To: Chris Martin
Van Zandt DA

Complaint of Official Oppression
introductory package.

There are THREE (3) documents, each a **rendered judgment**, in the **same cause**, evidencing by their own words, and each **other's presence**, unlawful assessments against me. Looked at individually they show defrauding of due process. Looked at in totality, they show a pattern of retaliation for having exercised a First Amendment Right of access to the court.

"… … to stop … … and others similarly situated from filing frivolous lawsuits."
"… … punitive sanction … … for the filing … … lawsuit …"
"… … punitive … … to stop … … , and others like him … filing … … lawsuits."

The venom gets progressively more obvious, until the THIRD JUDGMENT shows itself to be outright idiotic, i.e. "never mind the law, we got to stop this guy!"

NOTE: There can only be ONE judgment in a cause. This one has THREE! For one "judgment", at least the judge had a jury at least **sitting** there -- the other two, not. This was as a jury cause. Also, at a minimum, TWO of the "judgments" have to be unlawful!

NOTE: The key issue in official oppression is about "knows that it is unlawful." The evidence to this can best be found in the FIRST question to the jury, the court's instructions thereto, and the rapid-fire documents just preceding this question.

For now, I will let the documents speak for themselves, except for these short notes:

"first judgment"
FINAL JUDGMENT – Judge Paul Banner
$85,207.46 + $157,899.36 interest
Rendered April 11, 2002, Signed July 30, 2002

The case was over legal fees in a $20,000 prepaid, non-refundable attorney retainer agreement, with the lawyer retaining the right to terminate. ("We reserve the right to terminate for … … 1) your non-payment", etc). Cause, however, was brought as a sworn suit on unpaid "Open Account". Fraud right out of the chute!

It was a JURY trial, but the judgment clearly shows that the elements of open account were not only NOT submitted to the jury, but intentionally twisted to such an extent as to be fraud upon the court per se, **by the court itself**.

Present status: Judgment dormant since 2012, now in process of being revived by writ of scire facias. . Those documents in themselves evince the pattern of defrauding.

Attached: 1) agreement with attorney, 2) canceled check, 3) suit 00-619, 4) Application for Writ of Scire Facias

"second judgment"

ORDER ON MOTION FOR SANCTIONS – Judge Paul Banner
$62,885.00 + 10% per annum since July 30, 2002
Rendered July 30, 2002, signed Aug. 9, 2002

FINDINGS OF FACT AND CONCLUSIONS OF LAW -Judge Banner
found ???, by whom ???, signed Sept. 30, 2003 (was JURY case!)

The case had been closed by Final Judgment – there was nothing left for the court to do. All other things had been "denied". Yet here we were on new ground again!

Real goal of the proceedings was caught by the court reporter – Judge Banner upset by my civil RICO filing – i.e. filing a lawsuit, a **First Amendment Right**:

> *In assessing the sanctions, the Court has taken into consideration that although Mr. Birrnbaum 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.*

Weighing of the evidence of course needed to be by the JURY. Civil RICO is intentionally written to be ALL "issues of fact", and no issue of law to be determined by the judge. It IS the law, a statutory criminal law, with a civil remedy ("civil RICO")

Real goal of Judge Banner is contained in his Findings, which he was finally forced to make to cover up for NOT identifying the conduct he was supposedly sanctioning for, as he had failed to do in his Order on Motion for Sanctions, as required by RCP Rule 13. And so, but not until ONE YEAR after Final Judgment, the venom spits out – just read this stuff!

" … delusional belief held only inside the mind of Birnbaum"
" … … etc, etc, … … ad nauseam (details later)

Present status: Just sitting there. Based on the other goings-on, no telling what's next.

Attached: 1) Findings of Fact, 2) Interrogatories – Banner, 3) something to give flavor

"third judgment"

ORDER ON MOTION FOR SANCTIONS – Judge Ron Chapman
$126,262 + 5% per annum since 2006
Rendered April 1, 2004, signed Oct. 24, 2006

Case was of course long over. Judge Banner was still mucking to paint me as the devil with his Findings (above) – while the case was on appeal. In desperation I submitted a motion to recuse to get attention and STOP this nonsense.

Judge Ron Chapman is assigned to hear the motion for recusal. He had NO personal jurisdiction of any kind. Between him and Judge Paul Banner as a witness – they went plum BONKERS on April 1, 2004. (See ***"Happy April Fools Day"***, below)

It is clear why they wanted to PUNISH Birnbaum – "to stop Birnbaum and others like him, etc", just read this raving. All venom and NO substance.

Status: The Westfalls obtained an Abstract of Judgement on this ORDER, filed liens with the County Clerk, and presently have sent the Sheriff out to do EXECUTION! Plum bonkers.

Attachments: 1) Happy April Fools Day, 2) First Interrogatories – Chapman, 3) Copy of my web site "OpenJustice.US", making almost ALL of the court documents available, in this case and matters related

More Detail

The flavor of this entire mess is best seen by starting with this third "judgment" group of documents, Order on Motion for Sanctions (Judge Chapman, $125,770 unconditional fine), and working backwards, chronologically.

Order on Motion for Sanctions

Judge Chapman - $125,770 assessment

"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"

Chapman's sole assignment was to rule on a motion to recuse.
A strictly administrative task – i.e. rule, and then **go back home**.

Chapman had no personal jurisdiction over me whatsoever. Besides, the cause was finished with Judge Banner's Final Judgment rendered April 11, 2002

:

> *"G. David Westfall, appeared in person … … All other parties to this lawsuit having been dismissed previously … …"*
> *"All other relief not expressly granted in this order is hereby denied"*

It had been out of desperation to stop Judge Banner from mucking around to CYA (Judge Banner's Findings) in the court late in 2003 to cover his sins, by painting me as the devil, that I believed that a motion to recuse would at least call someone's attention to this, and put a stop to such conduct. Attention I obviously got, but … …

To top-off this madness, now, in March 2014, the Westfalls actually managed to turn this outrageous and unlawful Order on Motion for Sanctions into an actual Abstract of Judgment, filed it to put liens with the County Clerk, got a Writ of Execution, and got the Sheriff out after me!

Anyhow, key in this Order on Motion for Sanctions – besides the venom - is the assessment of unconditional punishment (no "keys to own release") and upon completed acts (not "coercive"). Such sanction is CRIMINAL in nature, requiring full criminal process, including a finding of "beyond a reasonable doubt" – that is the law.

Also, there is the matter of a First Amendment right of access to the courts – including the right to file a lawsuit. And admitting – in writing - that the punishment was for filing a lawsuit – that is official oppression per se.

And Judge Chapman threatening Birnbaum with further sanction (for filing a lawsuit):

> ***"Complete & full access to the xxxx ?? xxx ?? …"***
> ***"our jurisprudence envisions finality of litigation after the parties have availed themselves of the remedies available under our laws"***

"You <now> have the keys on whether there are? any? Further proceedings in this case in the future. Please be aware that any further actions might result in further sanctions"
(longhand calculation 62,385 x 2 = 125,770 124,770)

A little flyer I published right after this sanction, titled "Happy April Fools Day" shows this insanity in a little less formal manner, and provides some additional insight.

More enlightenment is on my website OpenJustice.US, as well as almost ALL of the documents related to this matter.

Order on Motion for Sanctions

Judge Banner - $62,885 – July 30, 2002

Findings of Fact and Conclusions of Law

(re Order above) – July 30, 2003

This document clearly flows out of the same pit of venom. I have some of the intermediate documents that show careful tweeking and sanitizing.

" … … to prevent similar future action on the part of the Defendant/Counter-Plaintiff."
"…"……filing claims concerning civil RICO ……"
… to stop the Defendant/Counter-Plaintiff and others similarly situated from filing frivolous lawsuits."
" … … the offensive conduct to be punished."
" … … that this lawsuit was filed"
"… … punitive damages …… for the filing … … lawsuit."
"… … punitive sanction … … for the filing … … lawsuit …"
"… … punitive … … to stop … … , and others like him … filing … … lawsuits."

It was upon this Sanction that I went to the Dallas Court of Appeals, the Texas Supreme Court, then the U.S. Supreme Court. Lots of detail in the intermediary appeals.

For completeness and flavor, a copy of my Petition for Writ of Certiari to the U.S. Supreme Court is available, as are all of the intermediate documents in getting there. These documents provide a little broader view on what is going on in this court.

Final Judgment – Judge Banner

Suit was brought against me for claimed unpaid legal fees.

My dealing with the lawyer, G. David Westfall, had been solely regarding a Federal Civil Racketeering suit against about eight (8) assorted court-related individuals, including Van Zandt District Judge Tommy Wallace, his "court administrator" Betty Davis and court reporter Becky Malone, ex Van Zandt District Judge Richard Davis, Canton attorney Richard L. Ray, Van Zandt District Attorney Leslie P. Dixon, Visiting Judge James B. Zimmermann, First Administrative Judicial Region Presiding Judge Pat McDowell, McDowell's lawyer – and maybe some more.

My dealings with G. David Westfall was upon an agreement for a $20,000 up-front non-refundable retainer agreement, him promising not to surprise me with sudden big charges, and promising to bill me monthly, and "the law office" reserving the right to terminate in case of my not paying him any more moneys.

Anyhow, he never billed me monthly – and the case was dismissed under truly bizarre circumstances (a judgment ordering the amendment of the complaint). Then he told me that our judge never saw the case – and Westfall would not do anything about it – and I fired him, waving good bye to my non-refundable $20,000.

Then about half a year later, he suddenly sends a huge $18,000 or so additional "bill", and as plaintiff "The Law Office, P.C." ultimate files suite claiming an unpaid "open

account" – in the very court of the Judge he had sued for racketeering – Tommy Wallace. I deny such account under oath, and counter and cross claim against him personally and his wife and daughter office staff.

Fast-forward to the trial. Just look at that first question. It bypasses the jury on the elements of a suit on "open account", whether there even was an "open account" with "systematic records", and whether there was 1) ***sale and delivery*** of goods or services, and 2) did the "goods" have any "worth".

The wording of the question even pre-supposes a "failure to abide". The instruction is totally out of line for "open account". Just look at this stuff. NOT "due process".

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 Defendant Udo Birnbaum's ***failure to comply*** *with the agreement between the Plaintiff and the Defendant?*

INSTRUCTION:
You are instructed that after the attorney-client relationship is terminated, a client or an attorney can have post termination obligations to each other, such as, the client is still obligated financially for a lawyer's time in ***wrapping up the relationship*** *and the lawyer is still obligated to perform tasks for the client to prevent harm to the client during the termination process.*
ANSWER:

Answer in dollars and cents

"failure to comply" - but it was a JURY TRIAL – had to be submitted to jury
"wrapping up the relationship" – in an "open account" matter?

ESSENCE OF THIS COMPLAINT OF OFFICIAL OPPRESSION
And notification of such

This stuff has been going on upon me ever since I was sued under Section 11.06 of the Texas Water Code in 1995 for a dam built by beavers on a creek on my farm. Suit said I was the one who built "The Dam" dam. ALL the jury heard was about BEAVERS – 166

mentions in the transcript of the FOUR (4) day trial. Then fraudulent issues to the jury of whether I “allowed dams”. But enough of that for now.

Been complaining to just about every law enforcement body I know of. No protection, of ANY kind. Tried hiring a lawyer against the “beaver dam scheme” matter, wound up with Westfall, and now this mess.

So, I call particular attention to the events of my recent trip to the Tyler FBI. Took a friend along, about ten years older than I. The agent recognized me from back in 1995.

The FBI arranged for our visit to the U.S. Attorneys Office in downtown Tyler. What the Justice Department told me to do, as strange as it may seem, was to “just SHOOT them”.

I have a sort of video deposition I made thereafter with the friend I took along, contemporaneously documenting our immediate recollections.

And in making this recording, she somehow came to bring out a murder trial she or a friend sat on, where “that black woman” had killed her husband – by just sewing him up in a bed sheet when he was drunk, and killing him with a frozen pork roast. “We did not have any beef at the time”, was her explanation. She had come to Van Zandt county as a war bride way back in the early 50’s.

Anyhow, “that black woman” went home free. “She had bruises on her”, was my friend’s add-on. “That black woman” must have, at least in the eyes of that jury, acquired the right to end matters as she did..

On my mind ever so often:

1) At what stage of her husband’s conduct did she acquire the right of self-defense to kill her husband?

2) And at what stage of conduct in this matter, if ever, do I acquire a right to "just shoot them"?

3) And at the age of 77 – at what stage, if ever, of my remaining life and strength, do I acquire an actual duty to "just shoot them"?

This complaint honestly presented in order to not have to make such decisions.

April 29, 2014

Sincerely,

Udo Birnbaum
540 VZ County Road 2916
Eustace, TX 75124
903 479-3929

brnbm@aol.com

List of documents provided herewith:

Final Judgment – Judge Paul Banner – on **jury verdict**

Order on Motion for Sanctions - Judge Paul Banner – **no jury**

Order on Motion for Sanctions – Findings thereto – since there had been **no jury**

Order on Motion for Sanctions – Judge Ron Chapman – also **no jury**

"Happy April Fools Day" – good over-all introduction

"OpenJustice.US" - more detail, repository of court documents

Lawyer retainer w cashed $20,000 check – **"non-refundable"**, **"we reserve .."**

Lawyer suit – **"Open Account"** w "Bill"

Westfall deposition – shows the fraud of "Open Account"

Motion for appointment of auditor – shows fraud by court

Plaintiff's Requested Jury Questions

Objections to Plaintiff's Requested Jury Questions

Birnbaum's Objections to Court Charge – **handwritten and hand filed**

Court's Charge – carefully observe **Question 1 and instructions thereto**

Closing Pleading in Writing – complaint of **retaliation by official oppression**

Oral Pleading in Writing – complaint of **fraud upon the court**

Assignment of Judge Ron Banner – **solely to hear a motion to recuse**

Docket sheet – Judge Ron Banner doodling – **$125,885 + more threats**

Abstract of Judgment – on Chapman's $124,770 + interest – had **NO jurisdiction**

Execution – Chapman NEVER had jurisdiction over the PERSON of Birnbaum

Application for Writ of Scire Facias – to revive **dormant** Judge Banner 2002 judgment