

2-4-2016

To: **Karen Wilson**, Clerk 294th District Court  
**Teresa Drum**, District Judge, 294th District Court  
**Mary Murphy**, Presiding Judge, First Administrative Judicial Region  
**Pam Pearman**, Clerk Van Zandt County Court  
**Lindsay Ray**, Sheriff, Van Zandt County  
**Chris Martin**, District Attorney, Van Zandt County  
**Jason Cassel**, Attorney Pro Tem

from: **Udo Birnbaum**

re: **Crime of Securing Execution of Document by Deception – by Judge Banner**  
Unlawful Order on Motion for Sanctions “revived” as “Sanctions Judgment” - to deceive the Clerk into accepting it as a bona fide judgment and issue Execution – which the Clerk did

### Synopsis

What was in it – for Judge Banner?

As clearly caught by the Court Reporter, Judge Banner’s **motive**, was to **punish** (“sanction”) Birnbaum for having made a civil RICO counter-claim. The simple **means** was to arm “The Westfalls” with a fraudulent [\$62,885.00] Order on Motion for Sanctions”, deceptively “revive” such as “Sanctions Judgment” – and let the natural court process – via “The Westfalls” - take it from there. The Clerk takes the document as a bona fide judgment, issues Execution, sends a sheriff with a badge and a gun, and presto – Birnbaum is **punished** – with no money trail leading back to Judge Banner. Means, motive, and opportunity.

Filing a lawsuit is a First Amendment Right. Unconditional punishment (not “coercive”, “keys to own release”) is forbidden by civil process. US Supreme Court.

### **Ladies and Gentlemen:**

Hereby **NOTICE**, that on or about August 17, 2015, in the 294th District Court of Van Zandt County, a fraudulent document assessing unconditional punishment upon me of \$62,885, plus 10% interest since 2002, such document titled **Order on Motion for SANCTIONS**, was deceptively presented to the Clerk of Court as a bona fide revived JUDGMENT, and the Clerk of Court did then and thereupon issue **Writ of Execution**.

Such **Order on Motion for Sanctions** had, however, been long ago, determined by the Fifth Court of Appeals in Dallas, Texas, to be **NOT consistent with due process**:

AFFIRMED; Opinion issued October 23, 2003. In The Court of Appeals Fifth District of Texas at Dallas No. 05-02-01683-CV UDO BIRNBAUM, Appellant V. THE LAW OFFICES OF G. DAVID WESTFALL, P.C., G. DAVID WESTFALL, CHRISTINA WESTFALL, AND STEFANI PODVIN, Appellees. On Appeal from the 294<sup>th</sup> Judicial District Court Van Zandt County, Texas Trial Court Cause No. 00-00619 OPINION Before Justices Whittington, Wright, and Bridges Opinion By Justice Whittington

*Sanctions Order*

In his fourth issue, Birnbaum complains of the order imposing sanctions against him in favor of Christina Westfall and Podvin. He argues the sanction order is unlawful because it is a criminal sanction “imposed without full due criminal process,” and does not state the basis for the sanctions award as required by rule 13 of the Texas Rules of Civil Procedure. **We agree with Birnbaum that the trial court's order awards sanctions without stating the basis for the award, and therefore does not meet the requirements of rule 13.** See *Murphy v. Friendswood Dev. Co.*, 965 S.W.2d 708, 709- 10 (Tex. App.-Houston [1st Dist.] 1998, no pet.) (“**Rule 13 is clear:** the particulars of good cause 'must be stated in the sanction order.' . . . [T]he order here did not recite the particular reasons supporting good cause to issue the sanctions and did not include findings of fact and conclusions of law supporting good cause . . . **we hold that the sanction order does not comply with Rule 13.**”). (emphasis added)

**Knowledge of the unlawfulness** of this **Order on Motion for Sanctions**, by the authors of this document, is of course clearly indicated by the very **non-inclusion** in this Order, of the “*basis for the award*” – as clearly stated by Judge Paul Banner – at the very end of the Sanctions hearing – that he assessed this sanction **not upon conduct** (“*well-intentioned*”) – but purely as a **punishment** for Birnbaum having made a **civil RICO counter-claim**, a First Amendment Right!

*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. (Transcript, end of Sanctions hearing July 30, 2002)*

Such **void, voided, and fraudulent** document titled **Order on Motion for SANCTIONS** was on or about such 17th day of August, 2015, knowingly and deceptively presented to the Clerk of Court as a bona fide **judgment**, and the Clerk did thereon issue **Writ of Execution of JUDGMENT**.

Such **void, voided, and fraudulent** document titled **Order on Motion for SANCTIONS** – was fraudulently **REVIVED** – by **writ of scire facias to revive JUDGMENT** – by Judge Paul Banner – on November 14, 2014. Think about it – an Order in need of “revival”? Something REALLY STINKS!

**Summary**  
**Judge Paul Banner – as a principal:**

Arming “The Westfall Bunch” with a fraudulent [\$62,885.00] Order on Motion for Sanctions – reviving same on Nov. 14, 2014 as “Sanction Judgment” – to let the natural court process accomplish his evil and unlawful scheme – of punishing Birnbaum for having dared to make a civil RICO counter-claim. But still, “Securing Execution of Document by Deception”. Penal Code Sec. 32.46, Felony 2nd Deg (because of the huge sums with 10% interest since 2002)

**Judge Banner was clearly WARNED**

**REAL AUDIO** – a doozy – Hearing before **Judge Paul Banner** Nov. 14, 2014. Judge Banner taunting me – with me finally reading him “the riot act” – Judge Banner nevertheless REVIVING his own fraudulent 2002 Order on Motion for Sanctions. At [www.OpenJustice.US](http://www.OpenJustice.US). ([www.CourthouseAwarenessNews.com](http://www.CourthouseAwarenessNews.com)) **A MUST HEAR!**

And for pure fun, go google on “presiding pumpkin”, or plain “damn courthouse”.

Also Hearing before **Hon. John McCraw**, with **Judge Banner** present. REAL GOOD LAW IN THERE. Judge McCraw told me, that next time, I’d better bring my toothbrush – for SIX MONTH in the County Jail – but he was a nice man. Avid dinosaur bone enthusiast - probably better informed about that.

So, **Ladies and Gentlemen**, please act accordingly. And, be sure you understand, that I cannot make these huge fraudulent assessments – close to \$500,000.00 in all – go away upon me – by simply shutting up.

*Udo Birnbaum*

UDO BIRNBAUM  
540 VZ County Road 2916  
Eustace, TX 75124  
[brnbm@aol.com](mailto:brnbm@aol.com)

ATTACH:

- Order on Motion for Sanctions – Sept. 9, 2002
- Writ of Execution - Aug. 17, 2015 – on the “revived” 2002 Order on Motion for Sanctions
- Court Reporter - Sanction Hearing – July 30, 2002 – “**well-intentioned**” counter-claim
- Order Reviving Judgment – Nov. 14, 2014 – reviving the 2002 Order on Motion for Sanctions, and legitimizing it as “sanction judgment”

THIS sanction ruled VOID by the Dallas Fifth Court of Appeals in Dallas in 2003 because it "violates Rule 13" by failing to state WHY the punishment

www.OpenJustice.US



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.

Plaintiff

v.

UDO BIRNBAUM

Defendant/Counter-Plaintiff

G. David Westfall, Christina Westfall, and  
Stefani Podvin,

Counter-Defendants

IN THE DISTRICT COURT

294<sup>th</sup> JUDICIAL DISTRICT

Was a JURY trial - with a VERDICT and FINAL JUDGMENT "rendered" on April 11, 2002. Yet here we are - three months later - WITHOUT A JURY!

Also note - NOWHERE does Judge Paul Banner state WHY he PUNISHED ME!

VAN ZANDT COUNTY, TEXAS

**ORDER ON MOTIONS FOR SANCTIONS**

On July 30, 2002, came on to be heard, Motions for Sanctions filed by G. David Westfall, Christina Westfall, and Stefani Podvin, as well as to be heard Motions for Sanctions filed by Udo Birnbaum. The plaintiff, The Law Office of G. David Westfall, P.C. (the "Plaintiff"), appeared in person by representative and by attorney of record. The defendant, Udo Birnbaum, appeared in person, pro se. The counter-defendant, G. David Westfall, appeared by representative and by attorney of record. The counter-defendants, Christina Westfall and Stefani Podvin appeared in person and by attorney of record. All parties announced ready for a hearing on all the pending motions for sanctions currently on file in this matter at the time of the hearing.

Based upon the pleadings of the parties, the evidence presented at trial and the evidence presented at the sanctions hearing, and the arguments of counsel and by the pro se defendant, the Court is of the opinion that the Movants, Christina Westfall and Stefani Westfall are entitled to prevail on their claim for sanctions against the Defendant, Udo Birnbaum.

FIFTH COURT OF APPEALS:  
"awards sanctions without stating the basis of the award" and "we hold that the sanction order does not comply with Rule 13". FINIS

156/834

432

FIFTH COURT OF APPEALS: "awards sanctions without stating the basis of the award" and "we hold that the sanction order does not comply with Rule 13". FINIS

It was a JURY case - and ONLY the jury can award "damages". There was NO JURY making this AWARD!

It is therefore, **ORDERED, ADJUDGED and DECREED** that the Counter-Defendants, Christina Westfall and Stefani Podvin are **awarded damages** as a sanction against and to be paid by defendant, Udo Birnbaum, to Christina Westfall and Stefani Podvin as follows:

- A. Christina Westfall and Stefani Podvin are awarded jointly and severally the amount of **\$50,085.00** as reimbursement for their joint attorney's fees.
- B. Christina Westfall is awarded actual damages for her personal inconvenience in the amount of **\$1,000.00**, and she is further awarded punitive damages for the harassment caused to her in the amount of **\$5,000.00**.
- C. Stefani Podvin is awarded actual damages for her personal inconvenience in the amount of **\$1,800.00**, and she is further awarded punitive damages for the harassment caused to her in the amount of **\$5,000.00**.
- D. The Court denies the request for a finding of any sanctions to be awarded in favor of G. David Westfall, individually.
- E. The Court denies the request for a finding of any sanctions to be awarded in favor of Udo Birnbaum.

**IT IS FURTHER ORDERED THAT** the judgment here rendered shall bear interest at the rate of **ten percent (10%)** from July 30, 2002, until paid.

All other relief regarding any motions for sanctions on file in this matter not expressly granted in this order is hereby denied.

**THIS JUDGMENT RENDERED** ON JULY 30, 2002, AND SIGNED THIS 9 day of August, 2002.

*Paul W. ...*  
JUDGE PRESIDING

THIS sanction ruled VOID by the Dallas Fifth Court of Appeals in Dallas in 2003 because it "violates Rule 13" by failing to state WHY the punishment

156/835

FILED  
02 AUG 21 AM 9:59  
DALLAS COUNTY CLERK

Cause No. 00-00619

www.OpenJustice.US

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

§ IN THE 294<sup>TH</sup> DISTRICT COURT  
§  
§  
§ OF  
§  
§  
§  
§  
§  
§ VAN ZANDT COUNTY, TEXAS

VS.

NO - a VOID ORDER was "revived"! ALL FRAUD

was NOT a "judgment" at all -  
- but VOID and VOIDED  
fraudulent 2002 "ORDER on  
Motion for Sanctions"

UDO BIRNBAUM, Defendant/Counter Plaintiff

G. DAVID WESTFALL, CHRISTINA WESTFALL, AND  
STEFANI PODVIN, Counter-Defendants

TO ANY SHERIFF OR ANY CONSTABLE WITH THE STATE OF TEXAS: GREETING:

WHEREAS on the 9<sup>th</sup> day of August, 2002, in the Honorable 294<sup>th</sup> District Court of Van Zandt County, Texas in Cause No. 00-00619 and as styled above; CHRISTINA WESTFALL AND STEFANI WESTFALL recovered a judgment against UDO BIRNBAUM, 540 Van Zandt County Road 2916, Eustace, TX 75124-7280, for the sum of \$12,800.00, attorney fees in the amount of \$50,085.00, Dollars with interest thereon from the 30<sup>th</sup> day of July 2002 at the rate of 10% per annum, and all costs of suit. This said judgment was revived in said court on the 14<sup>th</sup> day of November 2014.

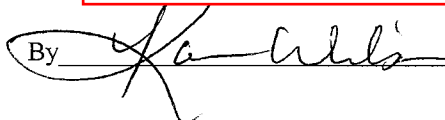
THEREFORE, you are commanded that out of the property of the said UDO BIRNBAUM, 540 Van Zandt County Road 2916, Eustace, TX 75124-7280, subject to execution by law, you cause to be made the sum of \$12,800.00, attorney fees in the amount of \$50,085.00, Dollars with interest thereon from the 30<sup>th</sup> day of July 2002 at the rate of 10% per annum, together with the sum of \$635.00 costs of suit, and also the cost of executing this writ and you will forthwith execute this writ according to law and the mandates thereof.

HEREIN FAIL NOT, but make due return of this execution to said District Court within 90 days from the date of issuance hereof, with your return thereon endorsed showing how you have executed the same.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at Canton, Texas, this, the 17<sup>th</sup> day of August, 2015.

NO - was "ORDER on Motion for [\$62,885.00] Sanctions" - declared VOID by the Fifth Court of Appeals in Dallas, way back in 2003

ATTEST: Karen Wilson, District Clerk  
121 E. Dallas, Room 302  
Canton, Texas 75103  
Van Zandt County, Texas

By  Clerk

I HEREBY CERTIFY that the foregoing Bill of Costs; amounting to \$635.00, is a true bill of the costs adjudged against the defendant, in the above numbered and entitled cause, wherein this writ of execution is issued.

BILL OF COSTS

Citation Fee .....	\$ 8.00
Sheriff's Service Fee.....	\$600.00
Abstract .....	\$ 8.00
Writ .....	\$ 16.00
Copy .....	\$ 3.00

TOTAL COSTS DUE FROM DEFENDANT ===== \$635.00

COURT RETURN

7-30-2002 "Sanction Hearing". Compare the "well-intentioned" here, with all the POISON WORDS in the ONE YEAR LATER "Finding of Fact" !  
HINT: The "Finding" was a CYA - for all this done WITHOUT THE JURY.

7

1 damages, \$5,000.00 in punitive and the joint and several  
2 \$50,085.00 in attorneys' fees. Mr. Birnbaum's sanctions as  
3 against Mr. Fleming or against the P.C. is denied and nothing  
4 is ordered.

well-intentioned

was a JURY trial. Why is HE weighing the evidence?

5 In assessing the sanctions, the Court has  
6 taken into consideration that although Mr. Birnbaum may be  
7 well-intentioned and may believe that he had some kind of  
8 real claim as far as RICO there was nothing presented to the  
9 court in any of the proceedings since I've been involved that  
10 suggest he had any basis in law or in fact to support his  
11 suits against the individuals, and I think -- can find that  
12 such sanctions as I've determined are appropriate. And if  
13 you will provide me with an appropriate sanctions order, I  
14 will reflect it.

\$67,000 Sanction - for a "well-intentioned" COUNTER-CLAIM - a First Amendment Right ! Official Oppression

15 Now, as far as relief for sanctions on behalf  
16 of Mr. Westfall, individually, that is specifically denied.

17 Any relief sought by any party by way of  
18 sanctions which have not been specifically addressed either  
19 by the granting or the denial of same -- such is denied.

20 Okay. How soon can I expect an order because  
21 I gather this matter will go up to whatever appropriate  
22 appeals court for review?

www.OpenJustice.US

23 MR. FLEMING: I will give Mr. Birnbaum the  
24 statutory three days. I'll submit it to him. And if I don't  
25 hear back from him, I'll submit it to you after.

just look at all the "had" and "was" - UNCONDITIONAL punishment for COMPLETED ACT - plum unlawful by Civil Process. US Supreme Court





Application should be granted and that the Sanctions Judgment revived for the period of time proscribed by law.

plum UNLAWFUL \$62,885.00 PUNISHMENT being freshly re-executed here today on Nov. 14, 2014

IT IS HEREBY, ORDERED, ADJUDGED, AND DECREED, that the Sanctions Judgment (a true and exact copy of which is attached hereto as Exhibit 1 and made a part of this Order as if fully set forth at length) rendered in the above-entitled and numbered cause on July 30, 2002 and signed on August 9, 2002, is hereby revived in all respects against defendant/counter-plaintiff Udo Birnbaum;

IT IS FURTHERED ORDERED that execution on the revived Sanctions Judgment may immediately issue; and

IT IS FURTHER ORDERED that all costs are taxed against the Defendant, Udo Birnbaum.

All relief requested, not granted herein, is expressly denied.

SIGNED this 14 day of November, 2014

Paul B  
JUDGE PAUL BANNER, PRESIDING

ALL FRAUD!  
In a JURY case - "judgment" was done WITHOUT A JURY!  
And "awarded" to someone who had been "out" by summary judgment long ago - and NEVER WAS A PLAINTIFF!  
Also plum UNLAWFUL punishment for exercising a First Amendment Right to make a COUNTER-CLAIM! (see "Findings")  
Official Oppression per se!

PAUL BANNER  
Senior Judge Presiding by  
Assignment

This document "REVIVES" the 2002 fraudulent "ORDER ON MOTION FOR SANCTIONS" - a document VOIDED way back in 2003 by the Fifth Court of Appeals in Dallas - "because it awards sanctions without stating the basis of the award" and "we find that the Sanction Order violates Rule 13"