

1 person would indeed harbor doubts as to the impartiality of the trial judge. In fact
2 Judges from the Second Court of Appeals of Texas ruled that Judge William Brigham
3 abused his discretion in Appellant's hearing on contests of her affidavit of indigence
4 (Exhibit 1). Judge Brigham's order was reversed. Appellant believes that Judge Brigham
5 abused his discretion because he is biased against Appellant and should be recused.

6 In the Appeal's Court order the Court stated;

7 (Exhibit 1, page 2, footnote 2) "This court's order abating the contests to the trial
8 court stated that "[t]he trial court may arrange for appearances by telephone conference
9 or other alternate means if necessary,"

10 (Exhibit 1, page 2, footnote 3) "If the affidavit provides sufficient information to prove
11 by a preponderance of evidence that the party is unable to pay costs on appeal, the
12 affidavit is sufficient, even if information on each of the twelve items is not included."

13 (Exhibit 1, page 3, lines 5 - 9) "To require a pro se out-of-state resident asserting
14 indigence to physically appear at a contest hearing to prove the allegations in her
15 affidavit, without reasonably accommodating that party by means such as a telephonic
16 hearing, undercuts the purpose and spirit of rule 20.1."

17 (Exhibit 1, page 3, lines 9 - 12) "To require a pro se party to object to a late-filed
18 contest to an affidavit of indigence in order to preserve error--something the party is not
19 likely to know to do--is to eviscerate the protection Rule 20.1(f) is intended to afford."

20 (Exhibit 1, page 3, lines 17 - 20) "Accordingly, we reverse the trial court's ruling on
21 the contests to appellant's affidavit of indigency and remand that issue to the trial court
22 for a new hearing in which appellant is allowed to appear telephonically to attempt to
23 prove her alleged indigence."

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1 “Facts, not speculations, establish grounds for recusal.”¹ The fact that Judge
2 Brigham failed to give out-of-state pro se indigent Appellant fair notice of hearing, ability
3 to appear by phone, ability to appear by brief/affidavit, forced Appellant to appear for a
4 late-filed contest and sustained the contests because Appellant could not appear,
5 proves that he is biased and should be recused. Were it not for the Appeal’s Court
6 ruling, Appellant’s life could have been destroyed if she had not been allowed to appeal
7 Judge Brigham’s unjust ruling. “Failure to recuse may rise to the level of disqualification
8 when it impacts a litigant’s right to due process.”² Appellant has been denied due
9 process of law because of Judge Brigham’s biased, unfair and unethical behavior.

10 “Bias or prejudice” does not simply mean any unfavorable disposition toward a
11 party.” (Liteky v. United States, 510 U.S. 540, 550 (1994)) “It refers to a disposition that
12 is wrongful or inappropriate, either because it is based upon an improper source or is
13 excessive. A recusal based on bias or prejudice must show ‘a deep-seated favoritism or
14 antagonism that would make fair judgment impossible.’ Bias may be a ground for
15 disqualification ‘only when it is shown to be of such nature, and to such extent, as to
16 deny the defendant due process of law.’” Kemp v. State, 846 S.W.2d 289, 305 (Tex.
17 Crim. App. 1992).

18 Judge William Brigham’s disposition of the trial was wrongful, inappropriate and
19 excessive. PLAINTIFFS NEVER PROVED THE ELEMENTS OF DEFAMATION OR
20 BREACH OF CONTRACT IN TRIAL. “If the judge’s beliefs—although based on events
21 occurring at trial—are so extreme that they make fair judgment impossible, the judge

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24 ¹ <http://www.tdcaa.com/node/7383> Andrea Westerfeld, Assistant Criminal District Attorney Collin County,
“To recuse or not to recuse,” Sept-Oct 2010, Vol. 40, No. 5.

25 ² http://www.tmcec.com/Programs/Judges/Recusal_and_Disqualification Texas Municipal Courts
Education Center. Programs - Judges - Recusal and Disqualification. Government Code, Chapter 29,
Subchapter A-1

1 may still be subject to recusal.”² “If he has shown himself to be so prejudiced against
2 one of the parties or the case’s subject matter, then he cannot be trusted to rule fairly.”²

3 Further evidence of Judge William Brigham’s bias against Appellant and for
4 Appellees and their attorney Randy Turner can be seen as follows:

5 May 4, 2011 Judge Brigham oversaw the temporary injunction hearing. Before the
6 hearing Plaintiffs’ attorney Turner came up behind Defendant and stated “I’ve known
7 this Judge for years. He’ll sign whatever I put in front of him.” Judge Brigham has signed
8 every document Turner has put in front of him without reading or editing them. Appellant
9 told Judge Bonnie Sudderth about this conversation in court before Appellant knew
10 Judge Brigham would oversee Appellant’s trial.

11 Plaintiffs did not show any of the elements of defamation or breach of contract in
12 the temporary injunction hearing. Even so Judge Brigham ruled against Defendant. At
13 the conclusion of the hearing Judge Brigham asked Plaintiffs’ attorney if he had written
14 an order. Turner gave Judge Brigham a written order which the Judge instantly signed
15 without editing or reading. The order contained prior restraint which is unconstitutional,
16 was against third parties and a bond was not filed thereby making the injunction void.

17 Plaintiffs did not show any of the elements of defamation or breach of contract in the
18 final trial. At the end of trial June 2012 Judge Brigham stated final judgment is
19 “compensatory damages of \$3 million; exemplary damages of an additional \$3 million; a
20 permanent injunction on items Plaintiffs’ 17 and 18; liquidated damages and then
21 attorney fees of \$176,700.”

22 Plaintiffs showed NO financial damages, admitted they had no proof of damages or
23 proof of causation in trial. Plaintiffs did not show that Plaintiffs’ items 17 and 18 were
24 defamation. The items in 17 were not defamatory. Almost every item in Exhibit 18 was
25

1 written by others. The authors names were even on the items! A \$6,186,700 ruling with
2 no proof of defamation or breach of contract is “excessive” and clearly shows bias.

3 Again, Judge Brigham asked Plaintiffs’ attorney Randy Turner to write the final court
4 order. Not one item from Exhibit 18 was in the final order. None of the items were
5 defamation or breach of contract. Some items were written by government agencies
6 and Plaintiffs. Some items were not about Plaintiffs at all (Exhibit 2). Someone else’s
7 statements could never be defamation by Appellant. The order contained prior restraint
8 which is unconstitutional. Again, Judge Brigham signed the order without editing or
9 reading it.

10 Recently Appellant asked the District Court for a “finding of facts and conclusion of
11 law.” Randy Turner wrote the “FINDINGS OF FACTS AND CONCLUSIONS OF LAW”
12 and sent it to the Appellant and Court (Exhibit 3). Judge Brigham signed it without
13 editing or reading it. Appellant asked the COURT to write a “findings of facts and
14 conclusion of law,” not Plaintiffs’ attorney. The Judge did not make these findings of
15 facts or conclusions of law in trial! Judge Brigham never ruled that Appellant breached a
16 contract in trial or in his written order. No “defamation expressed in” “graphic
17 form” (Exhibit 3, page 1, item 1, line 1) was ever mentioned!

18 In a previous hearing on motion to recuse Judge Brigham attorney Randy Turner
19 admitted that he has known Judge Brigham for years. Turner admitted that he sees him
20 frequently at events. In fact Turner sent the final court order to Judge Brigham’s
21 personal residence instead of the Court. Judge Brigham’s address is not public! Turner
22 and Judge Brigham obviously have a relationship if Turner has his home address on
23 file. This is a clear conflict of interest and shows bias.

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1 **JUDGE WILLIAM BRIGHAM IS NOT COMPETENT TO OVER SEE THIS CASE**

2 September 2010 Judge William Brigham stated he “uses neither computers nor the
3 Internet.” Judge Brigham further stated that he communicates in “handwritten letters” via
4 regular USPS mail (Exhibit 4, lines 3 - 4, line 6). Judge Brigham clearly does not
5 understand the nature of the Internet, Facebook, MySpace, Google, websites, email,
6 robots, search engines.... Case 352-248169-10 Bat World Sanctuary et al v Mary
7 Cummins is about defamation and breach of contract on the INTERNET. Judge Brigham
8 does not understand the Internet or Internet law and should not oversee this case.

9 Judge Brigham’s rulings clearly show he has no knowledge of the Internet. Judge
10 Brigham oversaw the temporary injunction hearing May 4, 2011. Plaintiffs did not prove
11 that Defendant wrote or posted the alleged “defamatory” items to the Internet or that
12 they were even “defamatory.” Plaintiffs also did not show breach of contract. Appellant
13 had not even seen most of those items before the hearing. Judge Brigham ruled that the
14 items were “defamatory” and that Defendant breached a contract by posting them.
15 Clearly Judge Brigham did not listen to or read any of the evidence. Clearly Judge
16 Brigham does not understand the elements of defamation or breach of contract.

17 Judge Brigham stated in court that “the court finds that the defendant did, in fact,
18 sign the contract.” Appellant was sued for “breach of contract,” not for “signing a
19 contract.” There was no mention of “breach of contract” in his order. Again, Plaintiffs did
20 not show breach of contract or that Appellant did indeed even sign the contract.

21 In Appellant’s hearing on indigence Judge Brigham stated that it was a “hearing on
22 indecency” (Exhibit 5, page 4, line 25). Judge Brigham is 83 years old and retired in
23 1999. He is a retired visiting Judge only and admitted in court he has hearing issues.
24 Appellant believes that Judge Brigham is not competent to over see this case.

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1 **CONCLUSION**


2 Based on Judge Brigham's behavior and the October 22, 2012 ruling of the
3 Second Court of Appeals reversing Judge Brigham's court order, Appellant believes
4 Judge Brigham is clearly biased against Appellant. Judge Brigham has a conflict of
5 interest in the contests of affidavit of indigence hearing, motion for new trial and
6 objections to court order. Judge Brigham would not want Appellant to appeal his
7 decision, have it reversed, receive a new trial or object to his court order. Judge William
8 Brigham has demonstrated prejudice against Appellant, has a conflict of interest in this
9 hearing and is not fit to oversee this case. He should be disqualified, removed from
10 overseeing this case.

11 **PRAYER**

12 WHEREFORE, the Appellant prays that the Judge of this Court immediately
13 request the Presiding Judge of this administrative district to assign another judge to
14 hear this motion and any future motions in this court, and that upon such hearing Judge
15 William Brigham be disqualified or recuse himself from presiding in this hearing.

16 Respectfully submitted,

17
18 Mary Cummins, Appellant Pro se
19 645 W 9th St, #110-140
20 Los Angeles, CA 90015-1640
21 October 24, 2012
22 Phone 310-877-4770
23 Email: mmmaryinla@aol.com

24 By: 
25 Mary Cummins, Appellant Pro Se

VERIFICATION

STATE OF CALIFORNIA

§
§
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COUNTY OF LOS ANGELES

BEFORE ME, the undersigned authority, on this day personally appeared MARY CUMMINS, known to me to be the person whose name is subscribed below, and on oath, deposed and stated:

“My name is Mary Cummins. I am Appellant pro se in the case styled Mary Cummins v Bat World Sanctuary, Amanda Lollar which is on file in the Second Court of Appeals, Tarrant County, Texas, bearing Appeal No. **02-12-00285-CV**.

“I have read the foregoing Verified Motion to Recuse - New Evidence. The facts set forth therein are true and correct and are within my personal knowledge.”

Further, Affiant sayeth not.

MARY CUMMINS - Appellant pro se


SUBSCRIBED AND SWORN TO BEFORE ME on this ____ day of October 2012, to certify which witness my hand and official seal of office.

Notary Public, State of California

1 **CERTIFICATE OF SERVICE**

2 I, Mary Cummins, hereby certify that a TRUE COPY of the above **APPELLANT'S**
3 **MOTION TO RECUSE, DISQUALIFY - NEW EVIDENCE** was served on the Plaintiffs'
4 Attorney of record by FAX and by FIRST CLASS MAIL at

5 Randy Turner
6 Bailey & Galyen
7 1901 W. Airport Freeway
8 Bedford, TX 76021
9 Fax: 817-545-3677
10 this 24th Day of October, 2012

11 
12 _____
13 Mary Cummins, Defendant Pro se
14 645 W 9th St, #110-140
15 Los Angeles, CA 90015-1640
16 Phone 310-877-4770
17 Email: mmmaryinla@aol.com

VERIFICATION

1
2 STATE OF CALIFORNIA

§
§
§

3 COUNTY OF LOS ANGELES
4

5 BEFORE ME, the undersigned authority, on this day personally appeared MARY
6 CUMMINS, known to me to be the person whose name is subscribed below, and on
7 oath, deposed and stated:

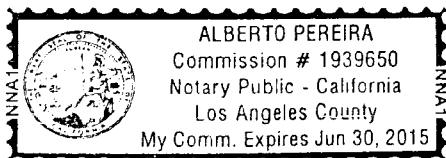
8 "My name is Mary Cummins. I am Appellant pro se in the case styled Mary Cummins
9 v Bat World Sanctuary, Amanda Lollar which is on file in the Second Court of Appeals,
10 Tarrant County, Texas, bearing Appeal No. 02-12-00285-CV.

11 "I have read the foregoing Verified Motion to Recuse - New Evidence. The facts set
12 forth therein are true and correct and are within my personal knowledge."

13 Further, Affiant sayeth not.

14 Mary Cummins
15 MARY CUMMINS - Appellant pro se

16
17 SUBSCRIBED AND SWORN TO BEFORE ME on this 24th day of October 2012, to
18 certify which witness my hand and official seal of office.



22
23
24
25

Alberto Pereira
Notary Public, State of California



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-12-00285-CV

MARY CUMMINS

APPELLANT

V.

BAT WORLD SANCTUARY AND
AMANDA LOLLAR

APPELLEES

FROM THE 352ND DISTRICT COURT OF TARRANT COUNTY

ORDER

This court has received the record from the trial court's hearing on the contests to appellant Mary Cummins's affidavit of indigency and reviewed it to determine whether the trial court abused its discretion in sustaining the contests. See *In re Arroyo*, 988 S.W.2d 737, 739 (Tex. 1998); *In re C.D.S.*, 172 S.W.3d 179, 184 (Tex. App.—Fort Worth 2005, no pet.).

Appellant—who resides in California and who was provided notice of the October 15, 2012 hearing on the contests on October 12, 2012—filed a motion asking to appear telephonically on October 11, 2012,¹ but the record contains no ruling on the motion. Moreover, although the trial court clerk had notified appellant that she could appear telephonically for the previously scheduled October 8, 2012 hearing, the clerk did not do so for the October 15, 2012 hearing.² Nevertheless, the trial court sustained the contests without considering the contents of appellant's affidavit,³ because appellant failed to appear at the hearing.

The purpose of Rule 20.1 of the Texas Rules of Appellate Procedure is to permit parties to proceed without paying filing fees if they are unable to do so, and we construe the rules liberally in favor of preserving appellate rights. See *Verburgt v. Dornier*, 959 S.W.2d 615, 616–17 (Tex. 1997); *Jones v. Stayman*, 747

¹We faxed this motion to the trial court on October 11, 2012, along with an order forwarding the motion for the trial court's consideration. Although at that time, Regional Presiding Judge Walker had not yet denied appellant's motion to recuse Judge Brigham, the order denying the motion to recuse was issued on October 12, 2012.

²This court's order abating the contests to the trial court stated that "[t]he trial court may arrange for appearances by telephone conference or other alternate means if necessary."

³If the affidavit provides sufficient information to prove by a preponderance of evidence that the party is unable to pay costs on appeal, the affidavit is sufficient, even if information on each of the twelve items is not included. *Higgins v. Randall County Sheriff's Office*, 257 S.W.3d 684, 688–89 (Tex. 2008).

S.W.2d 369, 370 (Tex. 1987) (“Indigency provisions, like other appellate rules, have long been liberally construed in favor of a right to appeal.”).

The indigency rules are rooted in the principle that “[c]ourts should be open to all, including those who cannot afford the costs of admission.” *In re C.H.C.*, 331 S.W.3d 426, 429 (Tex. 2011). To require a pro se out-of-state resident asserting indigence to physically appear at a contest hearing to prove the allegations in her affidavit, without reasonably accommodating that party by means such as a telephonic hearing, undercuts the purpose and spirit of rule 20.1. *Cf. Morris v. Aguilar*, 369 S.W.3d 168, 171 (Tex. 2011) (“To require a pro se party to object to a late-filed contest to an affidavit of indigence in order to preserve error—something the party is not likely to know to do—is to eviscerate the protection Rule 20.1(f) is intended to afford.”); *Misigaro v. Bassowou*, No. 02-10-00473-CV, 2012 WL 171110, at *1 (Tex. App.—Fort Worth Jan. 19, 2012, no pet.) (mem. op.) (reciting cases holding that although inmates need not be allowed to appear personally in court, their right of access to the courts must be accommodated by affidavit, deposition, telephone, or other means).

Accordingly, we reverse the trial court’s ruling on the contests to appellant’s affidavit of indigency and remand that issue to the trial court for a new hearing in which appellant is allowed to appear telephonically to attempt to prove her alleged indigence. *See In re M.A.H.*, 98 S.W.3d at 745, 749 (Tex. App.—Waco 2003, order). Within ten days of receiving this order, the trial court shall, in

accordance with rule 20.1(i), either conduct a hearing on the contest or sign an order extending the time to conduct a hearing to a date no later than twenty days from the date it signs the order. Tex. R. App. P. 20.1(i)(2)(b), (4). The trial court clerk shall file a record of any order sustaining or denying the contest or extending the time to hold a hearing on the contest within ten days after the date of such order.

The clerk of this court is directed to transmit a copy of the order to appellant, the attorneys of record, the trial court judge, the trial court clerk, and the court reporter.

DATED October 22, 2012.

PER CURIAM

APPEAL 02-12-00285-CV
COURT ORDER

I was sued for defamation and breach of contract. The Judge ordered me to remove these supposed "defamatory" items. None of these items are defamatory. None of these items are breach of contract. This is the basis of my appeal.

I was ordered to remove these statements from sites which I control. I reply after each numbered statement with *.

I must remove these phrases from my Bat World lawsuit page.

1. They breed animals in the facility.

*Truth. Appellee stated this in trial and her website. Warden stated that appellee is breeding bats in the facility. I posted her online statements, wardens email in my site. She bragged during the trial that she has "the only captive breeding colony of insectivorous bats."

2. Pretty ironic for this group to certify Bat World Sanctuary when the health department told her to leave town and they had to gut the building and remove her belongings.

*Truth. Health Department told her to "get the bats out of town." I posted that document. Her neighbor stated in writing that the new owner gutted the building. The new owner told the City Manager that they had to remove her items. Lollar admitted in trial that they removed her items. I posted the neighbors email to the city and the city manager's response which shows this.

3. Vet recommended blood and stool tests. Lollar declined. She just wants empirical therapy. If that doesn't work, she wants to euth the dog. She refused treatment. When I was at Bat World June 19, 2010 to June 28, 2010 I saw her use her fingers to pull out one of the dog's teeth, i.e. oral surgery on dogs.

*Truth. I received her veterinary records in discovery. This is from her vet records. I did witness her pull out a dog's tooth. I posted the vet records.

4. The current method she suggests is also inhumane. The bats die of suffocation. She also forgets to mention that the drugs she suggests must be used under the direction of a veterinarian. She doesn't even administer the gas legally, humanely, or safely.

*Truth. I witnesses this. I videotaped this. Bat experts stated in the book "Bats in Captivity" that her method is inhumane and illegal. The label on the Isoflurane states it must be used with a nebulizer which she does not use. She stated she uses this method in her book. She stated this in her deposition. I posted the Iso

label which she sent to the City. I posted the statements from the expert's books. Lollar states this is how she euthanizes bats in her current book.

5. He should not be working for free for someone who commits animal cruelty.

*Truth. Not about Plaintiff but her attorney Randy Turner. Opinion. Lollar committed animal cruelty based on her actions and animal cruelty laws. Texas Veterinary Board told me she was committing animal cruelty.

6. I doubt he'll be speaking about this embarrassing little case where he is actually representing someone who commits animal cruelty and neglect.

*Truth. Not about Plaintiff but her attorney Randy Turner. Opinion. Lollar committed animal cruelty and neglect based on her actions, what I witnessed and animal cruelty laws. Texas Veterinary Board told me she was committing animal cruelty.

7. She took the money that came from the dissolution of Bonnie Bradshaw's group and bought a new silver Honda Eclipse. That money was supposed to go for animals. This is what Lollar does with money that is given to Bat World.

*Truth. She was given apx \$10-\$14K from Bonnie's group. She bought a Honda Eclipse. The money was supposed to go to animals. She stated she received the money and bought the car in deposition. I posted that online.

8. Lollar never even washed her hands before surgery, you can see dirty finger nails in the photos, no surgical garments, no mask, hat, nothing. Night and day.

*Truth. I witnessed this. I have photos and videos of this. I posted the photos and videos. Lollar also told me she has to photoshop the dirt out from under her nails in her photos.

9. Just confirmed that Amanda Lollar of Bat World Sanctuary is illegally obtaining human and animal rabies vaccinations. ...Again, breaking the law. I'm amazed she admitted to having the vaccine and buying it when she is doing it illegally.

*Truth. Lollar is not a doctor, nurse, veterinarian or pharmacist. She cannot have rabies vaccinations. She told me she had them. She showed me the animal rabies vaccinations. She instructed me to give the bats rabies vaccinations which I did. She gave me a receipt for human rabies vaccinations which she bought and had delivered to Bat World. She told me they think she's a doctor when she is not. I posted Novartis' email, her receipt for vaccinations.

10. She does not state that it died from neglect of care. She also chose to euth it instead of treating it as her vet suggested. She'd previously turned down care which her vet suggested.

*Truth. I received a copy of her vet records which prove this. I posted the vet records.

11. When I was at Bat World she told me the place where she buys her rabies vaccine thinks she's a doctor.

*Truth. She told me this. I also contacted the company and confirmed. I posted the email to/from the company.

12. Earlier in the year the vet noted the dog had major dental issues yet she didn't have the vet treat them. You know how painful it would be to have a mouth full of rotten teeth? That's animal neglect.

*Truth. I have a copy of her vet records which prove this. It would be animal neglect not to care for your pet's teeth. I posted the vet records.

13. BREAKING NEWS!!! Amanda Lollar of Bat World Sanctuary admits in writing that she and Bat World Sanctuary are being forced to leave Mineral Wells because of all the complaints to the City and Health Department.

*Truth. Amanda Lollar sent a letter to the City stating she is leaving because of all the complaints. I posted the letter Lollar sent to the City stating this.

14. The dogs rear claws are super long. There is no way she could stand. ... She has to drag herself on cement.

*Truth. I witnessed this. So did another witness who stated this in trial. I posted a photo of the dog's long claws. I posted the vet records. She admitted that the dog had major hip and knee problems.

15. She tells people to use Isoflurane illegally, inhumanely and unsafely in her book.

*Truth. She stated this in her deposition. She stated this in her book. I posted her quotes.

16. He didn't care that she admitted to illegally having the human rabies vaccination, admitted to using drugs not according to the label or that she "proudly" admitted to performing surgery.

*Truth. I believe I'm talking about her attorney not caring that she was breaking the law. This is not about Plaintiff but her attorney. She did proudly admit to performing surgery in writing and in her deposition. I posted this. She admitted to have the human rabies vaccination and not using drugs according to the label in deposition. I posted that evidence.

17. In the video Lollar takes tweezers and just pulls out the molars of a conscious bat that is fighting and biting her while it bleeds. Lollar is proud of this and posted this video in her book and online.

*Truth. She took video of this and posted it. I reposted her video. It's also in her book.

18. Pulling molars out of conscious bats is not "cutting_edge" though cutting open conscious bats might fall into that "category." Operating on bats using the drop anesthesia technique or amputating wings instead of pinning them is also not cutting edge but cave man veterinary practice.

*Truth. She took video of herself pulling molars out of conscious bats. She posted that video. I reposted it. I posted photos of her using this anesthesia technique. She admits to using this technique in her book. Bat experts state you should pin wings and not amputate them. Lollar states pinning doesn't work so she amputates. I posted those statements directly from her book.

19. Lollar is exposing people to rabies by not checking their cards.

*Truth. Lollar didn't check my card or others. That is exposing people to rabies. Randy Turner her attorney admitted he had no shots or card. Then he admitted to going into the bat enclosure. The health dept told Lollar not to let anyone near the bats if they don't have their shots and show their cards. Later Turner lied and said he was not in the cage. Then he posted a photo of himself in the cage touching a bat.

20. Her recent story about the episiotomy at the depo was that, that was not the bat's vagina and uterus being pulled out. It was the "placenta separating." It clearly was not.

*Truth. That is what she said in her deposition and trial. It was not the placenta. You clearly see the vagina being pulled out of the bat's body when she's pulling the umbilicus and placenta out. I posted video and photos.

21. She'd already yanked out the placenta which is what helped cause the prolapse, besides cutting way too much and pulling too hard. She really needs to get her vision checked. Someone with very bad vision is the last person who should be slicing into microbats.

*Truth. In the video which I posted she said "she's going to prolapse." In her book she said only cut once or twice. She cut the bat three times in the video. In the video she said she cut too much. In her book she says don't pull the umbilicus. In the video she did. She admitted she had vision issues and needed glasses in trial and her deposition. She uses a few pair of glasses which trying to perform surgery. You can see this in the photos I posted. She lost a needle in a bat she was

suturing.

22. Yeah, I look like crap in the videos but at least there are no videos of me hacking an animal to death.

*Truth. I look like crap in the videos. There are no videos of me hacking animals to death. This statement is not about Lollar but me.

23. She's been breeding her bats illegally. She's committing fraud asking for money for a project she cannot and will not do.

*Truth. She brags that her bats are breeding. That is against her permit. She is asking for money for a bat assurance colony. She has no permits for threatened or endangered bats. She suggests putting them in a building in her website. That is not what an assurance colony is.

24. She said she would use the bag for the trip then return it to Walmart for a refund. She admitted to me with an evil laugh that she does this frequently.

*Truth. She told me this while walking around Walmart.

25. Rabies complaint against Bat World Sanctuary. General sanitation laws, harboring high risk rabies animals, allowing them in downtown.

*Truth. I posted a rabies complaint against Bat World made by the City health inspector and city manager. The report stated these things. I posted the report.

26. Amanda Lollar and her buildings have been written up so many times for building violations, safety issues, rabies, histoplasmosis, no address, unsightly building, build up of guano 6-8 feet... People have been reporting her smelly building and rabid bats for over 15 years.

*Truth. I did an info act request and received 600 pages of complaints against Bat World from the City of Mineral Wells and others. The reports span 18-20 years. That is what the reports said. I posted the reports and quoted them word for word.

27. She's basically experimenting on bats. The bats are dying because she doesn't take them to the vet. That's okay because she can just go get more bats.

*Truth. She admitted in deposition she taught herself surgery through trial and error, school of life. She admitted bats sometimes die.

28. Amanda Lollar of Bat World Sanctuary found guilty of illegally breeding bats at her facility. It is a violation of her permit.

*Truth. She admitted bats are breeding in her facility. Warden emailed TPWD that

bats are breeding in her facility. She posted the genealogy in her book. She brags in her website and online that she has the ONLY captive breeding colony of insectivorous bats which isn't true. Other places breed bats, with a permit. She bragged they were breeding in trial.

29. Amanda Lollar of Bat World Sanctuary is now sending threats of extortion from Mineral Wells, Texas. Because she's sending it over the computer it's a Federal crime.

*Truth. She extorted me online. I have a copy of it showing what she wrote and that she sent it. I posted that evidence.

30. She has violated the following regulations listed on her permit. "15 a. Permit holder is prohibited from a. Propagating, selling or bartering animals or animal remains received or held under authority of this permit." She is allowing the bats to breed.

*Truth. That is cut/paste from her permit. She admitted the bats are breeding. So did the warden.

31. The complaints going back 18 years were about alleged animal cruelty, animal neglect, violations of the health code and building and safety regulations.

*Truth. I posted the actual reports.

32. The complaints stretching back 18 years were about animal cruelty, animal neglect, violations of the health code, violations of Texas Parks & Wildlife regulations, violations of the Animal Welfare Act, building violations and a report about a rabid bat biting a toddler directly next door to Bat World Sanctuary.

*Truth. I posted the actual reports, newspaper article, city and health department investigation notes.

33. Here is the disgusting photo of my face which they photoshopped semen onto. They then added this caption "Yep, screw you too, Mmmmary!" They named the file "mmmm." This is how disgusting and childish these people are.

*Truth. I posted a photo defendants made of me. That is what it said. I never said Lollar posted it. I said "they" as in defendants in my defamation case.

I must remove these URLs in their entirety meaning I must remove the pdf files.

1. An email from the warden to Texas Parks & Wildlife stating that bats are breeding in Lollar's facility.

*Truth. I didn't write the email. The warden did.

2. Amanda Lollar's 1994 manual which she wrote. She stated that she euthanizes bats by freezing them to death which is illegal and inhumane according to the AVMA and bat experts.

*Truth. I didn't write her book. It was not copyrighted. It said I could share it in whole or in part. I posted where the AVMA states that freezing bats to death is inhumane and cruel.

3. A photo that defendants made of me. They took a photo of my face and photoshopped semen on my face.

*Truth. Defendants made and posted that photo. I didn't say Lollar did it by herself.

I must remove these items from my page on my defamation lawsuit against her.

1. She's the one who handles rabid bats with her bare hands.

*Truth. She allowed me to take video of herself holding a rabid bat in her bare hands. I posted the video and stills.

I must remove this from my facebook page.

1. Update: Health Dept. forced Bat World Sanctuary to leave town. In January they gutted the building, cleaned it and removed her property.

*Truth. Lollar stated in a letter to the city she was leaving because of the complaints. I posted that letter. Her neighbor sent an email to the city saying the new owner gutted the building. City manager sent an email stating the new owner removed Lollar's personal items. Lollar admitted this in trial.

2. Amanda who runs bat sanctuary just uses her bare hands. The rabid bats even bite her.

*Truth. I showed video of Lollar holding a rabid bat in her bare hands. She admitted that the bats bite her.

I must remove this from Animal Advocates' facebook page.

1. Update: Health Dept. forced Bat World Sanctuary to leave town. In January they gutted the building, cleaned it and removed her property.

*Truth. Lollar stated in a letter to the city she was leaving because of the complaints. I posted that letter. Her neighbor sent an email to the city saying the new owner gutted the building. City manager sent an email stating the new owner removed Lollar's personal items. Lollar admitted this in trial.

I must remove this from my Google page

1. Bat World Sanctuary admits in writing they are being forced to leave the City because of all the complaints to the City and Health Dept.

*Truth. Lollar stated in a letter to the city she was leaving because of the complaints. I posted that letter. Her neighbor sent an email to the city saying the new owner gutted the building. City manager sent an email stating the new owner removed Lollar's personal items. Lollar admitted this in trial.

I must remove this from my Twitter page

1. Bat World Sanctuary admits in writing that they are being forced to leave the City because of all the complaints to the City and Health Dept.

*Truth. Lollar stated in a letter to the city she was leaving because of the complaints. I posted that letter. Her neighbor sent an email to the city saying the new owner gutted the building. City manager sent an email stating the new owner removed Lollar's personal items. Lollar admitted this in trial.

2. Update: Health Dept. forced Bat World Sanctuary to leave town. In January they gutted the building, cleaned it and removed her property.

*Truth. Lollar stated in a letter to the city she was leaving because of the complaints. I posted that letter. Her neighbor sent an email to the city saying the new owner gutted the building. City manager sent an email stating the new owner removed Lollar's personal items. Lollar admitted this in trial.

3. Amanda Lollar commits animal cruelty at Bat World Sanctuary (a link to page that doesn't exist)

*Truth. I posted photos and videos of her committing animal cruelty. Texas Veterinary Board told me she was committing animal cruelty.

I must remove this from my MySpace page

1. Health Dept. forced Bat World Sanctuary to leave town. In January they gutted the building, cleaned it and removed her property.

*Truth. Lollar stated in a letter to the city she was leaving because of the complaints. I posted that letter. Her neighbor sent an email to the city saying the new owner gutted the building. City manager sent an email stating the new owner removed Lollar's personal items. Lollar admitted this in trial.

2. Bat World Sanctuary admits in writing they are being forced to leave the City

because of all the complaints to the City and Health Dept.

*Truth. Lollar stated in a letter to the city she was leaving because of the complaints. I posted that letter. Her neighbor sent an email to the city saying the new owner gutted the building. City manager sent an email stating the new owner removed Lollar's personal items. Lollar admitted this in trial.

I am not allowed to post any video of any episiotomy made at Bat World.

*That is prior restraint which is unconstitutional. Video of her performing an episiotomy is not defamation. It is also not breach of contract. She told me to take the video. She was proud of what she was doing.

CAUSE NO. 352-248169-10

BAT WORLD SANCTUARY and
AMANDA LOLLAR
Plaintiffs,

v.

MARY CUMMINS,
Defendant

§
§
§
§
§
§
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§

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

352ND JUDICIAL DISTRICT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above-numbered and captioned cause was tried before this Court without a jury on June 11, 2012. Plaintiff, Amanda Lollar appeared in person and by attorney of record. Plaintiff, Bat World Sanctuary, appeared in person by counsel. Defendant, Mary Cummins, appeared in person.

After considering the pleadings, the evidence, and the arguments, the Court, in response to Defendant's request, makes its findings of fact and conclusions of law as follows:

Findings of Fact

1. Defendant committed defamation expressed in written or other graphic form that tended to injure Amanda Lollar's reputation and thereby exposed her to public hatred, contempt or ridicule, or financial injury; or to impeach Amanda Lollar's honesty, integrity, virtue or reputation, and thereby exposed her public hatred, ridicule, or financial injury.
2. Defendant's defamation of Amanda Lollar caused Amanda Lollar to sustain actual damages in the amount of three million dollars (\$3,000,000.00).
3. Defendant acted with malice in committing defamation against Amanda Lollar.
4. Defendant should pay exemplary damages to Amanda Lollar in the amount of three million dollars (\$3,000,000.00).
5. Defendant and Bat World Sanctuary entered into a contract on June 20, 2010.
6. Defendant breached the contract.

7. Defendant should pay Bat World Sanctuary the sum of ten thousand dollars (\$10,000.00) for the breach of contract.
8. Reasonable and necessary attorney's fees for Bat World's attorney, Randall E. Turner, is one hundred seventy six thousand seven hundred dollars (\$176,700.00).

Conclusions of Law

1. Statements published by Defendant about Amanda Lollar were defamatory.
2. Bat World Sanctuary is entitled to recover reasonable and necessary attorney's fees from Defendant.
3. Amanda Lollar is entitled to a writ of injunction under the principles of equity and the statutes of this state relating to injunctions.

SIGNED this 8 day of October, 2012.



JUDGE PRESIDING

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REPORTER'S RECORD
VOLUME 1 OF 1 VOLUMES
TRIAL COURT CAUSE NO. 352-248169-10
COURT OF APPEALS CAUSE NO. 02-12-00285-CV

BAT WORLD SANCTUARY, ET AL) IN THE 352ND JUDICIAL
)
vs.) DISTRICT COURT OF TEXAS
)
MARY CUMMINS) IN AND FOR TARRANT COUNTY

HEARING - AFFIDAVIT OF INDIGENCE

October 15, 2012

On the 15th day of October, 2012, the following proceedings came on to be heard in the above-titled and numbered cause before the Honorable William Brigham, Judge Presiding, held in Fort Worth, Texas, reported by machine shorthand utilizing computer-aided transcription.



APPEARANCES

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23 Attorney for Carolyn Gayaldo
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P R O C E E D I N G S

(Motion on Affidavit of Indigence)

1
2
3 **THE COURT:** There is scheduled an indigency
4 hearing at 1:30 today, and I do not observe that Ms. Cummins
5 is in court.

6 Is there any attorney here representing Mary
7 Cummins? (No response.)

8 Let the record reflect that Mary Cummins is not
9 in court, that no attorney has made an announcement.

10 And it's been my practice for 30 years when a
11 party does not appear to give them 15 additional minutes. So
12 we'll stand in recess for 15 minutes. It's now 1:31, until
13 about 1:45 we'll take up at that time.

14 Thank you very much.

15 *(Brief pause.)*

16 **THE COURT:** Let the record reflect that the
17 Court officer of the 352nd District Court called three times
18 for Mary Cummins.

19 And what was the response, Mr. Higgins?

20 **THE BAILIFF:** There was no response from anyone
21 in the hallway and no one approached me.

22 **THE COURT:** All right, sir. Thank you very
23 much.

24 *(Whereupon a short recess is taken.)*

25 **THE COURT:** This indecency hearing was scheduled

1 at 1:30, and the Court observed that the -- that Mary Cummins
2 was not in court. I asked the court officer to call three
3 times for her. He did and reported back to the Court at 1:35
4 that she did not respond to the answer.

5 I advised those in attendance in the Court that
6 we would wait until 1:45 to give Mary Cummins an opportunity
7 to appear. It is now 1:47, according to the -- and I'll ask
8 you the court officer, Mr. Higgins, if you'll please call one
9 more -- three times for Mary Cummins and report back to the
10 court.

11 **THE BAILIFF:** Okay, sir.

12 *(Brief pause.)*

13 **THE BAILIFF:** I called her name three times in
14 the hallway, no response.

15 **THE COURT:** Thank you very much, sir.

16 The record shall reflect that Mary Cummins has
17 not appeared for the hearing today.

18 I'll take announcements at this time.

19 **MR. TURNER:** Plaintiff, Amanda Lollar, is
20 present and ready, Your Honor, and Bat World as well.

21 **MR. PONDER:** Your Honor, Chris Ponder, Assistant
22 District Attorney, here on behalf of the Tarrant County
23 District Clerk.

24 **MR. LIVELY:** John Lively, Jr. on behalf of
25 Carolyn Gayaldo, court reporter.

1 **THE COURT:** Opening statement, Mr. Turner?

2 **MR. TURNER:** Good afternoon, Your Honor. Your
3 Honor, according to Texas Rules of Appellate Procedure
4 20.1(g), if a contest is filed to an affidavit of indigence,
5 the party who filed the affidavit of indigence must prove the
6 affidavit's allegations.

7 Since the movant in this case, Mary Cummins, has
8 the burden of proof, if she's not here to put on any evidence
9 it's our position that she has not met her burden and the
10 affidavit of indigence should be denied or rejected.

11 Thank you.

12 **MR. PONDER:** Your Honor, I'll just echo
13 Mr. Turner's argument and statement that Ms. Cummins does have
14 the burden of proof, she filed the affidavit. The contest was
15 timely filed by both the court reporter and the clerk. And we
16 would ask the Court to sustain those contests and require that
17 Ms. Cummins pay all necessary costs associated with the
18 appeal, pursuant to Rule 20.1.

19 **THE COURT:** Mr. Lively?

20 **MR. LIVELY:** John Lively, Jr. I concur with
21 Mr. Turner's statement and the Prosecutor's statements. It is
22 our contention that Ms. Cummins has failed to carry her burden
23 of proof with the Court today, and that also she has failed to
24 put on any evidence under Section 13 of the Civil Practice and
25 Remedies Code. As such, we request that her motion be denied.

1 **THE COURT:** Anything further from either party?

2 **MR. TURNER:** No, Your Honor.

3 **MR. PONDER:** Nothing more, Your Honor.

4 **MR. LIVELY:** No, Your Honor.

5 **THE COURT:** I think the record should also
6 reflect that Mary Cummins filed a motion to recuse Judge
7 Brigham in this case, and that the motion to recuse was
8 immediately referred to the Eighth Administrative Judicial
9 Region Judge, Jeff Walker. And I received in the mail
10 correspondence from Judge Walker that the motion to recuse
11 Judge Brigham was denied, and so we're proceeding on that
12 basis.

13 There being no evidence of indigency presented
14 to the Court today, the affidavit and the motion to proceed as
15 an indigent is overruled.

16 Mr. Turner, if you'll prepare the order to that
17 effect.

18 **MR. TURNER:** I will, Your Honor. Thank you.

19 **THE COURT:** Thank you very much.

20 *(Proceedings adjourned)*

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1 STATE OF TEXAS

2 COUNTY OF TARRANT

3 I, Monica J. Willenburg, Official Court Reporter
4 in and for the 352nd District Court of Texas in and for
5 Tarrant County, do hereby certify that the above and foregoing
6 contains a true and correct transcription of all portions of
7 evidence and other proceedings requested in writing by counsel
8 for the parties to be included in this volume of the
9 Reporter's Record in the above-styled and numbered cause, all
10 of which occurred in open court or in chambers and were
11 reported by me.

12 I further certify that this Reporter's Record of
13 the proceedings truly and correctly reflects the exhibits, if
14 any, offered by the respective parties, if requested.

15 I further certify that the total cost for the
16 preparation of this Reporter's Record is \$0.00.

17 WITNESS MY OFFICIAL HAND, on this the 18th of
18 October, 2012.

19

20

21 Monica J. Willenburg, CSR, RPR
22 Texas CSR No. 3386, Exp: 12/31/12
23 Official Court Reporter
352nd District Court
401 W. Belknap, 8th Floor
Fort Worth, Texas 76196
24 Telephone: (817)884-2732
email: mwillenburg@tarrantcounty.com

25

1 this reason, Case # CV-11 08081. If Appellant is denied telephonic appearance, she will
2 not be able to appear. Her right to due process of law will be denied.

3 **CONCLUSION**

4 No party in this action will suffer any prejudice if Appellant appears telephonically. A
5 previous hearing was already heard telephonically.

6 **PRAYER**

7 WHEREFORE, Appellant respectfully requests that the Court grant this Motion for
8 Telephonic Hearing.

9 Respectfully submitted,

10
11 Mary Cummins, Appellant Pro se
12 645 W 9th St, #110-140
13 Los Angeles, CA 90015-1640
14 Phone 310-877-4770
15 Email: mmmaryinla@aol.com
16 October 24, 2012

17 By:

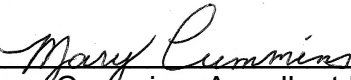


18 Mary Cummins, Appellant Pro Se
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1 **CERTIFICATE OF SERVICE**

2
3 I, Mary Cummins, hereby certify that a TRUE COPY of the above **MOTION FOR**
4 **TELEPHONIC HEARING** was served on the Appellees' Attorney of record by FAX and
5 by FIRST CLASS MAIL at

6 **RANDY TURNER**
7 Bailey & Galyen
8 1901 W. Airport Fwy
9 Bedford, Texas 76021
10 Fax: 817-545-3677
11 this 24th Day of October, 2012

12
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