

Cause No. 352-248169-10

**BAT WORLD SANCTUARY and
AMANDA LOLLAR,**

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

§ IN THE DISTRICT COURT

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TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

DEFENDANT’S RESPONSE TO JUDGE MARK PITTMAN’S COURT ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant responds to Judge Mark Pittman’s court order (Exhibit 1) signed May 26, 2015 which was emailed to Defendant today May 27, 2015 before the next hearing which is tomorrow May 28, 2015. This order was not served through the efiletexas.gov file and serve system.

Introduction

Defendant Mary Cummins is an indigent, out of state, pro se party. May 15, 2015 Defendant filed Defendant’s Response to Plaintiffs’ Third Motion to Compel Post Trial Discovery Responses, Motion for Telephonic Appearance with FIAT.

The order as written states that the Judge will only communicate with parties in hearings with all parties physically present (Exhibit 1, pg 2, first paragraph). Defendant stated in email attached to Exhibit 1 and in Motion for Telephonic Hearing filed that Defendant cannot be physically present in the hearing as Defendant does not have one penny to pay for air fare, hotel and has a back injury which prevents her from traveling. To deprive Defendant of a telephonic hearing would deprive her of her right to a fair trial, hearing.

Previously this court under Judge William Brigham denied, failed to rule on a motion for telephonic appearance. Previously the court approved telephonic appearance and Defendant appeared in this court telephonically. Defendant lost the next hearing because Defendant was not allowed to appear telephonically.

Defendant appealed that decision to the Second Court of Appeals of Texas. They ruled in their order (Exhibit 2) that Judge William Brigham “abused his discretion” in denying the telephonic appearance. Specially the appeal court stated, “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.” The case was remanded to this trial court for a new hearing in which appellant was allowed to appear telephonically. Defendant won that hearing and was declared indigent.

Defendant emailed the court coordinator asking how to file under seal (Declaration). The court clerk then replied cc'd to the Judge, Court coordinator and Clerk. Defendant replied all to that email thinking that was proper. The court could have cc'd Plaintiffs but didn't. Everything in that email is also contained in Defendant's previous reply.

Prayer

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that the Court alter the May 26, 2015 order to state that parties may communicate via telephonic hearing.

Respectfully submitted,




Mary Cummins, Defendant Pro se
645 W 9th St, #110-140
Los Angeles, CA 90015-1640
Phone 310-877-4770
Email: mmmaryinla@aol.com

DECLARATION OF MARY CUMMINS

I, MARY CUMMINS, declare under penalty of perjury under the laws of the States of California and Texas that the foregoing is true and correct, and that I could and would testify thereto as herein if called upon to do so, based upon my personal knowledge of the facts set forth herein.

1. I am indigent, have no job, don't own a car, any real estate, don't have a bank account, trust, trust account, have no assets, don't even own a watch and am permanently physically disabled from a fall suffered on Plaintiffs' premises.
2. I emailed the court coordinator asking how to file under seal May 13, 2015.
3. Juanita Vega replied to me cc'd to Linda Blair, Mark t Pittman and Kelu Kerr.
4. I only previously had Linda Blair's email address.
5. I replied to Juanita Vega cc'd to add thinking that was what was expected of me as the email was cc'd and not bcc'd.
6. May 20, 2015 I replied all to that email again asked if my documents were received, who would be the judge for the hearing, will the telephonic hearing be allowed.
7. No one replied to that email, by filing or by phone.

Executed on May 27, 2015 in Los Angeles, California.

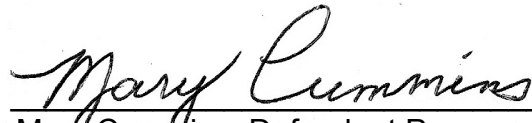
By: 
Mary Cummins

CERTIFICATE OF SERVICE

I, Mary Cummins, hereby certify that a TRUE COPY of the above **DEFENDANT'S RESPONSE TO JUDGE MARK PITTMAN'S COURT ORDER** was served on the Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at

RANDY TURNER

Bailey & Galyen
1901 W. Airport Fwy
Bedford, Texas 76021
this 27th day of May 2015



Mary Cummins, Defendant Pro se
May 27, 2015

CAUSE NO. 352-248169-10

BAT WORLD SANCTUARY and
AMANDA LOLLAR
Plaintiffs,

v.

MARY CUMMINS,
Defendant

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IN THE DISTRICT COURT

352ND JUDICIAL DISTRICT


TARRANT COUNTY, TEXAS

ORDER

On May 13 and 20, 2015, *pro se* Defendant Mary Cummins attempted to communicate with the Judge of this Court via email without copying or contacting counsel for Plaintiffs Bat World Sanctuary and Amanda Lollar. Defendant is strongly admonished that such *ex parte* communications are wholly improper and will not be tolerated. Further, although Defendant is proceeding *pro se*, she is advised that even *pro se* parties are required to abide by the Texas Rules of Civil Procedure, the Local Rules of Tarrant County, and the proper standards of conduct in the 352nd District Court. See, e.g., *Boswell v. Honorable Governor of Texas*, 138 F. Supp. 2d 782 (N.D. Tex. 2000) (Mahon, J.) (“Even *pro se* litigants . . . must abide by the . . . Rules of Civil Procedure.”). A parties’ failure to abide by these rules and standards of behavior may result in sanctions being imposed by the Court.

Accordingly, it is hereby **ORDERED** that the improper emails the Court received from Defendant on May 13 and May 20, 2015 are attached hereto and are to be made part of the record.

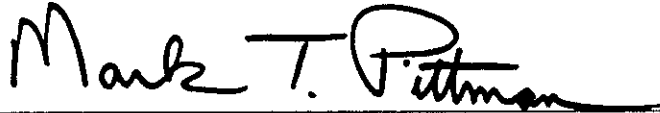
It is further **ORDERED** that Defendant immediately cease all communications with the Judge of this Court without the presence and/or consent of counsel for Plaintiffs.

 E-MAILED
5.20.15 [Signature]

It is further **ORDERED** that all future communications with the Judge of this Court shall be conducted either in hearings with all parties and or their representatives physically present and attending in person or in written documents appropriately filed as a part of the Court's record.

It is further **ORDERED** that all the parties shall copy the opposing party on all future written communications with the Court and all future written communications by the parties shall be filed by the Clerk of the Court and become part of the Court's record.

Signed this 26th day of May, 2015.

A handwritten signature in black ink that reads "Mark T. Pittman". The signature is written in a cursive style with a large, looped initial "M".

MARK T. PITTMAN
JUDGE PRESIDING

Juanita R. Vega

From: Mary Cummins
Sent: Wednesday, May 20, 2015 7:52 PM
To: Juanita R. Vega
Cc: Linda Blair; Mark T. Pittman; Kelu Kerr
Subject: Re: 352-248169-10 Fiat 5/28/15 3:30pm Pltf Mot Compel

I efiled my reply. It says status received. Were my documents received properly?

I will not physically be in the court room. I can only appear by phone as I have no money to fly and have a severe back injury. Will the telephonic appearance be allowed? Who will be the Judge? Brigham or Pittman? If it's Brigham, I will need to file motion to recuse. He's obviously extremely biased against me as per appeals court two orders stating he abused his discretion. Thanks.

Mary Cummins

On May 13, 2015, at 12:37 PM, Juanita R. Vega wrote:

You will need to talk to the court coordinator Linda Blair about these issues.

From: Mary Cummins
Sent: Wednesday, May 13, 2015 2:33 PM
To: Juanita R. Vega
Subject: Re: 352-248169-10 Fiat 5/28/15 3:30pm Pltf Mot Compel

I will be filing a reply under seal. What is the process for that? I will just write "UNDER SEAL" across the top and USPS mail it to you. I will also be filing motion for telephonic hearing. Not only do I have a severe back injury but I am penniless currently receiving public assistance. I have no home, no assets, no car, no bank accounts, nothing. Plaintiffs know this, so does this court. This court found me to be indigent. So did the appeals and supreme court. I am totally destitute because of his frivolous and meritless case filed against me. I reported Amanda Lollar to government agencies. They were fair and privileged reports. Every word stated was the absolute truth backed up by facts, videos and photos. Government agencies investigated and agreed with the findings of my reports. Lollar lost their permit and was severely reprimanded by quite a few government agencies. I never defamed anyone. At least the Appeals court reversed the frivolous breach of contract, legal fees claims.

On May 13, 2015, at 12:01 PM, Juanita R. Vega wrote:

<35224816910000306.TIF>

Juanita R. Vega

From: Mary Cummins
Sent: Wednesday, May 13, 2015 2:33 PM
To: Juanita R. Vega
Subject: Re: 352-248169-10 Fiat 5/28/15 3:30pm Pltf Mot Compel

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On May 13, 2015, at 12:01 PM, Juanita R. Vega wrote:

<35224816910000306.TIF>

Mary Cummins

Begin forwarded message:

From: "Juanita R. Vega"
Date: May 13, 2015 12:37:42 PM PDT
To: Mary Cummins
Cc: Linda Blair >, "Mark T. Pittman"
>, Kelu Kerr
Subject: RE: 352-248169-10 Fiat 5/28/15 3:30pm Pltf Mot Compel

You will need to talk to the court coordinator Linda Blair about these issues.

From: Mary Cummins
Sent: Wednesday, May 13, 2015 2:33 PM
To: Juanita R. Vega
Subject: Re: 352-248169-10 Fiat 5/28/15 3:30pm Pltf Mot Compel

I will be filing a reply under seal. What is the process for that? I will just write "UNDER SEAL" across the top and USPS mail it to you. I will also be filing motion for telephonic hearing. Not only do I have a severe back injury but I am penniless currently receiving public assistance. I have no home, no assets, no car, no bank accounts, nothing. Plaintiffs know this, so does this court. This court found me to be indigent. So did the appeals and supreme court. I am totally destitute because of his frivolous and meritless case filed against me. I reported Amanda Lollar to government agencies. They were fair and privileged reports. Every word stated was the absolute truth backed up by facts, videos and photos. Government agencies investigated and agreed with the findings of my reports. Lollar lost their permit and was severely reprimanded by quite a few government agencies. I never defamed anyone. At least the Appeals court reversed the frivolous breach of contract, legal fees claims.

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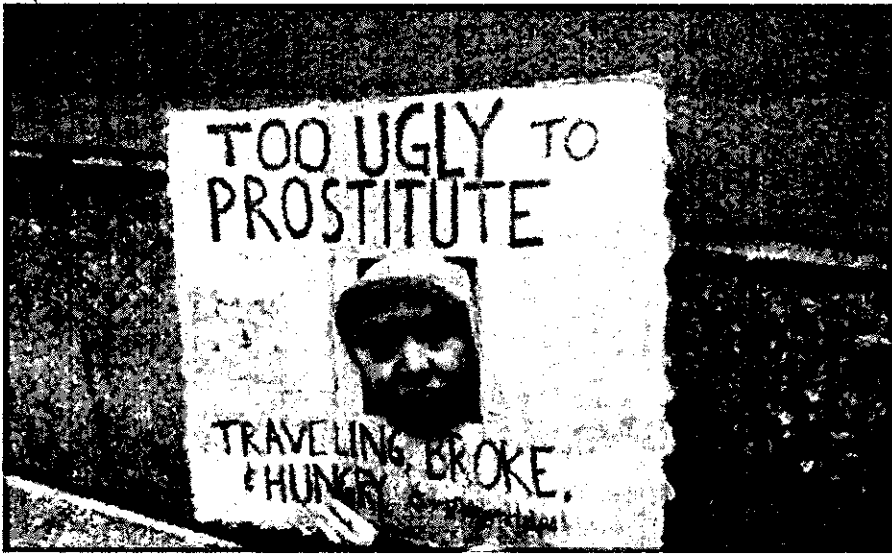
Juanita R. Vega

From: Kelu Kerr
Sent: Wednesday, May 13, 2015 3:33 PM
To: Juanita R. Vega
Subject: FW: 352-248169-10 Fiat 5/28/15 3:30pm Pltf Mot Compel

From: Mary Cummins
Sent: Wednesday, May 13, 2015 3:11 PM
To: Linda Blair; Linda Blair; Mark T. Pittman; Kelu Kerr
Subject: Fwd: 352-248169-10 Fiat 5/28/15 3:30pm Pltf Mot Compel

I am not asking for legal advice. I am asking for you the court to advise me of my legal rights. There are no Judge's court instructions for this court telling people how to file under seal. I must file under seal as Randy Turner and his client Amanda Lollar will post my motion, confidential documents online. They have made over 400 websites, blogs, pages devoted solely to attacking me and posting confidential data and information received through this case in discovery. I filed motions for contempt but the Judge ruled the Plaintiffs must admit they did this and of course they won't. This is Randy Turner's page devoted to me in his lawyer website. Most of what is posted is totally false and Turner knows this as he is a lawyer. I'm not even a party in the lawsuits he posts. <http://www.randyturner.com/index.php/randys-cyber-stalker>

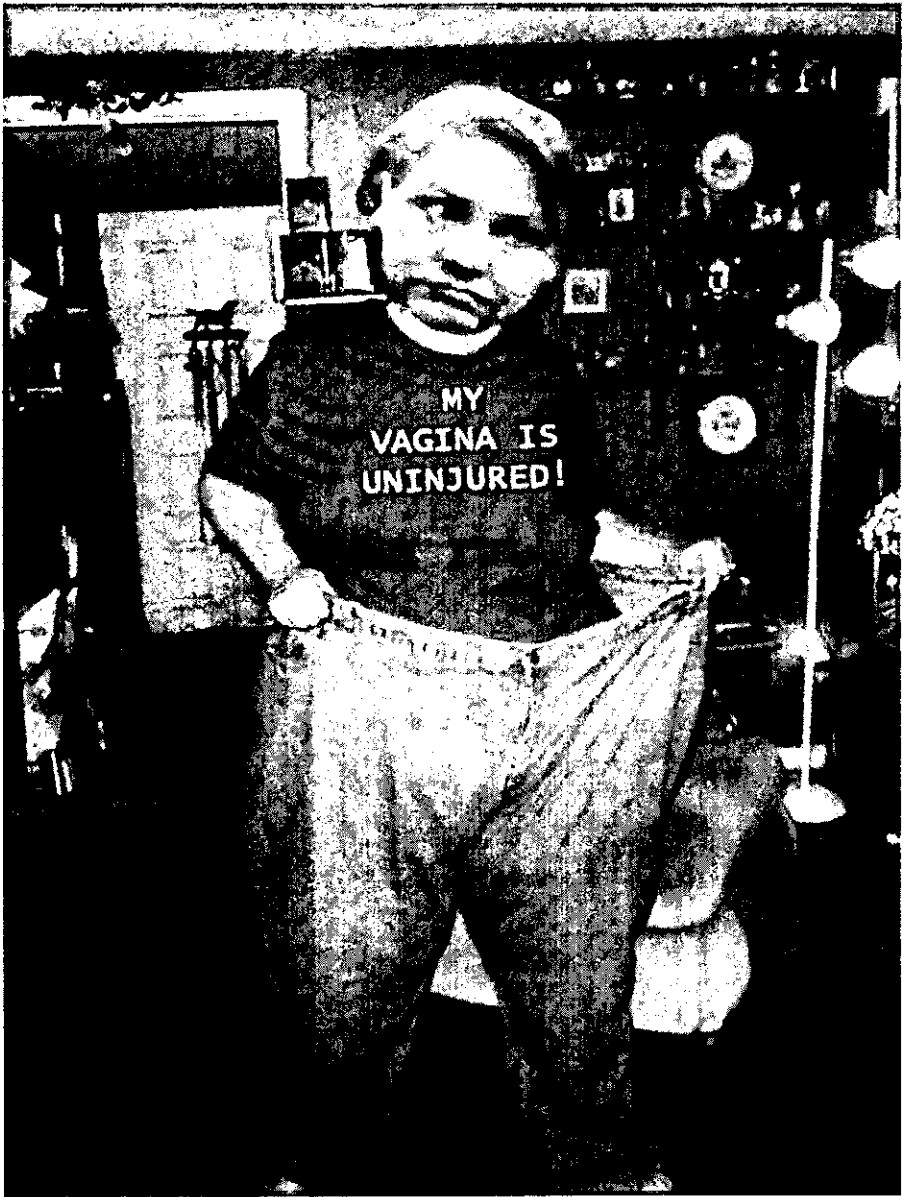
They received my social security number, driver's license number, copy of my driver's license, date of birth, mother's maiden name, place of birth.... in discovery in this case. Lollar used this information to illegally try to break into and take money from an old bank account of mine which no longer exists as the bank closed it. They also used that info to try to break into the bank account of an unrelated non-profit. The banks notified me of this incident and played the phone recordings for me. It was Plaintiff Lollar who phone two banks where I no longer have an account. I filed a police report. They also illegally ordered credit reports with my SSN, DOB, DL # which they received in discovery. They also made and posted over 300 videos of my deposition where I state I have no money, have a negative net worth. I stated confidential data in the videos which they posted. They have posted my medical records illegally online and even falsely stated I have AIDs, gonorrhea, HIV, am a man, bald, toothless... I must file my reply under seal. Below are some images Plaintiff Lollar has posted about me making fun of the fact that I have a negative net worth. They even posted video of me in my depo stating I have a negative net worth. Thank you.







Pedophile???



MARY CUMMINS: DIPSHIDIOT



**A dipshit and an idiot
all rolled into one**



When I grow up, I want to have
a net worth of less than zero!"



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS**

CHIEF JUSTICE
TERRIE LIVINGSTON

JUSTICES
LEE ANN DAUPIHNOT
ANNE GARDNER
SUE WALKER
BOB McCOY
BILL MEIER
LEE GABRIEL

TIM CURRY CRIMINAL JUSTICE CENTER
401 W. BELKNAP, SUITE 9000
FORT WORTH, TEXAS 76196

TEL.: (817) 884-1900

FAX: (817) 884-1932

www.2ndcoa.courts.state.tx.us

CLERK
DEBRA SPISAK

CHIEF STAFF ATTORNEY
LISA M. WEST

FAX TRANSMISSION

TO:

FAX NO.:

Hon. Bonnie Sudderth	(817)884-2384
Civil District Clerk, Tarrant County	(817)212-7010
Court Reporter, 352nd District Court	(817)884-2384
Mary Cummins	(310)494-9395
Randall E. Turner	(817)764-6336

FROM: Rose M. Stewart, Deputy Clerk

DATE: October 22, 2012

NO. OF PAGES: 5 (including this page)

RE: Court of Appeals Number: 02-12-00285-CV
Trial Court Case Number: 352-248169-10

Style: Mary Cummins
v.
Bat World Sanctuary and Amanda Lollar

MESSAGE:

ORDER



**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. Dorner*, 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