

1 MARY CUMMINS  
2 Defendant  
3 645 W. 9th St. #110-140  
4 Los Angeles, CA 90015  
5 In Pro Per  
6 Telephone: (310) 877-4770  
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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 BAT WORLD SANCTUARY,  
11 AMANDA LOLLAR  
12 *Plaintiffs*

13 v.

14 MARY CUMMINS  
15 *Defendant*

) Case No. BS140207

)  
)  
) **DEFENDANT'S EMERGENCY EX**  
) **PARTE MOTION TO**  
) **RECONSIDER DEFENDANT'S**  
) **MOTION TO QUASH SUBPOENA;**  
) **PROTECTIVE ORDER;**  
) **OBJECTION TO COURT ORDER;**  
) **DECLARATION BY DEFENDANT**  
) **PRO SE IN SUPPORT THEREOF;**  
) **MEMORANDUM OF POINTS AND**  
) **AUTHORITIES IN SUPPORT**  
) **THEREOF; AND DECLARATION**  
) **OF EX PARTE NOTICE**

) **[PROPOSED] ORDER LODGED**  
) **HEREWITH**

) **Date: May 30, 2014**  
) **Time: 8:30**  
) **Dept.: 24**  
) **Judge: Robert Hess**

22  
23 **TO THE ABOVE-ENTITLED COURT AND ALL INTERESTED PARTIES**

24 **HEREIN:** Appearing ex parte, Defendant Pro Se Mary Cummins (hereinafter  
25 "Defendant") hereby moves to set aside the ruling made by the Court on May 23, 2014  
26 authorizing Plaintiffs to receive via subpoena Defendant's "bank statements" from One  
27 West bank. This ex parte motion is based upon the grounds that Judge Robert Hess  
28 **DEFENDANT'S EMERGENCY EX PARTE MOTION TO RECONSIDER DEFENDANT'S MOTION**  
**TO QUASH SUBPOENA; OBJECTION TO COURT ORDER; DECLARATION BY DEFENDANT**  
**PRO SE IN SUPPORT THEREOF; MEMORANDUM OF POINTS AND AUTHORITIES IN**  
**SUPPORT THEREOF; AND DECLARATION OF EX PARTE NOTICE**

1 gave Defendant ten days to object to the May 23, 2014 order. This motion is made ex  
2 parte because the Judge approved a subpoena to release the “bank statements” of  
3 Defendant which include private confidential protected financial information and data  
4 of third parties which are not the subject of the sister state judgment which is the basis  
5 of this case. If the Court’s ruling is allowed to stand, unrelated people and entities will  
6 be permanently harmed by the release of their protected confidential financial  
7 information. These unrelated parties were never served with a subpoena as per CCP §  
8 1985.3 (b). Plaintiffs also previously requested these exact same documents in post  
9 trial discovery and were denied by the court. Plaintiffs request these documents which  
10 will not lead to anything discoverable so they may post these documents online to  
11 harass, oppress, embarrass Defendant and third parties. Previously Plaintiffs posted  
12 Defendant’s ex-attorney’s check online without redacting the attorney’s private  
13 confidential financial information. Plaintiff Lollar also illegally used discovery items  
14 to try to break into Defendant’s and an unrelated non-profit’s bank accounts.

15 This motion is made pursuant to Code of Civil Procedure (hereinafter “CCP”) §§  
16 473(d), and is based upon the accompanying Declaration by Defendant Pro Se, the  
17 accompanying Memorandum of Points and Authorities, the accompanying Declaration  
18 of Ex Parte Notice, all pleadings and papers on file in the above-captioned action, and  
19 other evidence that may be presented by Defendant at the hearing on this motion.  
20 Notice is given that Defendant will be audio recording the proceedings.

21  
22 Dated: May 29, 2014

23  
24 

25 Mary Cummins

26 Defendant Pro S

27  
28 **DEFENDANT’S EMERGENCY EX PARTE MOTION TO RECONSIDER DEFENDANT’S MOTION  
TO QUASH SUBPOENA; OBJECTION TO COURT ORDER; DECLARATION BY DEFENDANT  
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1 **DECLARATION BY DEFENDANT PRO SE**

2  
3 I, Mary Cummins, declare as follows:

4 1. I am a resident of the State of California and over the age of 18 years. I have  
5 personal knowledge of the facts set forth in this declaration, and, if called to testify as a  
6 witness, I could competently testify to said facts.

7 2. I am Defendant pro se in the above-captioned matter (Case Number: BS140207).

8 3. This emergency ex parte application was made because Judge Hess ruled that  
9 Plaintiffs can have my bank statements which include confidential financial  
10 information of third parties who will be permanently damaged. I am therefore  
11 appearing ex parte to present this motion.

12 4. May 23, 2014 Judge Robert Hess ruled that Plaintiffs can have my bank  
13 statements. There is no written and signed court order.

14 5. Attached as Exhibit 1 is a true and correct copy of Plaintiffs' First Post Judgment  
15 Request for Production .

16 6. Attached as Exhibit 2 is a true and correct copy of Plaintiffs' Motion to Compel  
17 Post Judgment Discovery.

18 7. Attached as Exhibit 3 is a true and correct copy of Plaintiffs' subpoena for bank  
19 statements social security number redacted.

20 8. Attached as Exhibit 4 is a true and correct copy of a page from Defendant's bank  
21 statement which shows checks the backs of what are redacted.

22 9. Attached as Exhibit 5 is a true and correct copy of an email I sent to Plaintiffs'  
23 attorney, Plaintiff Lollar and cc'd to my ex-attorney Neal Callaway stating that  
24 the copy of my attorney's check should be redacted or removed.  
25  
26  
27

28 **DEFENDANT'S EMERGENCY EX PARTE MOTION TO RECONSIDER DEFENDANT'S MOTION  
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- 1 10. Attached as Exhibit 6 is a true and correct copy of a letter and check from my ex-  
2 attorney Neal Callaway to Plaintiffs' attorney bank account numbers redacted  
3 which I downloaded from Plaintiffs' public website batworld.org today.
- 4 11. Attached as Exhibit 7 are a police report made against Plaintiff Lollar for illegally  
5 accessing my bank account and the bank account of a non-profit.
- 6 12. Two banks contacted me stating that someone tried to access my account and the  
7 account of a non-profit. I went to the banks and they both played the audio  
8 recordings of the phone calls of someone trying to access the accounts pretending  
9 to be me giving my SSN, driver's license, date of birth, mother's maiden name,  
10 place of birth. I identified that voice as Plaintiff Lollar.
- 11 13. Attached as Exhibit 8 is a true and correct copy of the case summary in LASC.
- 12 14. Attached as Exhibit 9 is a true and correct copy of the application for ex parte  
13 motion noticed to David Watts.

14 I declare under penalty of perjury that the foregoing is true and correct. Signed at Los  
15 Angeles, California on May 29, 2014.

16  
17 Dated: May 29, 2014

18  
19 

20 Mary Cummins

21 Defendant Pro Se

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **1. Introduction**

3 The ruling made in the above-captioned matter by this Court on May 23, 2014,  
4 (hereinafter the “Ruling”), denying Defendant’s Motion to Quash Subpoena, request  
5 for a protective order was made without viewing additional exhibits or hearing  
6 additional argument which would support the granting of Defendant’s Motion to  
7 Quash. As supported by the Declaration of Defendant Pro Se, Defendant is a pro se  
8 who did not know what exact exhibits or arguments were needed. Judge Robert Hess  
9 stated that Defendant has ten days to object to the court order. Defendant hereby  
10 objects to the court order with this motion.

11 Hereinafter, “CCP” refers to the Code of Civil Procedure, and “CRC” refers to the  
12 California Rules of Court.

13 **2. The Subpoena Should Be Quashed Because Plaintiffs Waived Any Further**  
14 **Right to Attempt to Access These Records**

15 Once a party has received a response to a demand for inspection of documents, that  
16 party has 45 days to move for an order compelling further response; failure to do so  
17 results in the party’s waiver of its right to compel a further response. (CCP §  
18 2031.310.)

19 Here, the demand for these exact same documents was made November 6, 2012 in  
20 Plaintiffs’ First Post Judgment Request for Production. Plaintiffs requested “Item 1  
21 Any and all bank statements, deposit slips and bank records” (Exhibit 1). Defendant  
22 replied December 5, 2012 and did not give Plaintiffs her bank statements. Plaintiffs  
23 then filed a motion to compel post trial discovery on January 2, 2013 (Exhibit 2). That  
24 motion was denied by operation of law 75 days later on March 17, 2013. Plaintiffs did  
25 not make a new motion to compel since that time which has been over 45 days. Thus,  
26 it is improper for Plaintiffs to seek the exact same information from a third-party  
27

1 custodian of records over a year later. Plaintiffs have waived their right to these  
2 documents and their attempt to make an end-run around the acceptable discovery  
3 procedures by seeking the same non-party records is improper.

4 **3. Defendant and Unrelated individuals and businesses have a Right of Privacy to**  
5 **their Confidential Financial Records**

6 The subpoena (Exhibit 3, SSN redacted) requests the “bank statements” of  
7 Defendant at One West bank. These statements include copies of the front and back of  
8 every check made by Defendant and received by Defendant (Exhibit 4, Back of checks  
9 redacted). The backs of the check have the signature, bank account number, bank  
10 name, routing number of unrelated third parties.

11 "Financial files are within a constitutionally protected zone of privacy, set forth  
12 under Article I, Section 1 of California’s Constitution, and this protection applies both  
13 to such records. The standard applicable to general discovery, i.e. that items need only  
14 be reasonably calculated to lead to the discovery of admissible evidence, is  
15 inapplicable to the discovery of items protected by a right to privacy in which the  
16 threshold requirement is that such items must be directly relevant. *Britt v. Superior*  
17 *Court* (1978) 20 Cal.3d 844; *Tylo v. Superior Court* (1997) 55 Cal.App.4th 1379.

18 “While the filing of the lawsuit by petitioner may be something like issuing a  
19 fishing license for discovery, as with a fishing license, the rules of discovery do not  
20 allow unrestricted access to all species of information. Discovery of constitutionally  
21 protected information is on a par with discovery of privileged information and is more  
22 narrowly proscribed than traditional discovery.” (*Britt v. Superior Court*, supra, 20 Cal.  
23 3d at pp. 852-853.)

24 Although corporations, businesses, organizations typically are not afforded the same  
25 privacy protections as people, corporations do have limited privacy rights, and courts  
26 have upheld a corporation’s privacy interest where the records sought contained  
27

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1 confidential financial information unrelated to the issues of the case. (See Ameri-  
2 Medical Corp. v. WCAB (1996) 42 Cal.App.4th 1260, 1286-89.) In this case the  
3 presiding Judge quashed the subpoena as overly broad. On appeal, the court concluded  
4 that the corporation medical clinic had a limited right to privacy in its financial  
5 information unrelated to the issues of the case.

6 **4. The unrelated third parties were not served with the subpoena.**

7 As per CCP 1985.3(b) all parties must be served with the subpoena. Financial  
8 documents of third parties are in the bank records. These third parties have not been  
9 noticed of this subpoena. They have been deprived of the due process of law to file  
10 motions to quash.

11 **5. The requested “bank statements” will be used for the ulterior motive to**  
12 **oppress, embarrass, harass Defendant and unrelated third parties.**

13 Plaintiffs have a long history of abusing discovery requests and confidential  
14 financial data. October 2, 2011 Plaintiffs posted a copy of Defendant’s ex-lawyer’s  
15 check on their public website. They did not even redact his personal information,  
16 account number, signature or routing numbers. After Defendant and her attorney sent  
17 an email demanding that Plaintiffs remove the check (Exhibit 5), Plaintiffs merely  
18 removed the routing number and bank account number. They left the signature, name,  
19 address, check number, name of bank on the Internet to this day (Exhibit 6). If  
20 Plaintiffs were to receive Defendant’s bank statements which include checks, they  
21 would instantly end up on the Internet in order to oppress, embarrass, harass Defendant  
22 and unrelated third parties. Plaintiff and others could easily use these checks, data,  
23 information to cause financial harm to many, many people. Banks no longer rely on  
24 actual checks but merely copies.

25 Plaintiff Amanda Lollar illegally used Defendant’s protected social security number,  
26 driver’s license number, bank account information, mother’s maiden name, date of  
27

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1 birth to try to access Defendant’s bank account and the bank account of a non-profit.  
2 Defendant was notified by the banks, listened to the audio recording of the calls at two  
3 different banks, identified Plaintiff Lollar as the caller and forced to file a police report  
4 (Exhibit 7). If Plaintiffs received this confidential financial information, Plaintiff Lollar  
5 would surely use it to try to access the bank accounts of family members, friends and  
6 other unrelated third parties as is her nature.

7 **6. The Facts of the Case Support Ex Parte Issuance of the Requested Order.**

8 The Court may issue an order ex parte based on affirmative evidence that the party  
9 applying for the relief will suffer irreparable harm if the matter is delayed until it can  
10 be heard on notice.

11 “An applicant must make an affirmative factual showing in a declaration containing  
12 competent testimony based on personal knowledge of irreparable harm, immediate  
13 danger, or any other statutory basis for granting relief ex parte.” CRC rule 379(b).  
14 Judge Hess approved the subpoena for bank statements May 23, 2024 giving  
15 Defendant only ten days to object. This order must be reversed immediately or  
16 Defendant, other individuals and entities will suffer irreparable harm. There is not  
17 enough time to file a proper motion with notice before the confidential financial  
18 information will be given to Plaintiffs. Therefore, the requirement of CRC rule 379(b)  
19 is satisfied, and ex parte issuance of the requested order is appropriate.

20 **7. In the Alternative the Court Should Issue an Order Staying the Subpoena for**  
21 **the Motion to Be Heard at a Noticed Hearing.**

22 In the event that Plaintiffs’ attorney, or the Court, needs additional time for  
23 consideration of this motion, as an alternative to ex parte issuance of the requested  
24 order, the above-described irreparable harm can also be avoided by a noticed hearing at  
25 least seven days prior to a hearing. Such can be accomplished by either (a) the Court  
26 issuing an order shortening time for a noticed hearing to be held no later than seven  
27



1 days, or (b) the Court issuing an order postponing the subpoena order until after a  
2 properly noticed hearing.

3 As to a noticed hearing, for which the notice must normally be served at least 16  
4 days before the hearing, the Court has the authority to shorten such time:

5 “Unless otherwise ordered or specifically provided by law, all moving and supporting  
6 papers shall be served and filed at least 16 court days before the hearing. ... The court,  
7 or a judge thereof, may prescribe a shorter time.” CCP §1005(b).

8 “(a) [In general] Unless otherwise ordered or specifically provided by law, all moving  
9 and supporting papers shall be served and filed in accordance with Code of Civil  
10 Procedure section 1005.” CRC, rule 317(a).

## 11 **8. Conclusion**

12 For the foregoing reasons, Defendant’s motion to set aside the May 23, 2014,  
13 Ruling [CCP §473(d); CCP §1005(b) should be GRANTED. The subpoena should be  
14 quashed. In the alternative all names, addresses, account numbers, terminal  
15 numbers...of any third party should be redacted from the bank statements. Only bank  
16 statements for the last 12 months should be given.

17  
18 Dated: May 29, 2014



19  
20 Mary Cummins

21 Defendant Pro Se  
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1 **DECLARATION OF EX PARTE NOTICE**

2 I, the undersigned, declare:

3  
4 I am a citizen of the United States of America and am over the age of eighteen (18)  
5 years. My business mailing address is 645 W 9th St #110-140, Los Angeles, CA  
6 90015.

7 At 2:00 p.m. I emailed my application for ex parte motion to the office of attorney  
8 David Watts at [davidw@dwatts.net](mailto:davidw@dwatts.net). I informed him that I will be appearing ex parte in  
9 the above-captioned matter on May 30, 2014, at 8:30 a.m. in Department 24 of the  
10 above-entitled court. He stated he would appear by court call.

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

13 Executed on May 29, 2014, at Los Angeles, California, 90015.

14 

15 \_\_\_\_\_  
16 Mary Cummins

1 MARY CUMMINS  
2 Defendant  
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8 SUPERIOR COURT OF CALIFORNIA

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12 *Plaintiffs*

13 v.

14 MARY CUMMINS  
15 *Defendant*

) Case No. BS140207  
)  
)  
)

) **[PROPOSED] ORDER**  
)

) **Date: May 30, 2014**  
)

) **Time: 8:30**  
)

) **Dept.: 24**  
)

) **Judge: Robert Hess**  
)

16 GOOD CAUSE HAVING BEEN SHOWN, IT IS ORDERED THAT: The ruling  
17 made on May 23, 2014, in the above-entitled matter, which allowed Plaintiffs to  
18 receive Defendant's OneWest bank statements, is set aside as VOID (or) All names,  
19 account numbers, addresses, phone numbers of third parties shall be redacted from the  
20 bank statements.  
21

22 IT IS SO ORDERED.  
23

24 Dated: \_\_\_\_\_  
25

26 \_\_\_\_\_  
27 Judge Robert L. Hess

28 **DEFENDANT'S EMERGENCY EX PARTE MOTION TO RECONSIDER DEFENDANT'S MOTION  
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