

No. 95-0063

WILLIAM B JONES
Plaintiff

v.

UDO BIRNBAUM
Defendant

§ IN THE DISTRICT COURT
§
§
§ 294th JUDICIAL DISTRICT
§
§
§ VAN ZANDT COUNTY, TEXAS

THIRD MOTION FOR RECUSAL OF JUDGE RON CHAPMAN
Judge Ovard, get this madman off my back

JUDGE JOHN OVARD:

This is my THIRD motion to recuse senior visiting judge Judge Ron Chapman off this sorry **beaver dam case**, after Judge Chapman put a **\$125,770.00 FINE** on me in another case against me, Westfall vs. Udo Birnbaum, No. 00-00619, Judge Chapman assigned to hear a motion to recuse senior visiting judge Judge Paul Banner off that case, with Judge Banner himself testifying at the hearing. (*Happy April Fools Day, Exhibit "A"*).

“Some are to blame, but all are responsible.” Obama.

1.

My First Motion for Recusal, June 1, 2004

Judge Ovard, there is **no record** of Chapman even referring my [first] Motion for Recusal per Rule 18, or you issuing any Order denying that Motion. Even Chapman’s hen-scratch (**Exhibit “B”**) on the docket sheet on July 19, 2004, says as much:

*"All parties and attys present. Ct notes no motion to Recuse is in this file. **Ct has been informed** that **Judge John Ovard**, presiding judge of the 1st Administrative Region, **has overruled** a Motion to Recuse Judge Ron Chapman, due to the fact that said Motion is insufficient at law and fails to properly request Judge Chapman's Recusal, **or, in the alternative, is denied** on its merits due to Def. Birnbaum's abuse of the judicial process by filing **repeated frivolous Motions to Recuse in this case** and having twice been previously sanctioned by*

this Court for ??? actions. Ct notes Pltf's request to abandon any claims for atty fees. Ct finds that Jury Verdict rendered in May of 1998 requires a permanent injunction to be entered in this case. Pltf to prepare Written Order for Ct's signature and provide a copy to Def." (emphasis added)

Judge Chapman's scratch makes a truly puzzling docket entry for a senior judge, coming in "cold", as the THIRD JUDGE, onto the case, and into the inferno of a suit over a beaver dam, then already NINE YEARS ongoing, brought, of all things, as a violation of the Texas Water Code, Defendant Birnbaum screaming fraud at the top of his lungs, an actual jury verdict, but irrelevant jury questions, the jury unanimously finding damages of exactly ZERO, and the issue of an injunction never presented to the jury, no sign of imminent or irreparable harm, as required for the issuance of any injunction, for the last SIX YEARS, and no thought as to how to style such injunction, not having asked the jury, or who was to be the "keeper" of the injunction, since the Plaintiff had passed away long ago, the property sold out of the family, etc., etc.!

This case is of course now FIVE (5) years further down the line, and things are even madder now, than when this case started in 1994, FIFTEEN (15) years ago!

2.

My Second Motion for Recusal, Dec. 18, 2006

There is no record of Judge Chapman having issued any Order per Rule 18 referring this Motion up the line to you, either.

Admit it, Judge Ovard, that you never saw this Motion either, despite you having somehow issued an Order dated Jan. 12, 2007, that DENIED my Motion, blandly stating that "the Motion does not provide specific allegations necessary to warrant a hearing", but you not even identifying as to which motion your Order was. (**Exhibit "C"**)

What about that horrific \$125,770 FINE I was complaining of?

What about all those evil thoughts toward me that Chapman's put into his Order? (**Exhibit "D"**). That seven or eight page diatribe goes way beyond where "his impartiality might reasonably be questioned" under Rule 18. Judge Chapman plumb hates me, to wit:

"to stop Birnbaum and others similarly situated"

"delusional belief held only inside the mind of Birnbaum"

"was engaged in by Birnbaum with intent to harm"

"to stop this litigant and others similarly situated"

"to stop Birnbaum and others like him"

"concludes as a matter of law was brought for harassment"

"the award of exemplary and/or punitive damages is not excessive".

"... punitive damage award is narrowly tailored to the harm done".

"is a delusional belief held only inside the mind of Birnbaum"

3.

Judg Ovard, admit, that neither Motion reached your eyes

Judge Ovard, I cannot conceive that you would have in good faith DENIED my motion, **if you had seen it**, either one.

Somebody may have "told" you something, but **nobody certainly showed you my motion.**

On the other hand, Judge Ovard, you affirm: "**After due considerations** of the allegations in the Motion to Recuse Judge Ron Chapman, it is determined **by the Regional Presiding Judge**, that the Motion does not provide specific allegations necessary to warrant a hearing."

Truly amazing, Judge Ovard! I am 72 years old, and I know we get selective in what we notice. But then, I do not sit in judgment of others.

4.

In response to Judge Chapman calling me "delusional"

"a delusional belief held only inside the mind of Birnbaum"

All I can figure out is that Chapman now and then just "looses it", as he did on April 1, 2004, when he let me **examine Judge Paul Banner** in the witness box regarding recusal of Banner in that dead case, and then putting that ludicrous **\$125,000 FINE** on me – see "***Happy April Fools Day***" (Exhibit "A"). All Chapman was assigned to do was to hear a motion for recusal of Judge Banner, but there was no case left, and Chapman went plum bonkers.

And Judge Paul Banner was part of it too, for Banner knew there was **no case left**, for he himself had signed **final judgment way back in 2002**. Yet here Banner was, **as a witness**, in his own two year dead old case!

And Chapman had to have been bonkers again to **actually sign that idiotic Order** for **\$125,000 FINE**, on Oct. 24, 2006, over TWO (2) YEARS after that April 1 episode, with all that "**delusional**", "**to stop Birnbaum**", and all that other verbal venom – upon which I of course filed my Second Motion for Recusal of Judge Ron Chapman on Dec. 18, 2006, figuring that "enough is enough".

5.
Mental states

Anyhow, Judge Ovard, I trust you can see why I am so insistent in finally getting Judge Chapman off this case and off my back. This is way beyond a matter where “his impartiality might reasonably be questioned” per Rule 18.

This is a matter of questioning Chapman’s mental processes.

What was Chapman’s mental state as he pronounced that **\$125,000 FINE** on me?

What was Chapman’s mental state as he actually signed the stupid thing more than TWO (2) YEARS later, and as I heard, took it to the District Clerk, inquiring if they could **abstract his Order!**

What was Chapman’s mental state in not thinking that he needed, **on his own**, to get off this No. 95-63 “beaver dam” case, after having put that \$125,000 FINE on me in the No. 00-00619 Westfall vs. Birnbaum case? **No Motion for Recusal of Chapman should have been needed!**

6.
More mental states
“or lack thereof”

What was Chapman thinking as he first showed up on this No. 95-0063 “beaver dam case” on July 19, 2004? Chapman was obviously mad at me, but I truly believe that he did not know what for, except that he had seen me at least twice in Judge Paul Banner’s No. 00-00619 Westfall vs. Birnbaum case, regarding recusal of Judge Paul Banner.

I believe that Chapman **had totally forgotten about that \$125,000 FINE.**

And then Chapman **did indeed park, consider, or not consider** for over TWO (2) YEARS, till for reasons of his own, he finally signed that stupid Order of \$125,770 FINE.

7.
Conclusion

Judge Ovard, it is time for you to get Judge Ron Chapman off this case. In any case, I insist on a recusal hearing if you cannot find someone to talk Chapman into going quietly, before he makes more of an ass of himself and your whole “visiting judge” program. ***“Happy April Fools Day”***.

***“Oh what tangled webs we weave,
when first we practice to deceive”***

Sincerely,

Udo Birnbaum, *Pro Se*
540 VZCR 2916
Eustace, Texas 75124
(903) 479-3929 phone and fax

Att: "A" Happy April Fools Day
"B" Judge Chapman docket entry No. 95-0063 "beaver dam case"
"C" Judge Ovard Order in 95-0063, "there is no basis etc."
"D" Judge Chapman \$125,770 FINE on 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 above, and being by me first duly sworn, declared that the matters in this Third Motion to Recuse Judge Chapman are true and correct, that that the exhibits hereto are true copies of the originals, and that all matters are stated upon his personal knowledge.

Udo Birnbaum

Given under my hand and seal of office this _____ day of April, 2009.

Notary in and for The State of Texas

Certificate of Service

Copy of this document, including attachments, mailed **CERTIFIED MAIL 7007-2560-0002-4728-5911, RESTRICTED DELIVERY**, to Hon. John Ovard, Presiding Judge, First Administrative Judicial Region, 133 N. Industrial Blvd. / LB50, Dallas, TX 75207. Also REGULAR MAIL, no attachments.

Also to Richard L. Ray, attorney of record for William B. Jones, **long deceased**, at 300 South Trade Days Blvd., Canton, Texas 75103, via REGULAR MAIL.

Udo Birnbaum