

CAUSE NO. 22-00105

CSD VAN ZANDT LLC
Plaintiff

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IN THE DISTRICT COURT

v.

294TH JUDICIAL DISTRICT

UDO BIRNBAUM
Defendant

VAN ZANDT COUNTY, TEXAS

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION TO DEFENDANT

TO: Udo Birnbaum, located at 540 VZ County Road 2916, Eustace, Texas 75124.

COMES NOW, CSD VAN ZANDT LLC, Plaintiff herein, and, pursuant to Rules 192 and 196 of the Texas Rules of Civil Procedure, serves *Plaintiff's First Request for Production* to Defendant, Udo Birnbaum, and requests Defendant produce the requested items labeled to correspond with categories in each request for inspection, sampling, photocopying, or examination by this party or this party's representative not later than thirty (30) days after the service of such requests. Plaintiff requests that the documents be produced to Katryna Watkins at Flowers Davis, P.L.L.C., 1021 E.S.E. Loop 323, Suite 200, Tyler, Texas 75701.

INSTRUCTIONS

1. Produce all requested documents which constitute or contain matters within the scope of TEX. R. CIV. P. 192 and 196 and which are in your possession, custody or control as provided by TEX. R. CIV. P. 192.3(b) and label the documents to correspond with the categories in the request.

2. Answer each request for documents separately by identifying the documents responsive to each request, or if documents are numbered for production, in each response provide the document's number.

3. The requests that follow are to be construed as continuing, and you are requested to amend or supplement responses hereto pursuant to TEX. R. CIV. P. 193.5 with such additional

information or documents as you or any other person acting on your behalf may hereafter obtain which will augment or otherwise modify your responses given to the questions below or if you learn that a response was incomplete or incorrect when made or although complete or correct when made, is no longer complete and correct. Supplemental or amended responses are to be served on this party promptly after you discover the necessity for the response or upon receipt of such information.

4. Answer each request for documents separately by listing the documents and by describing them as defined below. If documents produced in response to this request are numbered for production, in each response provide both the information that identifies the document and the document's number.

5. For a document that no longer exists or cannot be located, identify the document, state how and when it passed out of existence or when it could no longer be located, and give the reasons for the disappearance. Also, identify each person having knowledge about the disposition or loss, and identify each document evidencing the existence or nonexistence of each document that cannot be located.

6. Pursuant to TEX. R. CIV. P. 193.7, you are hereby notified that Plaintiff intends to use any document that you produce in response to this written discovery request as evidence in any pretrial proceeding and/or in the trial of this cause.

DEFINITIONS

As used herein, the following terms have the meaning indicated below:

1. The term "Document" means any printed, typewritten, handwritten, mechanically or otherwise recorded matter and all electronic, magnetic or other records of whatever character, including, but without limitation, letters, purchase orders, receipts, checks, memoranda, telegrams,

notes, catalogs, brochures, diaries, reports, calendars, interoffice and intra-office communications, statements, investigative reports, tax statements and bills, appraisals, announcements, depositions, answers to interrogatories, pleadings, judgments, newspaper articles, photographs, tape recordings, motion pictures, video tapes, contracts, and any carbon or photographic copies of any such material if you do not have possession, custody or control of the original. If any document requested to be identified was, but is no longer in existence, state whether it is: (1) missing or lost, (2) destroyed, (3) transferred voluntarily or involuntarily to others, and, if so, to whom, or (4) otherwise disposed of; and in each instance explain the circumstances surrounding the authorization of such disposition thereof, state the approximate date thereof, and describe its contents.

2. “You” and “Your” shall mean the party to whom these questions are directed as well as agents, representatives, employees, attorneys, investigators, and all other persons acting for said party.

3. “Possession, custody or control” of an item means that the person either has physical possession of the item or has a right to possession equal or superior to that of the person who has physical possession of the item.

4. In each question wherein you are asked to identify or describe a person, state with respect to such person as follows: (1) his/her full name; (2) his/her last known address and office telephone number, and (3) his/her employer and job title. If the person to be identified is not a natural person (e.g., a corporation), give its name and address and principal business activity and identify the officer, employee or agent most closely connected with the subject matter of the interrogatory and the officer who is responsible for supervising that officer or employee.

5. “Identify” or “describe” when referring to a document, means you must state the nature of the document (e.g. letter, handwritten note, etc.) of the document and the date of each addendum, supplement or other addition or change; the identity of the author and of the signer of the document, and of the person on whose behalf or at whose request or direction the document was prepared or delivered; and the present location of the document, and the name, address, position or title and telephone number of the person or persons having possession, custody or control of the document.

6. The term “communication” means the transmittal of information in the form of facts, ideas, inquiries, correspondence or otherwise, including email. With respect to oral communications, it includes, but is not limited to, discussions, conversations, conferences, meetings, interviews, telephone calls or tape recordings and includes notations or other documents evidencing or noting oral communications.

7. The term “correspondence” is defined to include all letters and communications as well as attachments and enclosures to correspondence and emails.

8. The terms “relating to” and “relate to” mean discussing, referring to, describing, mentioning, evidencing, concerning, or constituting, directly or indirectly, the subject matter identified in the Request.

9. The use of the singular form of any word includes the plural and vice-versa.

10. The terms “all” and “each” shall be construed as “and”, “each”, and “and/or.”

11. The term “any” should be understood in either its most or least inclusive sense as will bring within the scope of the discovery request all responses that might otherwise be construed to be out of its scope.

12. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed outside of its scope.

13. The term “Subject Property” means the approximately 150 acre tract of land, more or less, at subject in the instant lawsuit and further described in Warranty Deed with Vendor’s Lien filed at Instrument No. 2022-007473 of the Official Public Records of Van Zandt County, Texas on June 24, 2022, attached to *Plaintiff’s Original Petition* as Exhibit B, Attachment 1.

Respectfully submitted,

FLOWERS DAVIS, P.L.L.C.
1021 ESE Loop 323, Suite 200
Tyler, Texas 75701
(903) 534-8063
(903) 534-1650 Facsimile

/s/ Katryna R. Watkins
KATRYNA R. WATKINS
State Bar No. 24106554
krw@flowersdavis.com

ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify a true and correct copy of this document was served on Defendant via electronic service manager on this the 24th day of April 2023.

/s/ Katryna R. Watkins
KATRYNA R. WATKINS

REQUEST FOR PRODUCTION

1. Please produce any and all, deeds, affidavits, plats, maps, surveys, appraisals, leases, correspondence, and/or documents that You contend reflects your alleged ownership of the Subject Property.

RESPONSE:

2. Please produce all correspondence between You and Lisa Girot from April 2002-Present that relates to or concerns the Subject Property.

RESPONSE:

3. Please produce all correspondence between You and Louis Thibodeaux from January 2002-Present that relates to or concerns the Subject Property.

RESPONSE:

4. Please produce all correspondence between You and Gwendolyn Wright Thibodeaux from January 2002-Present that relates to or concerns the Subject Property.

RESPONSE:

5. Please produce all tax documents, including but not limited to, tax certificates, tax reports, tax statements and payments receipts that pertain to the Subject Property from January 2001-Present.

RESPONSE:

6. Please produce any and all documents You intend to offer as evidence at trial.

RESPONSE:

7. Please produce any and all evidence to support Your contention that You have suffered \$850,000.00 in damages.

RESPONSE:

8. Please produce any and all evidence to support Your contention that the Subject Property was fraudulently stolen from You.

RESPONSE:

9. Please produce any and all photographs of the Subject Property and /or dwellings located on same.

RESPONSE: