first learned** that your **signing and journalizing** with the Clerk of *Order on Motion for Sanctions* for **\$125,770** on Oct. 24, 2006, had been more than FOUR (4) YEARS after the trial judge, Paul Banner, had 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 signed and journalized **without any jurisdiction whatsoever**.

Background to Interrogatory No. 5, 6, 7

Regarding said **\$125,770.00 Sanction** titled Order on Motion for Sanctions (*Original Petition*, “A”) you signed on Oct. 24, 2006, you state:

“On April 1, 2004, came on to be heard, defendant, Udo Birnbaum (“Birnbaum”) **Motion for Recusal** of Judge Paul Banner”. page 1 par. 1.

“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 Sanction Movants by their attorney for the defense of **Birnbaum’s Motion to Recuse** and the prosecution of the Sanctions Movants’ Motion for Sanctions.” page 1 par. 3.

“B. A monetary sanction in the amount of **\$124,770.00 as exemplary and/or punitive damages** to serve as a deterrent to prevent Birnbaum **from committing** further similar acts again in the future.” page 1 par. 4.

“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**. page 5 par. 4.

INTERROGATORY NO. 5

IDENTIFY, with specificity, **exactly how** the “**\$124,770.00 as exemplary and/or punitive damages**” is indeed “narrowly tailored” to the “**\$1,000.00 as actual damages**”.

INTERROGATORY NO. 6

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.**”

INTERROGATORY NO. 7

IDENTIFY, with specificity, the **circumstances and date** on which you first learned that the **\$125,770 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.

Re Interrogatory No. 8, 9, 10

Regarding same **\$125,770.00 Sanction** titled **Order on Motion for Sanctions** (*Original Petition*, exhibit “A”) you signed on Oct. 24, 2006, you state:

“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 **counterclaims**, and **new lawsuits** which attempt to re-litigate matters already litigated to a conclusion.” page 5 par. 3.

INTERROGATORY NO. 8

IDENTIFY, with specificity, **exactly how and why** this particular **\$125,770.00 sanction** for filing **motions, lawsuits, defenses, counterclaims, and new lawsuits**, 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. 9

IDENTIFY, with specificity, the **circumstances and date** on which you **first learned** that the **\$125,770 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. 10

EXPLAIN, with specificity, how you, a **public official**, taking a **\$124,770.00 exemplary and/or punitive** action for filing **motions, lawsuits, defenses, counterclaims, and new lawsuits**, as your Order states, why such does not satisfy all of the elements of the offense of **Official Oppression**.

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