

COPY

Always remember, complaint was over BEAVERS. No BEAVERS in here!
This document says Birnbaum is the one who built the dam, and that he violated Section 11.06 of the TEXAS WATER CODE by having in 1994 "wrongfully built" and ever after "unlawfully maintained" a DAM!
All the jury was to hear of was BEAVERS. FRAUD by the attorney, FRAUD by the judge at trial! Fraud upon the Court - BY the Court. See below.

WILLIAM B. JONES
VS.
UDO BIRNBAUM

§
§
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§

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

FILED
APR 15 4:55
VAN ZANDT CO. TX.
DEP.

ORIGINAL PETITION

Comes now, William B. Jones, Plaintiff, hereinafter referred to as "Jones", complaining of Udo Birnbaum, Defendant, hereinafter referred to as "Birnbaum", and in support of his cause of action would respectfully show unto the Court as follows:

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I.

Jones is an individual residing in Van Zandt County, Texas.

Birnbaum is an individual residing at Route 1, Box 295; Eustace, Van Zandt County, Texas. Service is necessary at this time at the foregoing address.

II.

Jones at all times herein mentioned was, and now is, the owner and occupier of real property situated in the County of Van Zandt, State of Texas, described as follows: (attached as Exhibit "A" and incorporated herein). Jones brings this action as provided by

Section 11.086 of the Texas Water Code.

Fraud upon the Court! Jones' complaint was BEAVERS in a natural CREEK!

III.

Birnbaum at all times mentioned herein was, and now is, the owner and occupier of real property situated in the County of Van

Zandt, State of Texas, described as follows: (attached as Exhibit "B" and incorporated herein).

IV.

For many years prior to the filing of this action, a certain stream of water (spring creek) has run along and through Jones' land and on down, along, and through Birnbaum's land, where it continues on an easterly direction.

V.

For many years prior to 1994, the spring creek flowed through Jones' and Birnbaum's lands in a natural and well-established course, during all stages of its water level, including periods of natural and ordinary flooding.

That is - till he had just DYNAMITED everything - and flushed all his crap down onto Birnbaum - who is entirely DOWNSTREAM.

VI.

During 1994, Birnbaum wrongfully built and has at all times since then wrongfully maintained a dam on his land in the natural channel of the spring creek, to the height of approximately four (4) feet, and extending along the spring creek in the channel thereof for a distance of twenty (20) feet.

perfect description of a - BEAVER DAM!

VII.

By building and maintaining the above-described dam, Birnbaum altered the natural condition of the spring creek so as to change the natural course and flow thereof, and cause the water therein to overflow and to be concentrated in increased volume on and over Jones' lands in such a manner as to cause great and irreparable injury to Jones' lands and damage to Jones in that such overflow

All fraud by the attorney - search the trial transcript - ALL BEAVERS - 166 times!

Jones' complaint was about BEAVERS and BEAVER DAMS

As far as I know - NEVER been tilled. Been wetlands since time immemorial. Jones had been pumping water out of where he had BEAVER dams-- - and pumping it up to his house on the hill - to have a CATFISH pond up there. I could always hear his PUMP running - from my house half a mile away.

and concentration caused a large portion of Jones' land to be flooded continually, ditches to be formed thereon, a large portion of Jones' land to be overflowed and so soaked as to make it **untillable**, and **sand, driftwood, and debris to wash onto Jones' land**, and to settle and remain thereon.

he is UPSTREAM!
can't wash there!

VIII.

Birnbaum's diversion of the water of the spring creek is contrary to the prohibition contained in **Section 11.06(a)** of the **Texas Water Code**, in that such diversion was done in a manner that **damaged** and continues to damage the property of Jones by the overflow of the water diverted.

B.S. - actual jury verdict of ZERO DAMAGES. All this stuff just "not so".

IX.

As a result of Birnbaum's wrongful and **illegal** acts, Jones has been deprived of the use of a large portion of his land, to his damage in a sum which exceeds the minimum jurisdictional limits of this Court.

the BEAVERS did it!

the BEAVERS did it!

X.

Unless Birnbaum is ordered by this Court to remove the dam **constructed** on Birnbaum's land and enjoined from obstructing the natural flow of the spring creek by such dam or any similar or other device or construction, Jones will suffer greater, additional, and irreparable damage and will be put to the necessity of bringing a multiplicity of actions to protect his rights and property.

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Attorney fees NOT available for suit under the Texas Water Code.
The "American Rule" - everybody pays for their own lawyer - except when specifically authorized by statute - like breach of contract, sale of livestock, etc.

XI.

Jones was required to obtain the services of RICHARD L. RAY, a duly licensed attorney in the State of Texas, to prosecute this claim. Under Article 2226, Jones is entitled to reasonable attorney fees incurred in prosecution of this claim, which Jones alleged to be \$10,000 for trial of this cause and if said cause is appealed to the Court of Appeals, \$5,000, and if said cause is appealed to the Supreme Court, another \$5,000.

Attorney fees NOT available for suit under the Texas Water Code.

WHEREFORE, Jones requests that:

1. Jones have judgment against Birnbaum in an amount which exceeds the minimum jurisdictional limits of this Court;
2. Birnbaum be compelled to remove the dam constructed on Birnbaum's land and restore the flow of water in the spring creek to its original, natural, condition;
3. Birnbaum be perpetually enjoined from obstructing the spring creek in the full and natural flow of water therein, or permitting or causing the same to be so obstructed;
4. The Court award Jones costs of suit herein and grant such other and further relief, at law and in equity, as may be deemed proper.

If he wanted an injunction - he needed to submit that to the jury. He did NOT.
*
Submitted "attorney fees" to the jury - NOT AUTHORIZED under the Texas Water Code.
*
Attorney flapped all about BEAVERS at the trial. Search transcript for BEAVER - 166 instances. Re DYNAMITED - search for "blow" or "blew" - LOTS AND LOTS AND LOTS.
*
Trial transcript shows everybody running around madly DYNAMITING everything - and digging their STANDING water puddles DEEPER AND DEEPER - expecting that would make water go away. Real idiots. I cannot help but laugh - except this abomination tied me up TWENTY years in this frapping court - and court FINES of about \$500,000.00.

WILLIAM B. JONES, Plaintiff

ORIGINAL SIGNED BY:
RICHARD L. RAY

By: _____
of counsel

RICHARD L. RAY
ATTORNEY AT LAW, P.C.
300 S. TRADE DAYS BLVD.
CANTON, TEXAS 75103
903/567-2051
903/567-6998 (Fax)

STATE BAR NO. 16606300

ATTORNEY FOR PLAINTIFF