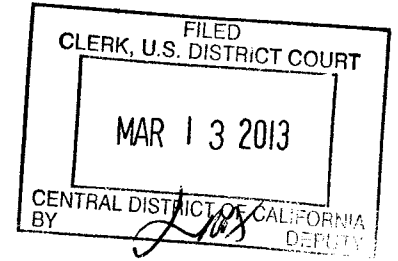


1 MARY CUMMINS  
2 Plaintiff  
3 645 W. 9th St. #110-140  
4 Los Angeles, CA 90015  
5 In Pro Per  
6 Telephone: (310) 877-4770  
7 Email: mmmaryinla@aol.com



8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11 MARY CUMMINS  
12 *Plaintiff,*  
13 *v.*  
14 ERIC SHUPPS,  
15 *Defendant.*

) Case No. CV11 08081 DMG (MANx)  
)  
)  
) **PLAINTIFF'S RESPONSE TO**  
) **DEFENDANT SHUPPS' MOTION**  
) **TO DISMISS**  
) (Filed with Declaration of Mary  
) Cummins, Exhibits)  
)  
) Date: April 5, 2013  
) Time: 9:30 a.m.  
) Dept: 7

1 **PLAINTIFF'S NOTICE OF RESPONSE TO DEFENDANT SHUPPS' MOTION**  
2 **TO DISMISS**

3 Cummins' Response to Defendant Shupps' Motion to Dismiss is based on this  
4 Notice, the attached Memorandum of Points and Authorities, Declaration of Mary  
5 Cummins, Exhibit 1, as well as the papers, pleadings and records on file in this case,  
6 on all matters under which judicial notice may be taken, and such other evidence and/  
7 or argument as may be presented to the Court at the hearing on this Motion.

8 DATED: March 13, 2012

9 Respectfully submitted,  
10 *Mary Cummins*

11 \_\_\_\_\_  
12 Mary Cummins, Plaintiff  
13 645 W. 9th St. #110-140  
14 Los Angeles, CA 90015  
15 In Pro Per  
16 Telephone: (310) 877-4770  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**MEMORANDUM OF POINTS AND AUTHORITIES**

**1. INTRODUCTION**

Plaintiff Mary Cummins (“Cummins”) asks this Court to deny Defendant Eric Shupps’ (“Shupps”) Motion to Dismiss against her on several grounds.

First, Shupps was properly served with the Third Amended Complaint (“TAC”) through his legal counsel via CACD (Doc# 140) and via mail. Shupps answered the TAC on March 8, 2013 (Doc# 142).

Plaintiff was not only given leave by this court to add the claims and allegations found in the TAC but was ordered to do so by Judge Dolly Gee February 11, 2013 (Doc# 137).

The allegations in the TAC are not mere conclusions. They are the results of subpoenas in this case for the identities of the previously unknown John Doe Defendants. This is an initial claim against Shupps since his true identity was revealed through the results of subpoena. Discovery has not taken place in this matter in relation to Shupps. There is further evidence which will show Shupps most likely authored and posted even more defamation which must be authenticated through discovery.

Shupps is indeed the author of the Tweets and Internet posts in the TAC. In his statement he admits he runs BinaryWave. On the BinaryWave.com website he links to his Twitter account @eshupps (Exhibit 2).

This Court does have general and specific personal jurisdiction over Shupps. This case is based on diversity of parties. Plaintiff Cummins resides and does business in California. Cummins was harmed in California. Defendant Shupps resides in Texas. Shupps has minimum contacts with the state of California as he has done business here.

Shupps posted these defamatory and false allegations on the Internet with intent to harm Cummins. He did this in retaliation for Cummins posting her pre-trial brief

1 showing that he is not an Expert Witness in authorship analysis or Search Engine  
2 Optimization. He is not a qualified consultant as he claimed in court.

3 Plaintiff is suing Shupps for defamation Shupps personally posted on the Internet  
4 AFTER the Texas trial. Plaintiff is not suing Shupps for any protected or privileged  
5 participation in the Texas lawsuit. These items were not part of the trial as far as  
6 Shupps was concerned. Shupps’ testimony in trial did not affect the outcome of the  
7 Texas case. Shupps admitted he had never been an “Expert Witness” in any legal case  
8 before this case in any capacity. He has no formal education. As far as Plaintiff can tell  
9 he did not even graduate from high school. He is no expert in authorship analysis let  
10 alone Search Engine Optimization and admitted such in court.

11 For these reasons, which are more fully discussed below, Cummins respectfully  
12 requests the Court to deny Defendant Shupps’ Motion to Dismiss.

13 **II. FACTUAL BACKGROUND**

14 **A. INTRODUCTION TO SHUPPS**

15 Shupps currently resides in Fort Worth, Texas and is President of Binary Wave.  
16 Shupps claims to be a “SharePoint evangelist, speaker, author, blogger, developer, and  
17 all things in between. High-tech Redneck, beer enthusiast and whisky aficionado” on  
18 his personal Twitter page (Exhibit 3). In his business website he states that he is a  
19 SharePoint software consultant and speaker. He speaks professionally about  
20 SharePoint software in California besides other states and in the UK. Shupps resided in  
21 California for years working as a software consultant.

22 **B. THE RELATIONSHIP BETWEEN PLAINTIFF AND DEFENDANT**

23 Plaintiff Cummins is the founder of non-profit organization Animal Advocates in  
24 Los Angeles, California. She has gone through the police academy and humane  
25 academy to become a Humane Officer to investigate animal cruelty. She is on the  
26 Humane Society of the United States’ National Disaster Animal Response Team which  
27 investigates animal cruelty and neglect such as cockfighting, dog fighting and animal  
28

1 hoarders. She has given presentations to law school students studying animal law about  
2 animal cruelty and neglect cases. She is also a licensed real estate appraiser in  
3 California which is how she makes her income. She conducts business in California.

4 Plaintiff attended an internship at Defendant Bat World Sanctuary (“BWS”) in June  
5 2010. A dispute did not arise over personal injuries suffered on the property at that  
6 time. Plaintiff witnessed Defendant Amanda Lollar of Bat World Sanctuary commit  
7 animal cruelty, animal neglect, violations of the Health Code, violations of the Animal  
8 Welfare Action and violations of Texas Parks & Wildlife Department wildlife  
9 rehabilitator regulations. Plaintiff witnessed Defendant Lollar who admits to not going  
10 past the ninth grade and having no training in animal care perform surgery on animals  
11 who died. Plaintiff made fair privileged reports to the authorities about the violations  
12 she witnessed which included photos and videos. Defendant Lollar and BWS were  
13 investigated by authorities. They were not cleared of any wrong doing as Defendant  
14 Lollar previously stated. Their USDA permit was cancelled. They received a letter  
15 from Texas Parks & Wildlife in 2012 stating they are violating their permit. The Health  
16 Department gave them a long list of orders to follow.

17 In retaliation for Cummins reporting Lollar to authorities, Defendant Lollar  
18 maliciously and frivolously sued Cummins for defamation and breach of contract.  
19 Cummins lost in trial. That case is now on appeal in Texas Second Court of Appeals  
20 02-12-00285-CV.

21 Defendant Shupps was supposedly an “Expert Witness” in the Texas lawsuit. After  
22 Plaintiff Cummins read his “report” and resume she filed a pre-trial brief stating that  
23 Shupps is not an “Expert Witness” and his report should be stricken, (Exhibit 4, pg 5,  
24 lines 7-25, pg 6, lines 1-9). From the pre-trial brief,

25 “Move to strike writing expert. Eric Schupps (sic) is not an expert witness in  
26 writing analysis. It is not listed on his resume. He does not even mention writing  
27 analysis. He instead lists expertise in SharePoint software, beer and whiskey.

28 The software Schupps used to analyze the writings is seriously flawed. JGAAP is a  
free beta program available through Wikipedia which only does closed class

1 attribution. As per the author ‘you could give it a copy of Moby Dick and ask it which  
2 Marx Brother wrote it, and it would have to pick one of the Marx Brothers.’ The  
3 creators of the program stated ‘there are many key problems such as the open class  
4 problem, the adversarial problem, and the co-authorship problem. It is emerging  
5 technology. It's not proven.’ It does not meet Texas Rules of Evidence.

6 Their expert Shupps took supposed samples of Defendant’s writings which were  
7 not authenticated. He does not know who wrote them. He assumed Defendant wrote  
8 them when Defendant did not write all parts of all articles. There were multiple co-  
9 authors. The software cannot be used with co-authors. This is clearly a case of garbage  
10 in, garbage out. He does not meet Texas Rules of Evidence as an expert.

11 More from the author of the software in communication to the Defendant stated, ‘I  
12 would like to tell you that your assumptions are correct in that JGAAP is not intended  
13 as a final product to be used in court cases. JGAAP is built as a test bed for different  
14 authorship attribution techniques and meant to be used to compare their effectiveness  
15 at solving different problems. There are many different methods in JGAAP which  
16 work to varying degrees and I assume if you try enough of them you could find a  
17 handful that tell you whatever result you have preconceived. Now the design of the  
18 experiment you put forward negates any results since it is not even testing your  
19 writing.’

20 The expert and software program used do not meet the standards for Texas rules of  
21 evidence for experts and analysis. This analysis should be thrown out completely. This  
22 testimony is beyond the witnesses expertise and is inadmissible. He does not have the  
23 proper education, experience and training to have acquired competence to assist the  
24 fact finder as required by the Texas Rules of Evidence 702.”

25 After the trial Plaintiff Cummins posted her pre-trial brief on the Internet.  
26 Immediately after Cummins posted the brief Shupps in retaliation started attacking her  
27 on the Internet in his personal Twitter account @eshupps. He stated these things as a  
28 private individual, not as an Expert Witness. The items he posted were not part of the  
trial.

In court room testimony Shupps admitted that he is not an expert witness, has never  
been an expert witness, has never used the authorship software before and has no proof  
of who wrote what on the Internet (Exhibit 5, pg 2, lines 8-20, pg 3, lines 2-9).

After Shupps defamed Cummins, Cummins sent Shupps two cease and desist  
emails. Shupps refused to mitigate or respond via email. He did respond via his

1 personal Twitter account. Cummins responded to that Tweet via email (Exhibit 6).  
2 Cummins then received a cryptic message “anonymously” which she believes came  
3 from Shupps, August 23, 2012 (Exhibit 7),

4 "SOMEONE WHO HAS POSTED BAD THINGS ABOUT YOU HAS AGREED  
5 TO DISMANTLE ALL THE NEGATIVE STUFF ON-LINE ABOUT YOU IF YOU  
6 DO THE SAME FIRST THE BLOGGING HAS RUINED YOUR LIFE  
7 FINANCIALLY BUT YOU CAN TAKE THIS STEP TO MUTUALLY GET RID OF  
8 ALL THE NEGATIVE STUFF WHEN YOUR NEGATIVE CRAP LEAVES THE  
9 WEB SO WILL THEIRS."

10 Cummins has NEVER posted any false information about Shupps. Cummins posted  
11 his resume, curriculum vitae, excerpts from the trial transcript of his testimony, her  
12 pre-trial brief and his bankruptcy documents. In court he professed to be a successful  
13 consultant and President of BinaryWave. In his bankruptcy documents he admitted he  
14 had barely any income and his company BinaryWave was worthless, (Exhibit 8, pg 2,  
15 social security number redacted).

16 **C. PLAINTIFF’S ALLEGATIONS AGAINST SHUPPS IN THE TAC**

17 On February 11, 2013, this Court did NOT rule that it had no personal jurisdiction  
18 over Shupps. The court ruled that jurisdiction came into question when Plaintiff added  
19 California Defendants thereby losing Federal diversity of parties. The court further  
20 ruled that any orders the Court made after Plaintiff added California defendants were  
21 valid. Therefore, the court still had jurisdiction over Shupps. The Court then instructed  
22 Plaintiff to file a TAC within 15 days of its order against Shupps. Plaintiff followed the  
23 Court’s orders and filed her TAC February 22, 2013. Plaintiff also mailed a copy to  
24 Defendant’s Counsel. Defendant’s Counsel admits they received this via CM/ECF  
25 system. They responded to the TAC. Because Plaintiff resides in California and the  
26 only remaining Defendant Shupps resides in Texas, diversity of parties has been  
27 restored.  
28

1 Plaintiff attached authenticated referenced print outs from the Internet of Shupps’  
2 defamation against her in her TAC. There are dates and authors. The posts were  
3 authenticated in Cummins’ sworn declaration. Shupps has since removed some of the  
4 content and blocked Plaintiff from seeing other content. Nevertheless the damage from  
5 Shupps’ defamation has been done. Plaintiff was fired from a job because of the false  
6 statements Shupps posted on the Internet about Plaintiff. Plaintiff can barely get any  
7 work because of the defamation posted by Defendant.

8 **D. PLAINTIFF’S SERVICE OF THE TAC**

9 Defendant’s Counsel admit they received the TAC via CACD. Plaintiff also served  
10 them via USPS. They responded to the TAC. They were therefore legally served with  
11 the TAC.

12 **III. LEGAL ARGUMENT**

13 **A. DEFENDANT SHUPPS WAS LEGALLY SERVED THE TAC THROUGH**  
14 **HIS LEGAL COUNSEL**

15 Defendant’s Counsel admitted they received the TAC via CACD. They were also  
16 served by USPS. They responded to the TAC. Therefore they were legally served with  
17 the TAC.

18 **B. PLAINTIFF’S TAC DOES STATE A CLAIM UPON WHICH RELIEF CAN**  
19 **BE GRANTED**

20 Plaintiff specifically states and shows the defamatory items made and posted by  
21 Defendant Shupps. Discovery has not yet started. Plaintiff intends to show even more  
22 proof that Defendant Shupps is the author of other defamatory items posted on the  
23 Internet.

24 ///

25 ///

26 ///

27 ///

28



**C. THIS COURT HAS PERSONAL JURISDICTION OVER SHUPPS UNDER FEDERAL DIVERSITY OF PARTIES**

The current case is Mary Cummins, a resident of California verses Eric Shupps, a resident of Texas. This is diversity of parties. Therefore this court has jurisdiction as per Federal Rules of Civil Procedure 28 USC § 1332 - Diversity of citizenship.

**D. THIS COURT HAS SPECIFIC PERSONAL JURISDICTION OVER SHUPPS**

Defendant Shupps has minimum contacts in California. Shupps conducted business in California. He conducted business here when he lived here for a few years as per his own admission. He also has voluntarily done business in California as a speaker as per his curriculum vitae which was previously submitted. Physical presence within the forum state is sufficient for an exercise of personal jurisdiction over a party, provided the party's presence is voluntary, Burnham v. Superior Court of California.

**E. PLAINTIFF'S COMPLAINT DOES NOT FALL UNDER CALIFORNIA'S ANTI-SLAPP STATUTE Code of Civil Procedure – Section 425.16**

**1. Plaintiff's TAC does not seek to chill protected speech**

Plaintiff does not seek to chill protected or privileged speech. Plaintiff only asked Defendant Shupps to remove the defamatory items which were not part of the lawsuit. The statements made by Defendant were not in the public's interest. They are not protected freedom of speech. Later Shupps stated he would remove everything he wrote if Plaintiff did the same. Plaintiff agreed but then Shupps didn't respond. Plaintiff has offered to dismiss this case against Defendant if he removes the defamatory items. Defendant's counsel stated that Plaintiff would have to agree to remove everything posted about Defendant if Defendant does the same. Plaintiff agreed January 2013 via email then Defendant didn't respond.

///

///

1 **2. Plaintiff can show a probability of prevailing on the merits**

2 Defendant Shupps defamed Plaintiff Cummins. Shupps knowingly and with malice  
3 wrote and posted false statements of facts about Plaintiff on the Internet. Plaintiff sent  
4 cease and desist emails notifying Defendant that the items he posted were false.  
5 Defendant did not remove them. Plaintiff has suffered permanent damages.

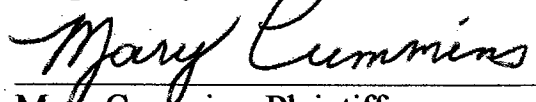
6 **3. An award of Shupps' Attorneys' Fees is not Mandated**

7 Plaintiff's TAC does not seek to chill protected or privileged speech, only  
8 defamation. Defendants speech was not protected. It was not in the public's interest.  
9 Plaintiff has shown a probability of prevailing on the merits. Therefore Shupps should  
10 not be awarded attorneys' fees.

11 **IV. CONCLUSION**

12 For the reasons articulated above, Defendant's Motion to Dismiss should be denied.  
13 Defendant was legally served. Plaintiff stated a claim upon which relief may be  
14 granted. This court has personal jurisdiction over Defendant due to diversity of parties.  
15 This court has specific personal jurisdiction over Defendant due to Defendant's  
16 contacts with the state of California. This case does not fall under California's anti-  
17 SLAPP statute because (1) it does not seek to chill protected speech, (2) Plaintiff has  
18 shown a probability of prevailing on the merits; therefore an award of attorney's fees is  
19 not mandated.

20 Respectfully submitted,

21 

22 Mary Cummins, Plaintiff

23 Dated: March 13, 2013

24 645 W. 9th St. #110-140

25 Los Angeles, CA 90015

26 In Pro Per

27 Telephone: (310) 877-4770

DECLARATION OF MARY CUMMINS

I, Mary Cummins, Plaintiff In Pro Per, declare and state:


1. I have personal knowledge of the following facts and could competently testify to these facts if called upon to do so.
2. This declaration is submitted in support of Plaintiff's Response to Defendant Shupps' Motion to Dismiss.
3. Exhibit 1 attached to my Response to Defendant's Motion to Dismiss is my declaration.
4. Exhibit 2 attached to my Response to Defendant's Motion to Dismiss is a print out of Defendant Eric Shupps' website binarywave.com. This is a true and correct copy which I downloaded March 13, 2013.
5. Exhibit 3 attached to my Response to Defendant's Motion to Dismiss is a print out of Defendant Eric Shupps' Twitter account @eshupps. This is a true and correct copy which I downloaded March 13, 2013.
6. Exhibit 4 attached to my Response to Defendant's Motion to Dismiss is a print out of my pre-trial brief filed June 6, 2012. This is a true and correct copy of the original.
7. Exhibit 5 attached to my Response to Defendant's Motion to Dismiss is a print out of the transcript of the June 12, 2012 trial in the Texas case #352-248169-10. These pages are the pages which related to Eric Shupps' testimony. This is a true and correct copy of the original which I downloaded from marycumminsgooglebomb.com March 13, 2013. I do not own this website.
8. Exhibit 6 attached to my Response to Defendant's Motion to Dismiss is an email which I sent to Defendant Shupps July 11, 2012. It is a response to his public tweet to me made the same day. This is a true and correct copy of the original.
9. Exhibit 7 attached to my Response to Defendant's Motion to Dismiss is a print out of an email which I sent to Shupps August 23, 2012. This is a true and

Exhibit 1

- 1 correct copy which I downloaded March 13, 2013. It includes the copy/paste of  
2 an anonymous email which I received that same day.
- 3 10. Exhibit 8 attached to my Response to Defendant's Motion to Dismiss is a print  
4 out of Defendant Eric Shupps' bankruptcy filing. This is a true and correct copy  
5 which I downloaded from Pacer. It indicates that Shupps states that his company  
6 BinaryWave has zero dollar value.
- 7 11. I served the TAC on Defendant Shupps upon his counsel via USPS mail.
- 8 12. I filed my TAC as per order by Judge Dolly Gee
- 9 13. The results of subpoenas showed that Shupps made the defamatory statements.
- 10 14. I am founder of Animal Advocates a non-profit organization in California.
- 11 15. I went through the police academy and Humane Academy to become a Humane  
12 Officer.
- 13 16. I am on the Humane Society of the United States' National Animal Disaster  
14 Response Team which handles animal cruelty, animal neglect investigations.
- 15 17. I have given presentations to law students studying animal law about animal  
16 cruelty and neglect cases.
- 17 18. I attended an internship at Bat World Sanctuary in Texas from June 19 to June  
18 28, 2010.
- 19 19. During my time there I witnesses animal cruelty, animal neglect, violations of  
20 the Health Code, violations of the Animal Welfare Action and violations of  
21 Texas Parks & Wildlife rehabilitation permits.
- 22 20. Upon returning home from Texas I reported Amanda Lollar and Bat World  
23 Sanctuary for the violations which I personally witnessed.
- 24 21. In retaliation for reporting Amanda Lollar and Bat World Sanctuary I was  
25 frivolously and maliciously sued for defamation.
- 26 22. That case is currently in appeal in Texas in the Second Court of Appeals. My  
27 brief is due in two weeks.
- 28

- 1 23. Amanda Lollar and Bat World Sanctuary were never cleared of any wrong doing
- 2 by government agencies.
- 3 24. Eric Shupps claimed to be an expert witness in the defamation case against me.
- 4 25. On the stand upon cross-examination by me he admitted he was not an expert
- 5 witness, has never been an expert witness, has never used the authorship
- 6 software before that case.
- 7 26. I posted my pre-trial brief after the trial concluded.
- 8 27. Shupps started defaming me after I posted the pre-trial brief.
- 9 28. I sent cease and desist emails to him asking him to cease defaming me. I
- 10 mentioned specific statements which were defamatory.
- 11 29. Shupps did not stop defaming me.
- 12 30. His defamation was not protected speech.
- 13 31. Shupps' counsel asked me what I would want to dismiss the case and remove
- 14 everything I wrote about Shupps. January 2013 I told them I would dismiss the
- 15 case and remove everything I posted about him if he removed everything he
- 16 posted about me.
- 17 32. Shupps' counsel did not reply to that email.
- 18 33. Shupps filed his motion to dismiss.

19 I declare under penalty of perjury that the foregoing is true and correct.  
20 Executed on March 13, 2013, in Los Angeles, California.

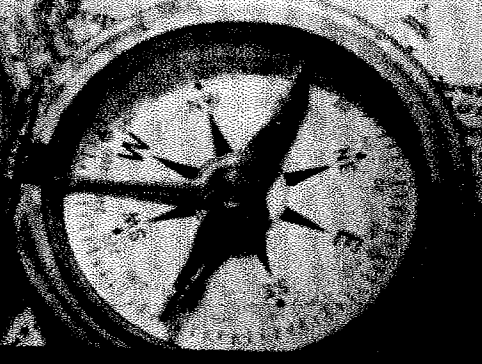
21  
22   
23 \_\_\_\_\_  
24 Mary Cummins, Plaintiff in Pro Pe

# binarywave



- Home
- Services
- Company
- News
- Events
- Blogs

Exceptional Service.  
Proven Expertise.  
Guaranteed Results.



The Global Leader in SharePoint® Managed Services

## The SharePoint Cowboy



February  
13

### JavaScript, WCF and Entity Framework Data Model for SharePoint 2013 Apps – Part 3

by Eric Shupps on 2/13/2013 9:10 AM  
Category: SharePoint Development

*The following article is the third in a three part series on data model patterns for SharePoint 2013 apps.*

In Part One of this series we reviewed the basic parameters for a data model pattern that can be used for building SharePoint 2013 apps and defined the process for creating a base data layer using the ADO.NET Entity Framework. In Part Two we explored the use of WCF to create a middle-tier service layer. In this post we will discuss the final piece of the puzzle – binding data to presentation objects in the user interface using JavaScript, JQuery and AJAX.

#### Overview

For more than a decade server-side programming languages served as the primary means for created web applications. Java and .NET accounted for the bulk of all web programming with client-side scripting languages used mostly as add-ons or enhancements. Occasionally, a creative developer would put together a pure client-side application but these were few and far between and certainly not well represented in any type of business or enterprise application. As client technologies evolved and more attention was given to the creation of libraries to expand their capabilities, these languages, led by JavaScript (or, if you are a die-hard standards conformist, ECMAScript), have taken center stage in what are referred to as "modern", "fluid", or "responsive" applications. These types of applications are defined by their near-complete lack of server-side code and the absence of visible round trips to the server (evidenced primarily by the dreaded screen-wiping postback mechanism). Adoption of client-centric web applications has been spurred in no small part by plugins such as JQuery, which obfuscate many of the tedious tasks associated with programming in a loosely-typed, uncompiled script language and give even raw beginners the ability to quickly create dynamic applications.

This programming model has its obvious limitations as part of an overall pattern that involves structured data access. While an elegant data layer built that interacts with a SQL database is directly accessible in server-side code, client-script running in the web browser has no way of interfacing with it. Furthermore, the lack of strongly-typed objects means that there is no way to directly bind UI elements to objects in the data layer. There needs to be a way for the presentation tier to talk to the data tier in a structured manner using a language that both understand. This is where AJAX and JSON come in. The former provides a mechanism for handling asynchronous calls over HTTP to remote services while the latter defines a data structure for request/response payloads (XML does the exact same thing but is much more cumbersome than JSON, which was designed as a lighter-weight alternative to endless strings of text featuring angle brackets and namespaces). In practical terms, the remote service accepts a request from the client, who specifies that JSON as the message format, and returns a response in the same format.

Once the communication methods and data structure have been identified the client application then needs a way to initiate communication and deal with the result. JQuery makes this easy, as it provides simple methods for



MVP  
Micro  
Mast  
Profe

2,008  
followers on  
Twitter.com for  
@eshupps



#### Links

- Archives
- Presentations
- Code Samples

#### Categories

- SharePoint Commu
- SharePoint Develop
- SharePoint Perform
- SharePoint Adminis
- SharePoint Testing
- SharePoint Workfor
- SharePoint Feature
- Miscellaneous

Exhibit 2

Have an account? Sign in

- Tweets
- Following
- Followers
- Favorites
- Lists



**Eric Shupps**  
@eshupps

SharePoint evangelist, speaker, author, blogger, developer, and all things in between. High-tech Redneck, beer enthusiast and whisky aficionado.

Dallas, TX and Nottingham, UK | <http://www.sharepointowboy.com>

2,389 TWEETS    140 FOLLOWING    2,008 FOLLOWERS

Follow

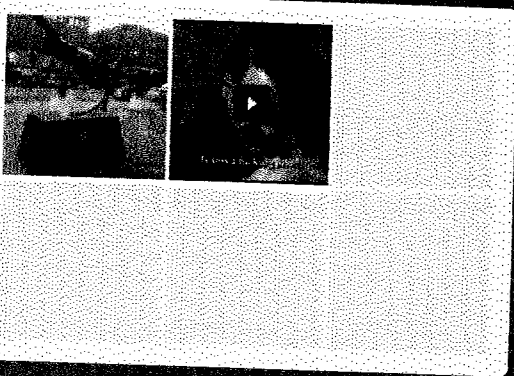
**Follow Eric Shupps**

Full name

Email

Password

**Sign up**



**Tweets**

**Eric Shupps** @eshupps Mar 9  
 @jthake Does yours ever get stuck on startup? Mine hangs after start screen every other cold boot.  
[View conversation](#)

**Eric Shupps** @eshupps Mar 8  
 @jthake So far I'm digging the Samsung 700T. Screen angle in dock ain't so good but otherwise solid machine. Could really use a kickstand.  
 Expand

**Eric Shupps** @eshupps Mar 6  
 What do VM's do when supposedly turned off? Why does stuff work fine then not work when turned back on? Deus ex machina.  
 Expand

**Tom Resing** @resing Mar 4  
 @andrewconnell @jthake @eshupps  
 blogs.msdn.com/b/somasegar/ars. VS2012 tools for SharePoint RTM  
 Retweeted by Eric Shupps  
 Expand

**Eric Shupps** @eshupps Mar 4  
 I have yet to get any of the Twitter apps for Windows 8 to work properly (most are just awful). What are y'all using?  
 Expand

**Eric Shupps** @eshupps Feb 22  
 @RobBogue @cwheeler76 Hmm...guess not. I turn those off so I never noticed that "feature".  
[View conversation](#)

- Dünya Trends · Change
- #HabemusPapam
  - #whitesmoke
  - #ReplaceMovieTitlesWithPope
  - #TheWayMarch26th
  - #PorraNombrePapa
  - Juan Pablo III
  - Orbi
  - Wes Welker to the Broncos
  - Plaza de San Pedro
  - Eurotrip

© 2013 Twitter. [About](#) [Help](#) [Terms](#) [Privacy](#)  
[Blog](#) [Status](#) [Apps](#) [Resources](#) [Jobs](#)  
[Advertisers](#) [Businesses](#) [Media](#) [Developers](#)  
[Directory](#)

<https://twitter.com/eshupps>

Exhibit 3

Cause No. 352-248169-10

**BAT WORLD SANCTUARY and  
AMANDA LOLLAR,**

**Plaintiffs,**

**vs.**

**MARY CUMMINS,**

**Defendant Pro se**

**§ IN THE DISTRICT COURT**

**TARRANT COUNTY, TEXAS**

**352nd JUDICIAL DISTRICT**

**DEFENDANT'S TRIAL BRIEF**

**Introduction**

This is an action for breach of a confidentiality contract, and defamation. The plaintiff, Amanda Lollar, claims the defendant, Mary Cummins, violated a written contract to refrain from disclosing to third parties how Lollar operates her so-called "bat sanctuary." Lollar also seeks, among other things, to hold Cummins liable for defamation because Cummins reported Lollar's activities to government authorities.

As for Lollar's claim for breach of the alleged confidentiality contract, the evidence will show it fails for at least three reasons:

1. **No Contract.** First, Lollar cannot sustain her burden of proving Cummins ever signed the alleged confidentiality contract in the first place. Cummins flatly denies signing it. Lollar, moreover, has never produced an original, and Lollar's own expert says it is unlikely that the copy Lollar produced is authentic.

2. **Unenforceable.** Second, the alleged contract is void and unenforceable to the extent it purported to prevent Cummins from reporting Lollar's activities to the authorities. As detailed below, Lollar posed a threat not just to the bats she was "rescuing," but also to the public health.

Exhibit 4



1       **3. No Damages Or Causation.** Lollar claims that she has to move out of town and  
2 build a new facility due to Cummins' alleged breach of contract. However, Lollar cannot  
3 show that Cummins' alleged breach proximately caused Lollar's supposed damages.  
4 On the contrary, the evidence establishes that Lollar's "damages" are all self-inflicted:  
5 she violated local laws, refused to comply with the City's orders, and has chosen to  
6 move rather than obey the law.

7       As for Lollar's claim for defamation, the evidence will show that it fails for following  
8 reasons:

9       **1. Privileged Statements.** Lollar cannot hold Cummins liable for reporting Lollar's  
10 activities to governmental authorities. To the extent Lollar's case is based on those  
11 statements, it fails.

12       **2. Third Parties' Statements.** Most of Lollar's defamation claim rests on statements  
13 Cummins did not make. Lollar seeks to attribute various anonymous Internet postings to  
14 Cummins. However, Cummins denies making those posts. Nor does Lollar have a  
15 scintilla of evidence indicating she did. Furthermore, Lollar told the Internet companies  
16 that could have revealed where the posts came from to destroy the records that would  
17 establish the fact one way or the other.

18       **3. Falsity.** Lollar cannot show that any of the statements Cummins actually made is  
19 false. On the contrary, the evidence – including Lollar's own statements and documents  
20 – establishes the truthfulness of all of Cummins' statements.

21       **4. No Damages And No Causation.** Lollar's defamation damages claim fails for the  
22 same reasons as her contract claim: Lollar's problems all derive from refusal to comply  
23 with the law. But Lollar's defamation damages claim also fails because the same  
24 information about her dangerous techniques was already public. Lollar's book is publicly  
25 available. A review of the literature from the animal rescue field shows that respected

1 authors have publicly criticized Lollar by name, in writing, for completely inappropriate  
2 treatment of animals.

3 5. **First Amendment.** Lollar's defamation claim also fails. Plaintiffs Amanda Lollar and  
4 Bat World Sanctuary are limited purpose public figures. Therefore they must also show  
5 that the defendant acted with actual malice, i.e., knowing that the statement was false or  
6 recklessly disregarding its falsity. The United States Supreme Court provided the  
7 definition for malice in *New York Times v. Sullivan* with these words: "knowledge that it  
8 (the published statement) was false or with reckless disregard of whether it was false or  
9 not." The court said the plaintiff must be able to prove malice existed with "convincing  
10 clarity." Plaintiffs have failed to prove this.

11 **Statement of the facts**

12 The plaintiff is Amanda Lollar. Lollar holds herself out to the public as an expert on  
13 the care and rescue of bats, and collects donations to fund her operations. She even  
14 offers internships at her program, ostensibly so others interested in rescuing these  
15 animals can learn from her supposed expertise.

16 The defendant is Mary Cummins, a licensed real estate appraiser and expert  
17 witness from Los Angeles. Besides being a real estate appraiser, Cummins volunteers  
18 her time rescuing injured animals. She is licensed by the California Department of Fish  
19 & Game and the United States Department of Agriculture (USDA) to care for small  
20 native wildlife, i.e. coyotes, bobcats, foxes, raccoons, skunks...bats. She operates a  
21 licensed care facility that is regularly inspected by authorities from the Department of  
22 Fish and Game and USDA. Cummins has over 30 years of hands on experience  
23 rescuing animals including wildlife. She has written many manuals and articles on the  
24 subject and given classes.

1 In 2010, Cummins received an email from Bat World Sanctuary about Lollar's  
2 internship program. Eager to learn more about how to rescue bats, Cummins applied to  
3 be an intern, and Lollar said yes.

4 Cummins came to Lollar's facility and, with Lollar's permission, participation and  
5 encouragement, videotaped Lollar performing various tasks. Lollar also encouraged  
6 Cummins to post those videotapes on the internet, to promote her operation and boost  
7 fundraising.

8 After observing Lollar's operations for a few days, Cummins realized Lollar was  
9 no expert at all. Cummins knew enough from her own training and licensing to realize  
10 Lollar's "techniques" had no basis in veterinary science. On the contrary, many of  
11 Lollar's techniques struck Cummins as cruelty to animals. Lollar, moreover, admitted  
12 she had no training, and had developed her "techniques" through trial and error and the  
13 school of life.

14 Cummins became concerned that Lollar's activities posed a threat not just to the  
15 poor animals who wound up in her "care," but to the public, as well. Lollar's "patients"  
16 included bats with rabies. When Cummins arrived at Bat World Sanctuary Lollar did not  
17 ask to see her pre-exposure rabies vaccination card. Lollar then instructed Cummins not  
18 to wear gloves while holding bats. Lollar then handed Cummins a bat to hold in her bare  
19 hand. Lollar then told Cummins to try to feed the bat. Lollar stated she believed the bat  
20 had rabies. Cummins could have contracted rabies at Bat World Sanctuary because of  
21 Lollar's poor instructions.

22 Cummins reported Plaintiff to the Health Department. The Health Department  
23 investigated and ended up giving Plaintiffs a long list of regulations and procedures they  
24 must follow to limit the risk of giving the public, interns and volunteers rabies. Even after  
25 Plaintiffs received these instructions they did not fully comply with the instructions.

**Evidentiary Issues**

1  
2 **1. Move to strike anonymous statements. There is no proof that Defendant made the**  
3 **posts in question. Plaintiffs destroyed records when they asked the hosts of the posts to**  
4 **delete the users along with the posts. Some of the items are articles about Plaintiffs'**  
5 **attorney Randy Turner. He is not a party to this action. Those articles should also not be**  
6 **considered in this case.**

7 **2. Move to strike writing expert. Eric Schupps is not an expert witness in writing**  
8 **analysis. It is not listed on his resume. He does not even mention writing analysis. He**  
9 **instead lists expertise in SharePoint software, beer and whiskey.**

10 **The software Schupps used to analyze the writings is seriously flawed. JGAAP is a**  
11 **free beta program available through Wikipedia which only does closed class attribution.**  
12 **As per the author "you could give it a copy of Moby Dick and ask it which Marx Brother**  
13 **wrote it, and it would have to pick one of the Marx Brothers." The creators of the**  
14 **program stated "there are many key problems such as the open class problem, the**  
15 **adversarial problem, and the co-authorship problem. It is emerging technology. It's not**  
16 **proven." It does not meet Texas Rules of Evidence.**

17 **Their expert Schupps took supposed samples of Defendant's writings which were not**  
18 **authenticated. He does not know who wrote them. He assumed Defendant wrote them**  
19 **when Defendant did not write all parts of all articles. There were multiple co-authors.**  
20 **The software cannot be used with co-authors. This is clearly a case of garbage in,**  
21 **garbage out. He does not meet Texas Rules of Evidence as an expert.**

22 **More from the author of the software in communication to the Defendant stated, "I**  
23 **would like to tell you that your assumptions are correct in that JGAAP is not intended as**  
24 **a final product to be used in court cases. JGAAP is built as a test bed for different**  
25 **authorship attribution techniques and meant to be used to compare their effectiveness**

1 at solving different problems. There are many different methods in JGAAP which work  
2 to varying degrees and I assume if you try enough of them you could find a handful that  
3 tell you whatever result you have preconceived. Now the design of the experiment you  
4 put forward negates any results since it is not even testing your writing."

5 The expert and software program used do not meet the standards for Texas rules of  
6 evidence for experts and analysis. This analysis should be thrown out completely. This  
7 testimony is beyond the witnesses expertise and is inadmissible. He does not have the  
8 proper education, experience and training to have acquired competence to assist the  
9 fact finder as required by the Texas Rules of Evidence 702.

10 3. Move to strike hand writing expert Linda James. This witness rewrote her original  
11 report. Defendant requested a copy of this report and only received it late May 2012.  
12 The report was missing the exhibits. Defendant requested the signatures exhibits twice  
13 but Plaintiffs' refused to give them to Defendant. Defendant's expert witness and  
14 Defendant were not able to review the signatures used before the trial.

15 Move to strike hand writing expert's report. The supposed expert never saw the  
16 original signatures. Expert relied on copies. Copies are never the exact same size and  
17 clarity as the original. The signatures were never authenticated. Defendant admitted to  
18 signing one document in her August 2011 deposition. That signature was not used in the  
19 analysis. They only used unauthenticated signatures. The expert dated the signature on  
20 Defendant's driver's license as 2009 when it was signed in 2005. Defendant stated this  
21 in her deposition to Plaintiffs' attorney. He did not give true information to the expert.  
22 The color copy provided is four times the size of the actual license and signature.

23 The expert merely stated that it is "probable" that the signature on the contract was  
24 made by Defendant. "Probable" means in the expert's own words "it falls short of the  
25 'virtually certain' degree of confidence." Expert further states that there is not even a

1 "strong probability" that the signature on the contract was made by the Defendant.

2 "Strong probability" would only mean "some critical feature or quality is missing so that  
3 an identification is not in order." The expert has not identified the Defendant as the  
4 person who signed the contract. That makes the report useless. It does not meet Texas  
5 Rules of Evidence.

6 4. Move to strike Plaintiffs' supposed damages. Amanda Lollar claims and computes  
7 damages for defamation. Lollar is not an expert witness in the computation of damages  
8 for defamation. Lollar pulled the \$2,000,000 figure out of thin air. Amanda Lollar claims  
9 damages for the cost to sell, build a new location and move. Lollar is not an expert  
10 witness in real estate valuation, construction costs and relocation costs. The only  
11 reason Lollar "has" to move is her refusal to comply with local laws in regard to the  
12 health code and sanitation. Lollar told the City she would be moving before Defendant  
13 ever met Lollar. Lollar has not yet moved out of the City and may never move out.

14 5. Move to strike Plaintiffs' videos of depositions. Plaintiff Amanda Lollar and her  
15 husband Larry Crittenden took the videos of the deposition. They are not independent  
16 third parties. They did not use professional video cameras or audio microphones. The  
17 images and sound are not clear. Large portions of both video camera's videos are  
18 missing including almost the entire second half of the wide angle view. There was no  
19 chain of possession. The video was not time/date stamped. The videographer did not  
20 state on camera the tape number, date, time, case, parties, parties present or any other  
21 mandatory identification. The original memory card was recorded over. The video does  
22 not conform to Texas Rules of Evidence.

23 6. Move to strike statements from Defendant's reports, complaints, communications  
24 with government agencies, authorities in regard to Plaintiff. These items are privileged  
25 as a fair report.

1       7. Move to strike Defendant's communications, interactions with Defendant's counsel  
2 Neal Callaway. These items are attorney/client privileged.

3       8. Move to strike Amanda Lollar as a supposed "bat expert." Plaintiff and supposed  
4 "bat expert" Lollar did not go past the ninth grade as per her own admission. She has  
5 not received any formal training in animal care. As per her own admission she learned  
6 what she knows through "trial and error" and the "school of life." She stated she taught  
7 herself how to perform surgery on bats. In her original 1994 manual she contradicts  
8 herself and states "only veterinarians should perform surgery on bats." She is clearly not  
9 an expert on bats. In fact in certain bat veterinary books true bat experts have stated  
10 that her methods are flawed. She does not meet Texas Rules of Evidence as an expert.

11  
12                                                           Respectfully submitted,

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


19  
20                                                           By:   
21                                                           Mary Cummins, Defendant Pro Se  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATE OF SERVICE**

I, Mary Cummins, hereby certify that a TRUE COPY of the above DEFENDANT'S TRIAL BRIEF was served on the Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at

Randy Turner  
Bailey & Galyen  
1901 W. Airport Freeway  
Bedford, TX 76021  
Fax: 817-545-3677  
this 6<sup>th</sup> Day of June, 2012

  
Mary Cummins, Defendant Pro se  
645 W 9<sup>th</sup> St, #110-140  
Los Angeles, CA 90015-1640  
Phone 310-877-4770  
Email: [mmmaryinla@aol.com](mailto:mmmaryinla@aol.com)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S RECORD  
CAUSE NO. 352-248169-10  
BAT WORLD SANCTUARY, ET AL.\* IN THE DISTRICT COURT  
\*  
\*  
VS.\* 352ND DISTRICT COURT  
\*  
\*  
\*  
MARY CUMMINS \* TARRANT COUNTY, TEXAS

\*\*\*\*\*  
EXCERPT ON TRIAL ON MERITS  
\*\*\*\*\*

On the 12th day of June, 2012, the following  
proceedings came on to be heard in the above-entitled  
and numbered cause before the Honorable William Brigham,  
Judge Presiding, held in Tarrant County, Texas.  
Proceedings reported by machine shorthand.  
CAROLYN H. GAYALDO, CSR  
Deputy Official Reporter  
352nd District Court  
Tarrant County, Texas

*Exhibit 5*

1 the search relevance for those content. It was a  
2 malicious campaign to affect the online reputation of  
3 Bat World.

4 MR. TURNER: Thank you. Pass the  
5 witness.

6 **CROSS-EXAMINATION**

7 BY MS. CUMMINS:

→ 8 Q. I took a look at your resume, and it states  
9 that you are basically an expert in Share Point software  
10 also in fine whiskey and beer. I did not see --

11 THE REPORTER: And also what --

12 Q. (BY MS. CUMMINS) Fine whiskey and beer.

13 I did not see in your resume that you  
14 have been an expert witness when it comes to authorship  
15 analysis. Have you ever given expert witness testimony  
16 in a court of law?

17 A. First of all, it doesn't say beer or whiskey  
18 on my resume any where. That was picked up from a  
19 social media site. Second of all, no, I have not  
20 testified as an expert witness.

21 Q. Do you believe that you are an expert witness  
22 when it comes to the analysis of authorship?

23 A. Oh, in this case, I certainly do. I spent a  
24 lot of time looking for material on other websites  
25 that's been picked up from my own and from my

1 associates.

→ 2 Q. Have you ever been an expert witness in  
3 deposition for authorship?

4 A. No.

5 Q. Have you ever been an expert witness for  
6 authorship before?

7 A. No.

8 Q. So this is your first time?

→ 9 A. Yes.

10 Q. Okay. Now, you stated that you took articles  
11 from my blogs and used them as my own articles?

12 A. That is correct.

13 Q. So you believe every word that is written in  
14 my blogs I wrote it personally?

15 A. The materials on blog sites, first of all, had  
16 your name appended to it and it appeared on your  
17 websites, so you're responsible for it in one fashion or  
18 another. In addition a number of your articles that I  
19 took, mentioned where you were at specific events in Los  
20 Angeles, and there is no question that you were the  
21 individual that wrote the content.

22 Q. You don't think it's possible that there are a  
23 few people who take care of my blog and we all write  
24 articles?

25 A. Of course, it's possible, but they weren't at

1 investigated that. I don't have any proof, and I'm not  
2 claiming that you're the author of that blog. What I do  
3 know is that the material that I'm convinced that you  
4 authored was distributed to that blog as a way of  
5 increasing link density and effecting the results  
6 against Bat World.

7 Q. Let me ask you specifically. Do you believe I  
8 posted on Working to Help Animals blog?

9 A. Oh, I do. In fact, I believe you made a  
10 comment on that blog on May 8th of 2011, that was then  
11 elevated into a full blog post using material copied  
12 from Indybay -- it would have been Indybay number one or  
13 number two.

14 Q. A few last questions. You stated earlier that  
15 this is the first time you've been an expert witness in  
16 a court of law, correct?

17 A. Correct.

18 Q. How many other times have you done authorship  
19 analysis of online content? How many other reports have  
20 you done for clients for pay?

21 A. For clients for pay. None.

22 Q. So this is the first time you've done one of  
23 these for a client, and it's the first time you've been  
24 an expert witness in court, correct?

25 A. That is correct. That does not mean it's the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF TEXAS )  
COUNTY OF TARRANT )

I, Carolyn Hawks-Gayaldo, Deputy Official Reporter in and for the 352nd District Court of Tarrant County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

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

I further certify that the total cost for the preparation of this Reporter's Record is \$478.50 and has been paid by Plaintiffs.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WITNESS MY OFFICIAL HAND on this the 19th day of  
June, 2012.

/s/Carolyn H. Gayaldo  
CAROLYN H. GAYALDO CSR 7181  
EXPIRATION DATE 12/31/13  
Deputy Official Court Reporter  
352nd District Court  
Tarrant County, Texas  
Allied Court Reporters  
5208 Airport Freeway, Suite 105  
Fort Worth, Texas 76117  
(817) 335-5568

6

From: Mary Cummins <MMMARYinLA@AOL.COM>  
Subject: I removed it  
Date: July 11, 2012 11:11:17 AM PDT  
To: eshupps@binarywave.com  
1 Attachment, 5.4 KB



I removed the tweets and blog. Then you and Amanda tweeted even more and posted new blogs. I then returned the tweets and blog post. They were down for a day yet you continued.

I amended my complaint. Your libelous tweets are now part of the CA lawsuit. I can amend the complaint again to add you as a defendant.

I posted the truth about you. You on the other hand are not posting the truth. I was not found in criminal contempt of court. That is libel per se. I've never been charged with or convicted of cyberstalking. I've never been charged with or convicted of any crime in my life.

@MMMARYinLA What truce? U sent me cease & desist after all the evil things YOU posted about me & my family. Remove it ALL then we'll talk.

Mary Cummins  
MMMARYinLA@AOL.COM



Exhibit 6

From: Mary Cummins <MMMARYINLA@AOL.COM>  
Subject: Cummins v Lollar - Fwd: BLOGGING OFFER  
Date: August 23, 2012 7:38:21 PM PDT  
To: Randy Turner <turner@galyen.com>, Dean Rocco <roccod@jacksonlewis.com>, sanctuary@batworld.org, eshupps@binarywave.com  
1 Attachment, 5.4 KB



This can only be Eric Shupps or Amanda Lollar both of whom are defendants in my defamation case. Shupps was recently notified of my WordPress court order. You need to tell me which one of you is making this offer.

Turner, wherever did you find this Internet legal "expert?" He doesn't even know the definition of a Google bomb besides the fact that he's never been an expert before. He also knows nothing of authorship analysis and he used free beta software which specifically states it cannot be used for legal cases. You should ask for your money back.

Begin forwarded message:

From: "Anonymous Remailer (austria)" <mixmaster@remailer.privacy.at>  
Date: August 23, 2012 3:30:59 PM PDT  
To: MMMARYINLA@AOL.COM  
Subject: BLOGGING OFFER

SOMEONE WHO HAS POSTED BAD THINGS ABOUT YOU HAS AGREED TO DISMANTLE ALL THE NEGATIVE STUFF ON-LINE ABOUT YOU IF YOU DO THE SAME FIRST  
THE BLOGGING HAS RUINED YOUR LIFE FINANCIALLY BUT YOU CAN TAKE THIS STEP TO MUTUALLY GET RID OF ALL THE NEGATIVE STUFF  
WHEN YOUR NEGATIVE CRAP LEAVES THE WEB SO WILL THEIRS

Mary Cummins  
MMMARYinLA@AOL.COM



Exhibit 7



**United States Bankruptcy Court  
Northern District of Texas**

**Voluntary Petition**

Name of Debtor (if individual, enter Last, First, Middle): <b>Shupps, Eric Alan</b>	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all) <b>XXX-XX-XXXX</b>	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all)
Street Address of Debtor (No. and Street, City, and State): <b>12040 Vista Ranch Way Fort Worth, TX</b>	Street Address of Joint Debtor (No. and Street, City, and State):
ZIP Code <b>76179</b>	ZIP Code
County of Residence or of the Principal Place of Business: <b>Tarrant</b>	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address):	Mailing Address of Joint Debtor (if different from street address):
ZIP Code	ZIP Code

Location of Principal Assets of Business Debtor (if different from street address above):

<p align="center"><b>Type of Debtor</b> (Form of Organization) (Check one box)</p> <p><input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i></p> <p><input type="checkbox"/> Corporation (includes LLC and LLP)</p> <p><input type="checkbox"/> Partnership</p> <p><input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)</p>	<p align="center"><b>Nature of Business</b> (Check one box)</p> <p><input type="checkbox"/> Health Care Business</p> <p><input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B)</p> <p><input type="checkbox"/> Railroad</p> <p><input type="checkbox"/> Stockbroker</p> <p><input type="checkbox"/> Commodity Broker</p> <p><input type="checkbox"/> Clearing Bank</p> <p><input type="checkbox"/> Other</p> <hr/> <p align="center"><b>Tax-Exempt Entity</b> (Check box, if applicable)</p> <p><input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).</p>	<p align="center"><b>Chapter of Bankruptcy Code Under Which the Petition is Filed</b> (Check one box)</p> <p><input checked="" type="checkbox"/> Chapter 7</p> <p><input type="checkbox"/> Chapter 9</p> <p><input type="checkbox"/> Chapter 11</p> <p><input type="checkbox"/> Chapter 12</p> <p><input type="checkbox"/> Chapter 13</p> <p><input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding</p> <p><input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding</p> <hr/> <p align="center"><b>Nature of Debts</b> (Check one box)</p> <p><input checked="" type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."</p> <p><input type="checkbox"/> Debts are primarily business debts.</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p align="center"><b>Filing Fee</b> (Check one box)</p> <p><input checked="" type="checkbox"/> Full Filing Fee attached</p> <p><input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.</p> <p><input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.</p>	<p align="center"><b>Chapter 11 Debtors</b></p> <p>Check one box:</p> <p><input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).</p> <p><input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).</p> <p>Check if:</p> <p><input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (amount subject to adjustment on 4/01/13 and every three years thereafter).</p> <p>Check all applicable boxes:</p> <p><input type="checkbox"/> A plan is being filed with this petition.</p> <p><input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<p><b>Statistical/Administrative Information</b></p> <p><input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors.</p> <p><input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.</p>	<p><b>THIS SPACE IS FOR COURT USE ONLY</b></p>
<p><b>Estimated Number of Creditors</b></p> <p><input checked="" type="checkbox"/> 1-49    <input type="checkbox"/> 50-99    <input type="checkbox"/> 100-199    <input type="checkbox"/> 200-999    <input type="checkbox"/> 1,000-5,000    <input type="checkbox"/> 5,001-10,000    <input type="checkbox"/> 10,001-25,000    <input type="checkbox"/> 25,001-50,000    <input type="checkbox"/> 50,001-100,000    <input type="checkbox"/> OVER 100,000</p>	
<p><b>Estimated Assets</b></p> <p><input type="checkbox"/> \$0 to \$50,000    <input type="checkbox"/> \$50,001 to \$100,000    <input checked="" type="checkbox"/> \$100,001 to \$500,000    <input type="checkbox"/> \$500,001 to \$1 million    <input type="checkbox"/> \$1,000,001 to \$10 million    <input type="checkbox"/> \$10,000,001 to \$50 million    <input type="checkbox"/> \$50,000,001 to \$100 million    <input type="checkbox"/> \$100,000,001 to \$500 million    <input type="checkbox"/> \$500,000,001 to \$1 billion    <input type="checkbox"/> More than \$1 billion</p>	
<p><b>Estimated Liabilities</b></p> <p><input type="checkbox"/> \$0 to \$50,000    <input type="checkbox"/> \$50,001 to \$100,000    <input checked="" type="checkbox"/> \$100,001 to \$500,000    <input type="checkbox"/> \$500,001 to \$1 million    <input type="checkbox"/> \$1,000,001 to \$10 million    <input type="checkbox"/> \$10,000,001 to \$50 million    <input type="checkbox"/> \$50,000,001 to \$100 million    <input type="checkbox"/> \$100,000,001 to \$500 million    <input type="checkbox"/> \$500,000,001 to \$1 billion    <input type="checkbox"/> More than \$1 billion</p>	

Exhibit 8

In re Eric Alan Shupps

Case No. \_\_\_\_\_

Debtor

**SCHEDULE B - PERSONAL PROPERTY**  
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)		<b>Scholars Edge 529 account - market value estimated</b>	<b>C</b>	<b>288.00</b>
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	<b>X</b>			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.		<b>The Egroup, LLC - 100% of membership interesst - debtor believes this asset has no market value</b>	<b>C</b>	<b>0.00</b>
		<b>Binary Wave, Inc. - debtor owns 50% of shares - debtor believes this asset has no market value</b>	<b>C</b>	<b>0.00</b>
14. Interests in partnerships or joint ventures. Itemize.	<b>X</b>			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	<b>X</b>			
16. Accounts receivable.	<b>X</b>			
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	<b>X</b>			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	<b>X</b>			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	<b>X</b>			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	<b>X</b>			
<b>Sub-Total &gt;</b>				<b>288.00</b>
(Total of this page)				

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

PROOF OF SERVICE BY MAIL  
(FRCivP 5 (b)) or  
(CCP 1013a, 2015.5) or  
(FRAP 25 (d))

I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles, California 90015-1640. I am over the age of eighteen years.

I further declare that on the date hereof I served a copy of:

**PLAINTIFF'S RESPONSE TO DEFENDANT SHUPPS' MOTION TO DISMISS**

on the following interested parties by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at 645 W. 9th St. #110-140, Los Angeles, CA 90015-1640.

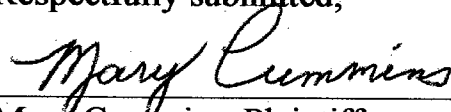
Dean A. Rocco  
Jackson Lewis LLP  
725 S. Figueroa, # 2500  
Los Angeles, CA 90017

Sandra McMullen  
Jackson Lewis LLP  
725 S. Figueroa, #2500  
Los Angeles, CA 90017

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed this day, March 13, 2013, at Los Angeles, California.

Respectfully submitted,



Mary Cummins, Plaintiff

Dated: March 13, 2013  
645 W. 9th St. #110-140  
Los Angeles, CA 90015