

## COMPLAINT

### Short synopsis of this complaint<sup>1</sup>

See below for details

This is my complaint of official oppression upon me by a senior "visiting judge" sent from Dallas to our 294<sup>th</sup> District Court, namely a certain Paul Banner. Specifically I am complaining of dispossession and assessment by unlawful judgments, by Judge Banner retaliating against me for having made a civil RICO claim when I was sued.

I was engaged in protected speech<sup>2</sup>. I was speaking out in court, and under the anti-racketeering statute ("RICO"), and on an "issue of public importance" at that.

The judge took an adverse action against me (assessed a \$62,000 sanction) upon such protected speech (he himself said it was for having made my civil RICO claim), making his action retaliation<sup>3</sup> per se.

It is of course proper for a judge to adjudicate between the parties, but not for the judge to punish me for having made such civil RICO claim. And of course he cannot unconditionally punish me at all (only "coerce" me), for anything, without full criminal process, including a finding beyond a reasonable doubt.(See details below)

Retaliation of course has *mens rea* (a guilty mind, guilty knowledge and willfulness) built in. And because he is a public servant, that makes it official oppression.

Such conduct is not "objectively reasonable" under "currently applicable constitutional standards", or any standards. Not with TWO UNLAWFUL judgments. In the first one, the judge

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<sup>1</sup> This is a short overview of the presentation to follow. Else, it can serve as a conclusion at the end of the evidence presented.

<sup>2</sup> It was, however, clearly established that filing a lawsuit was constitutionally protected conduct. See *Milhouse v. Carlson*, 652 F.2d 371, 373-74 (3d Cir. 1981); see also *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972) (access to courts is one aspect of the First Amendment right to petition the government for grievances). Moreover, it was also clearly established that the government cannot retaliate against someone for engaging in constitutionally protected activity in a way that would chill a reasonable person in the exercise of the constitutional right. See *Rutan v. Republican Party of Illinois*, 497 U.S. 62, 73, 76 n.8 (1990).

<sup>3</sup> A retaliation claim essentially entails three elements: (1) the plaintiff engaged in protected conduct; (2) an adverse action was taken against the plaintiff that would deter a person of ordinary firmness from continuing to engage in that conduct; and (3) there is a causal connection between elements one and two -- that is, the adverse action was motivated at least in part by the plaintiff's protected conduct. See, e.g., *Bloch v. Ribar*, 156 F.3d 673, 678 (6th Cir. 1998); *Lewis v. ACB Bus. Servs., Inc.*, 135 F.3d 389, 406 (6th Cir. 1998); *Penny v. United Parcel Serv.*, 128 F.3d 408, 417 (6th Cir. 1997); *Yellow Freight Sys., Inc. v. Reich*, 27 F.3d 1133, 1138 (6th Cir. 1994). This formulation describes retaliation claims in general, but it will yield variations in different contexts.

decided, when I had asked for decision by jury. As for the second, it was patently unlawful retaliation. So of course is the first by denial of my right to due process. See below for details.

### **Details of this complaint**

First a few things about myself. Although I went to school and college in Houston, and worked for Texas Instruments in Dallas for many years as an electrical engineer, I have lived on my farm in south Van Zandt County now for the last 22 years. I am not a lawyer.

Official oppression is of course a public servant intentionally doing certain things, knowing it is against he law<sup>4</sup>. Specifically, I am talking about assessing two judgments that the judge sent here from Dallas knew were unlawful. That judge denied me of what in legal terms is called "right of due process". What I'm saying is that this judge deprived me of my property without following certain rules that he is required by law to follow. That judge knew that depriving me of my property was unlawful, AND HE DID IT ANYWAY.

The first question of course is, if this took place in a court, I should be in the appeals court, not before you. Well, I have appealed, and some judge, or clerk, may, or may not, undo what this judge has done to me. But that does not change that we have a judge here that will intentionally deny due court process, and assess judgments that he knows are unlawful. Besides, the appeals court does not have investigators, nor is it charged with enforcing the criminal statutes.

The official oppression statute is there, of course, to encourage all public servants not to do official oppression. Is a judge exempt from a criminal statute, because he is a judge? I don't think so.

Is he immune from a civil suit for what he does? Yes, pretty much, under the doctrine of judicial immunity. That is why I am here to detail this criminal complaint.

But before I get into my evidence, I need to give a real quick overview of what is called a civil racketeering, or civil RICO suit, because it is the central issue in this matter.

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<sup>4</sup> Texas Penal Code, Sec. 39.03. OFFICIAL OPPRESSION: (emphasis added)

- (a) A public servant acting under color of his office or employment commits an offense if he:
- (1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, **assessment**, or lien that he knows is unlawful;
  - (2) intentionally denies or impedes another in the exercise or enjoyment of any **right**, privilege, power, or immunity, knowing his conduct is unlawful; or
  - (3) intentionally subjects another to sexual harassment.
- (b) For purposes of this section, a public servant acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.
- (c) In this section, "sexual harassment" means ... etc

You may be familiar with RICO, the federal Racketeer Influenced and Corrupt Organizations Act<sup>5</sup>. But it also allows for filing a civil suit<sup>6</sup> under that law, and it allows for triple damages, and the U.S. Supreme court says that civil RICO can be used in state courts<sup>7</sup>, and that the purpose of the treble damages was to, and these are pretty much the exact words they used, "turn victims into private attorneys general, diligently investigating, supplementing Government efforts by undertaking litigation in the public good"<sup>8</sup> I.e. go out, citizens, go fight corruption by filing civil RICO suits "in the public good" against gangster style conduct, by whosoever<sup>9</sup>, even if it does not involve what we normally think of as organized crime.

I made such civil RICO pleading in our 294<sup>th</sup> District Court and asked for determination by jury when I was sued by a crooked Dallas lawyer, a certain G. David Westfall, in the name of his law office professional corporation, suddenly claiming I owed him \$18,000 on an "open account" for legal fees<sup>10</sup>. There is of course no such animal as an open account for legal fees. An open account requires a sale and delivery, or rather, sales and deliveries. And the judge was required to appoint an auditor when I denied the alleged "account" under oath, which he never did.

Instead the whole house came down on me, as a pro se, that is a self representing party, for speaking out against a lawyer, on that holiest of holies, "legal fees", and with a civil racketeering claim at that.

Anyhow, the judge would not let the jury decide the "open account" claim against me, nor my civil RICO claim, and on top of that, punished with a \$62,000 sanction, to be unconditionally paid for having made my civil RICO claim. Although a court can hold one in contempt, a \$62,000 assessment is not

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<sup>5</sup> 18 U.S.C. § 1961 et seq. ("RICO")

<sup>6</sup> 18 U.S.C. § 1964(c) ("civil RICO"). "**Any person injured in his business or property** by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee."

<sup>7</sup> State courts have concurrent jurisdiction to consider civil claims arising under RICO. *Tafflin v. Levitt*, 493 U.S.455 (1990)

<sup>8</sup> A Congressional objective [in enacting civil RICO] of encouraging civil litigation not merely to compensate victims but also to turn them into private attorneys general, supplementing Government efforts by undertaking litigation in the public good. *Rotella v. Wood*, 528 U.S. 549 92000)

<sup>9</sup> "Congress did not limit scope of this chapter to those persons involved in what traditionally has been thought of as "organized crime", but, rather, **any "person"** as term is broadly defined in this chapter, **whether associated with organized crime or not**, can commit violation, and **any person injured** in his business or property by such violation may then sue violator for damages in federal court." *Lode v. Leonardo*, D.C.Ill.1982, 557 F.Supp. 675.

<sup>10</sup> *The Law Offices of G. David Westfall, P.C. vs. Udo Birnbaum*, 294<sup>th</sup> District Court, No. 00-0619, Sept. 2000.

coercive, but punitive in nature, and therefore requiring full criminal due process, including a finding beyond a reasonable doubt, by a jury.

With this in mind, I will now present the evidence of official oppression by this judge, by intentionally assessing not one, but two judgments against me, knowing that they were unlawful, and denying me my rights to due process, knowing that his conduct was unlawful. By a man in his capacity as a judge, a seasoned senior judge, misusing the tools and power entrusted to him.

Remember the key phrases: Intentional, Unlawful assessment. Knowing it was unlawful. Denying a Right. Knowing his conduct was unlawful.

Also keep in mind that the evidence is in the totality of the exhibits. I will try to go over all of them very fast. Details are in the footnotes, and there is lots more backup. So here goes:

### **Exhibit 1. Sanction Judgment**

The law, as given in the Texas Rules of Civil procedure, says that any sanction Order shall state with specificity and particularity what was supposedly done wrong<sup>11</sup>, but this states nothing.

The law says that a judge cannot impose severe sanctions without having considered, and actually having imposed<sup>12</sup> lesser sanctions (to see if they will "coerce"). I was never warned about anything, never disobeyed anything. The judge never ordered or told me to do or not do anything!

The persons that moved for sanctions against me had been removed from the case seven (7) months ago by summary judgment<sup>13</sup>, and moved for such<sup>14</sup> after award of a 59,000 judgment<sup>15</sup>, all for "legal fees". They were out of the case!

And \$62,000 for "legal fees"? The "American Rule" says that each party is responsible for its own legal fees, except under very narrow limits, and certainly not for having been granted "summary

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<sup>11</sup> "Courts shall presume that pleadings, motions, and other papers are filed in good faith. **No sanctions under this rule may be imposed except for good cause, the particulars of which must be stated in the sanctions order.**" Rule 13, Texas Rules of Civil Procedure

<sup>12</sup> **A trial court must first consider and impose less stringent sanctions** to determine whether lesser sanctions will promote compliance and discourage further abuse. *Jones v. Andrews*, 873 S.W.2d 102, 106 (Tex. App.--Dallas 1994, no writ). As quoted in *Rawles v. Builders Structural Services*, Texas 5<sup>th</sup> No. 05-96-00467-cv

<sup>13</sup> *Order Sustaining Motions for Summary Judgment*, pronounced July 30, 2001, formally signed Nov. 13, 2001

<sup>14</sup> Motions for Sanctions, May 9, 2002.

<sup>15</sup> *Final Judgment*, "rendered" (pronounced) Apr. 11, 2002

judgment" upon my civil RICO claim. This of course should have ended all matters regarding civil RICO and those persons!

Also note the date signed, Aug. 9, 2002, but the judge did not get it to the clerk until Aug. 21. I did not get notice of it till Aug. 22, and the Rules say I have only 20 days to request "Findings of fact and conclusions of law" as to how the judge came up with this stuff, or loose my right to such<sup>16</sup>. More on that later. But also keep in mind the following:

**Two factors** determine the extent of a trial court's discretion in ordering "just" sanctions: **(1) a direct relationship must exist between the offensive conduct and the sanction imposed and (2) the sanction imposed must not be excessive.** *Blackmon*, 841 S.W.2d at 849.

### **Exhibit 2. Transcript of Sanction Hearing**

So what WAS the supposed offensive conduct. What was it that made the judge to assess a \$62,000 punishment on me? The sanctions order gave no hint. The judge never said anything at any other time against me. But he got caught by the court reporter at the sanctions hearing:

*"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 ... .."*

So what was I sanctioned for? Look at what the judge himself said, namely **for having made a civil RICO claim**, with the judge having once previously weighed the evidence to grant summary judgment on my civil RICO claim, then again weighing it at this hearing, when I had asked for determination by jury.

The judge was no more entitled to weigh the evidence to find that there was no RICO violation, and sanction me, then he could find that there was a RICO violation, and throw the other side in jail.

Furthermore, this is a **criminal punishment** because it was for a completed act. Look at all the **had, was, had** in there. **He can't do this in a civil procedure**. Let me give you the law, and this judge knows this:

"The distinction between civil and criminal contempt has been explained as follows: The purpose of civil contempt is remedial and coercive in nature. A judgment of civil contempt exerts the judicial

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<sup>16</sup> Rule 296; "Any party may request the court to state in writing its findings of fact and conclusions of law. Such request shall be entitled "**Request for Findings of Fact and Conclusions of Law**" and shall be filed **within twenty days after judgment is signed** with the clerk of the court, who shall immediately call such request to the attention of the judge who tried the case."

authority of the court to persuade the contemnor to obey some order of the court where such obedience will benefit an opposing litigant. Imprisonment is conditional upon obedience and therefore the civil contemnor carries the keys of (his) prison in (his) own pocket. In other words, it is civil contempt when one may procure his release by compliance with the provisions of the order of the court.

"Criminal contempt on the other hand is punitive in nature. The sentence is not conditioned upon some promise of future performance because the contemnor is being punished for some completed act which affronted the dignity and authority of the court. The **Texas Court of Criminal Appeals**, No. 73,986 (June 5, 2002). Also the Supreme Court<sup>17</sup> in *United Mine Workers v. Bagwell*

Again note all the past tenses, **had, was, had** that the judge had in there. The case was over. He had issued final judgment. And now he sanctions me for something way in the past. This is a criminal punishment for a completed act, to set an example for no one ever to bring another **civil RICO** claim into Texas courts again!

Also sanctions require the trial court to examine the **acts or omissions** of a party or counsel, not the **legal merits** of the pleadings<sup>18</sup>. Also a trial court must **consider and impose** less stringent sanctions first, to see if they work, if the judge feels like he needs to impose sanction to "coerce" anything<sup>19</sup>. And "**no basis in law or in fact**"? Is not **civil RICO**<sup>20</sup> the law? And **nobody**<sup>21</sup> is immune from RICO.

This \$62,000 sanction is **patently UNLAWFUL**. It is also **retaliatory**. The judge stated exactly what he was punishing me for, namely for making a civil RICO claim, and the Supreme Court has said that access to the courts is a First Amendment Right. And particularly when I speak on what is called an

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<sup>17</sup> Whether a contempt is civil or criminal turns on the "character and purpose" of the sanction involved. Thus, a contempt sanction is considered civil if it "is remedial, and for the benefit of the complainant. But if it is for criminal contempt the sentence is punitive, to vindicate the authority of the court. **U.S. Supreme Court** in *United Mine Workers v. Bagwell*, 512 U.S. 821 (1994)

<sup>18</sup> **Rule 13 requires the trial court to examine the acts or omissions of a party or counsel, not the legal merit of a party's pleadings.** See *id.*; *McCain*, 856 S.W.2d at 757. As quoted in *Rawles v. Builders Structural Services*, Texas 5<sup>th</sup> No. 05-96-00467-cv

<sup>19</sup> A trial court must first consider and impose less stringent sanctions to determine whether lesser sanctions will promote compliance and discourage further abuse. *Jones v. Andrews*, 873 S.W.2d 102, 106 (Tex. App.--Dallas 1994, no writ). As quoted in *Rawles v. Builders Structural Services*, Texas 5<sup>th</sup> No. 05-96-00467-cv

<sup>20</sup> "**Any person injured in his business or property** by reason of a violation of section 1962 of this chapter may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee." 18 U.S.C. § 1964(c) "*civil RICO*"

<sup>21</sup> "Congress did not limit scope of this chapter to those persons involved in what traditionally has been thought of as "organized crime," but, rather, **any "person"** as term is broadly defined in this chapter, **whether associated with organized crime or not**, can commit violation, and **any person injured** in his business or property by such violation may then sue violator for damages in federal court." *Lode v. Leonardo*, D.C.Ill.1982, 557 F.Supp. 675

"issue of great public importance", that is whether what this lawyer was doing to me in hauling me into court was part of a "pattern of racketeering activity". Remember what the Supreme Court had said about "private attorneys general", and "litigation in the public good". Can you see why this judge came down on me, despite his knowing that "*Mr. Birnbaum may be well-intentioned*"?

### **Exhibit 3. Request for Findings of Fact and Conclusions of Law**

The Rules state: "The court **shall** file its findings of fact and conclusions of law within twenty days after a timely request is filed." Rule 297: Time to File Findings of Fact and Conclusions of Law:

Judge, what did you find so awful in what I was supposed to have done? Judge how did you do all this stuff? Judge, how did YOU decide whether they were really doing "racketeering", or whether my claim was "frivolous" as they claimed? And had I not paid for determination by jury? And if you thought it was frivolous, why did you ORDER depositions? NO RESPONSE.

### **Exhibit 4. Jury Question**

The judge assessed a \$59,000 judgment against me, but he did not allow the right questions. They sued me for an "open account" for legal fees, which I of course denied. Had I not denied it under oath, the lawyer would have gotten by with it. It is called a "mandatory counterclaim". A "sworn open account" is "deemed" true unless I swear to the contrary, and I did, with my civil RICO claim to boot.

As for jury questions, the law says that the questions to the jury have to be on what you were sued for, of course<sup>22</sup>. But this judge did not submit "open account" (amount **owed**) at all, but a question that **presumed a contract!**

**QUESTION NO. 1:** "What sum of money, if paid now in cash, would fairly and reasonably compensate The Law Offices of G. David Westfall, P.C., for its damages, if any, that resulted from the Defendant Udo Birnbaum's failure to comply with the agreement between the Plaintiff and the Defendant?"

And the judge did not allow my "excused" issue as to whether plaintiff had not lived up to his promises, and that all the lawyer's flapping in suing 294<sup>th</sup> District Judge Tommy Wallace, Judge James

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<sup>22</sup> Rule 278. Submission of Questions, Definitions, and Instructions. "The court shall submit the questions, instructions, and definitions in the form provided by Rule 277 which are raised by the written pleadings and the evidence."

"A party shall not be entitled to any submission of any question .... not raised by affirmative written pleading by that party."

Zimmermann, Judge Pat McDowell, Judge Richard Davis, even District Attorney Leslie Dixon, and others, had **no worth** because of immunity from civil suit. And there was of course no "open account" or contract at all, not with a non-refundable prepayment of \$20,000 to "*insure our availability in your matter*", and the lawyer reserving the "*right to terminate ... .. for non-payment of fees or costs*".

#### **Exhibit 5. The Attorney Retainer Agreement**

Look at it. \$20,000 non-refundable prepayment for "*insuring our availability*", and reserving the right "*to terminate for non-payment*". This is **neither** open account", **nor** breach of contract".

This judge decided on his own, with his question to the jury, instead of letting the jury decide if there even was an open account or a contract. This is "jury tampering", and "incurable jury argument", as they call it, done by the judge himself.

#### **Exhibit 6. Request for Endorsement by the Court of "Refusals" and "Modifications"**

I am asking the judge to mark on paper, and sign, showing that I had requested other jury questions, and that he had denied them. The Rules<sup>23</sup> say he shall do this. HE DID NOT.

#### **Exhibit 7. Motion to Reconsider the \$59,000 Judgment**

Self explanatory. At issue was the "state of the account". This judge was required to have appointed an auditor:

Rule 172. Audit. "When an investigation of **accounts** or examination of vouchers appears necessary for the purpose of justice between the parties to any suit, the court **shall** appoint an auditor or auditors to state the accounts between the parties and to make report thereof to the court as soon as possible."

#### **Exhibit 8. Motion to Reconsider the \$62,000 "Frivolous Lawsuit" Sanction Against Me**

Self explanatory, and especially my First Amendment pleading in there. Judge, this America!

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<sup>23</sup> Rule 276. Refusals and Modification: "When an instruction, question, or definition is requested and the provisions of the law have been complied with and the trial judge refuses the same, the judge **shall** endorse thereon "Refused," and **sign the same officially**."

"If after reconsideration, this Court still feels that what I did was so sanctionable, **please advise me as to other views I am also not allowed to voice, whether to this Court, on Appeal, or elsewhere, lest I unknowingly risk being subjected to further sanctions.**"

I am also once again asking Judge Banner to refer this whole matter to the U.S. Justice Department.  
NO RESPONSE.

#### **Exhibit 9. Motion for New Trial**

This is a pretty good summary of the entire case, including my complaint of jury tampering by the judge himself in going in and out of the jury room. NO RESPONSE.

#### **Exhibit 10. Notice of Past Due Findings of Fact and Conclusions of Law**

Self explanatory. Judge, how did you make all these determinations, when I had asked that these determinations be made by jury? The judge is of course required to make findings of fact and conclusions of law<sup>24</sup>, BUT HE CHOSE NOT TO. The following directly out of the document:

Your Honor, please let the record know what *findings of fact*, and *conclusions of law* you made to come up with the **two** judgments you awarded against me in this case:

How, upon a pleading of an **unpaid open account**, and absent a finding to you by an Auditor under RCP Rule 172 regarding such claimed **unpaid open account**, and absent a finding by a jury as to the **state of the account**, what *findings of fact*, and what *conclusions of law* did you make to award a judgment totaling \$59,280.66 against me upon such pleading, **an issue I had asked to be resolved by jury**?

How upon my cross and counter claim under 18 U.S.C. § 1961, *et seq.* ("civil RICO"), against three (3) persons, and having **dismissed such three (3) persons** on November 13, 2001, what *findings of fact* and what *conclusions of law* did you **now make**, on August 21, 2002, so as to entitle these **dismissed** parties to a **\$62,885.00 second judgment** against me, in the same case, on **an issue I had asked to be resolved by jury**?

The judge's problem is, of course, contained in these two issues. Namely, he got caught.

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<sup>24</sup> Rule 297: Time to File Findings of Fact and Conclusions of Law: "If the court fails to file a timely findings of fact and conclusions of law, the party making the request shall, within thirty days after filing the original request, file ... . Notice of Past Due Findings of Fact and Conclusions of Law which shall be immediately called to the attention of the court by the clerk."

## Summary

Judge Banner, a public servant, **intentionally** (not accidentally) **assessed** judgments that were **unlawful**. He **knew** the assessments were **unlawful**, because he is a seasoned, senior judge. His **knowledge** of the **unlawfulness** of his **assessed judgments** is indicated again and again by his doing NOTHING upon the issues presented above.

Judge Banner, a public servant, **intentionally** (not accidentally) **denied** me **due process**, and my Right to be free of **retaliation** for having made a civil RICO claim. His **knowledge** of the **unlawfulness** of his **conduct** is indicated again and again by his doing NOTHING upon the issues presented above.

Consider the following. Someone drives at 100 miles an hour through a school zone. Does he know that what he is doing is unlawful? Now suppose the driver were a lawyer, or a judge.

Also, that courts have held that if state officials in some way retaliate against an individual for seeking redress through the courts, they have violated that person's right of access to the courts.<sup>25</sup>

A judge, assessing not one, but two unlawful judgments. A judge, denying me my right to due process and to be free from retaliation.

They did not catch our assistant DA with drugs until he went splat all over the road. This judge sent here from Dallas did not get caught until he splatted all over me.

The evidence of official oppression is there<sup>26</sup>. A public servant, a senior judge, he knew it was unlawful, AND HE KEPT ON DOING IT ANYWAY.

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<sup>25</sup> In **Crowder v. Sinyard**, 884 F.2d 804, 813 (5th Cir. 1989), cert. denied, 110 S. Ct. 2617 (1990), the court recognized that "courts have held that if state officials in some way retaliate against an individual for seeking redress through the courts, they have violated that person's right of access to the courts."

<sup>26</sup> For completeness, and to show the depth of this whole matter, please consider my total experience with crooked lawyers and judges:

One of my neighbors, now deceased, on his land trapped beavers, blew up their dam, flushed it all down on me, got himself a shyster lawyer, who sued me for supposedly building a dam in violation of the Texas Water Code, and washing sand, driftwood, and debris on him, who is entirely upstream.

We have a trial, likewise with wrong jury question, have a verdict of ZERO damages, and the attorney wants \$10,000 "legal fees", and have hearing after hearing about what the verdict "meant"

Along comes a big Dallas lawyer, and unbeknownst to me, solicits and ultimately becomes my lawyer in a civil racketeering suit. I find out he is a fink, and fire him, waving goodbye to my \$20,000 non-refundable retainer.

Sincerely,

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Udo Birnbaum  
540 VZCR 2916  
Eustace, Texas 75124  
(903) 479-3929 phone (receives fax also)  
(903) 245-5018 cellular

AFFIDAVIT

I, Udo Birnbaum, certify that all statements in this brief are made upon personal knowledge acquired under the described circumstances and upon diligent investigation of the facts and the law, and that my statements are true, correct, and complete to the best of my ability, and that the exhibits I have provided are true copies of the originals (with obvious handwritten mark-ups for this complaint).

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Udo Birnbaum

STATE OF TEXAS

COUNTY OF VAN ZANDT

Before me, a notary public, on this day personally appeared Udo Birnbaum, known to me to be the person whose name is subscribed to the foregoing document, and being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this \_\_\_\_\_ day of September, 2003

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Notary in and for The State of Texas

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He winds up in involuntary bankruptcy, trying to show he has income, and is not broke, and makes up an \$18,000 'bill', backdates it 6 months, and files suit on me in the very same court that he was suing in the racketeering suit as a "pocket of corruption".

Along comes Judge Paul Banner, somehow assigned to this case, without an order of recusal or order of referral by 294<sup>th</sup> District Judge Tommy Wallace, but assigned anyway. Then does not show up till five (5) months later, and at his first hearing states that he has "***never seen one [civil RICO case] that had any merit***".

From there on things went downhill, as partially shown on this complaint, culminating in a **\$62,000 Sanction for having made my civil RICO claim!**