



I certify this to be a true and exact copy of the original on file in the District Clerk's Office, Van Zandt County, Texas.
Candi Scott

No. 00-00619

THE LAW OFFICES OF
G. DAVID WESTFALL, P.C.

Vs.

UDO BIRNBAUM

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IN THE DISTRICT COURT

294TH JUDICIAL DISTRICT

VAN ZANDT COUNTY, TEXAS

**MOTION FOR APPOINTMENT OF AUDITOR PURSUANT TO RULE 172 RCP
TO MAKE FINDING
OF STATE OF THE ACCOUNTS BETWEEN THE PARTIES**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Udo Birnbaum, Defendant and Counter and Cross Claimant, in the above-styled and numbered cause and makes and files this his Motion For Appointment of Auditor Pursuant to Rule 172 RCP to Make Finding of State of the Accounts Between Parties and would thereby show the Court the following:

I.

Birnbaum moves the Court to note the nature and state of the pleadings, including the issue of fraud in the "accounts for services rendered" as evidenced by Defendant's Answer, Counterclaim, and Cross-Complaint and exhibits attached thereto, and moves for appointment of an auditor to make a finding for the Court of the state of the accounts between the parties.

II.

Plaintiff "The Law Offices of G. David Westfall, P.C." even now has failed to provide a copy of the "accounts for services rendered" allegedly attached as Exhibit "A" to Plaintiff's Original Petition. Furthermore no copy is to be seen with the document Plaintiff filed with the Clerk.

III.

At issue in this Cause is whether the alleged "accounts for services rendered" (allegedly shown as Exhibit "A") is fraudulent or not. At issue in the process is whether the filing of Plaintiff's Original Petition without Exhibit "A", and still without Exhibit "A", is fraud in itself.

1.5

WHEREFORE Birnbaum requests a hearing upon these matters as to show that such appointment of an auditor is necessary for the efficient and just adjudication of this Cause.

Respectfully submitted

Udo Birnbaum

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 has been served via CMRR on this the 26 day of December, 2000 upon G. David Westfall, 5646 Milton, Suite 520, Dallas, Texas 75206 and Frank C. Fleming, Law Office of Frank C. Fleming, 6611 Hillcrest, Suite 305, Dallas, Texas 75205-1301.

Udo Birnbaum
UDO BIRNBAUM



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G. DAVID WESTFALL, P.C.

Vs.

UDO BIRNBAUM

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IN THE DISTRICT COURT
294TH JUDICIAL DISTRICT
VAN ZANDT COUNTY, TEXAS

**SUPPLEMENT TO MOTION FOR APPOINTMENT OF AUDITOR
UNDER RULE 172 RCP AND NOTICE OF CANCELLATION OF DEPOSITIONS D.T.
OF G. DAVID WESTFALL, CHRISTINA WESTFALL, AND STEFANI PODVIN**

TO THE HONORABLE JUDGE OF SAID COURT:

DEFENDANT Udo Birnbaum hereby notifies the Court and the parties of the cancellation of the above referenced notices of depositions as are currently the subject of numerous motions for protective order before this Court.

I.

Defendant moves this Court for appointment of an auditor under Rule 172 RCP to make a finding for the Court upon the claim of a pattern of fraudulent accounting practices by Plaintiff, The Law Offices of G. David Westfall, P.C.

II.

Defendant called cross-defendants' counsel Frank Fleming to find out if he opposes Defendant's motion for appointment of such auditor and was informed that he [Fleming] definitely did. Fleming stated that he did not see a need for such auditor because this cause was "just a matter of [Birnbaum] not having paid a bill".

III.

Defendant moves for a hearing to show that this cause is not "just a matter of not having paid a bill", but about the recent creation of fraudulent "account" statements by the Plaintiff "The Law Offices" and the cross-defendants for the purpose of extorting "legal fees".

Respectfully submitted

Udo Birnbaum

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 has been served via CMRR on this the 8 day of January, 2001 upon G. David Westfall, 5646 Milton, Suite 520, Dallas, Texas 75206 and Frank C. Fleming, Law Office of Frank C. Fleming, 6611 Hillcrest, Suite 305, Dallas, Texas 75205-1301.

Udo Birnbaum

UDO BIRNBAUM