

1 YouTube, Facebook, MySpace and Flickr accounts. Plaintiffs failed to prove that the
2 items were "statements of fact." Some comments were question. Others were
3 definitely not statements of fact.

4 (2) Plaintiffs failed to prove that the items posted by Defendant were defamatory.

5 (3) Plaintiffs failed to prove that the items posted by Defendant were false.

6 (4) Plaintiffs failed to prove that Defendant acted negligently in publishing the items.

7 (5) Plaintiffs failed to prove damages. Plaintiffs' own financials produced in discovery
8 show increased revenue and not decreased revenue.

9 Judge did not rule according to the facts and evidence presented at trial.

10 2.

11 Plaintiffs failed to prove that Defendant breached a contract. The essential elements
12 of a breach of contract cause of action that must be proven are, (1) There is a valid
13 contract; (2) The Plaintiffs performed or tendered performance according to the terms of
14 the contract; (3) The Defendant breached the contract; and (4) The Plaintiffs sustained
15 damages as a result of the breach. Plaintiffs failed to prove all four elements of breach
16 of contract.

17 (1) Plaintiffs failed to prove there was a valid contract. Plaintiffs' own expert stated in
18 writing that it was only "probable" that Defendant signed the contract. Expert stated it
19 was not "strong probable" or "definite identification."

20 (2) Plaintiffs failed to prove that Plaintiffs performed according to the terms of the
21 contract. Defendant did not receive training as promised.

22 (3) Plaintiffs failed to prove that Defendant's behavior would have been considered a
23 breach of contract. Plaintiffs stated in court that Defendant's photos and videos did
24 not defame Plaintiffs, did not share proprietary or copyrighted data. The contract
25 states that breach of contract would have been if Defendant stated she was trained

1 by Bat World and she didn't finish the program and get a certificate. Defendant has
2 never stated she was trained by Bat World to others because she wasn't. From the
3 contract:

4
5 "In the event that Trainee is notified in writing that Trainee's Certificate of Completion
6 has been revoked by BWS and Trainee thereafter publishes, advertises or
7 communicates to any person the fact that Trainee was trained by BWS or is certified by
8 BWS, then Trainee agrees to pay BWS liquidated damages in the amount of \$10,000,
9 and all attorney's fees incurred by BWS in enforcing this contract."

10 Defendant never received a certificate of completion as Defendant did not complete
11 the full two week internship as she left early. No certificate of completion was revoked.
12 Defendant has never published, advertised or communicated to any person that Trainee
13 was trained by BWS or is certified by BWS.

14 (4) Plaintiffs failed to prove that Plaintiffs suffered damages. Plaintiffs' own financials
15 produced in discovery show increased revenue and not decreased revenue.

16 Judge did not rule according to the facts and evidence presented at trial.

17 3.

18 Plaintiffs did not show causation. Plaintiffs admitted in court that they had no proof of
19 damages or that Defendant caused any damages. Judge did not rule according to the
20 facts and evidence presented at trial.

21 4.

22 Defendant's Motion for Contempt against Plaintiffs was set to have been heard at
23 9:00 a.m. on June 11, 2012 before the trial started. The Motion for Contempt was not
24 heard. Defendant never received all items which the Court ordered Plaintiff to produce.

25 5.

Defendant served a legal subpoena to show for trial to Kate Rugroden. Rugroden did
not appear at trial as demanded. This witness was vital to Defendant's case.

1
2 The order as stated by Judge William Brigham is overly broad, contains errors and is
3 not specific.

4 (1) The order demands Defendant to remove items she did not write or post on websites
5 she does not control. An injunction cannot be against third parties. According to Fed.
6 R.Civ. P. 65 (d) enforcement of an injunction against a non-party requires a showing
7 that the non-party was "acting in concert or legally identified (i.e., acting in the
8 capacity of an agent, employee, officer, etc.) with the enjoined party." Plaintiffs did
9 not show that Defendant was acting in concert with others. Defendant cannot
10 possibly remove other people's websites. Defendant only wrote and posted one item
11 in Exhibit 18, i.e. press release about Defendant's lawsuit against Plaintiff in Federal
12 Court in California. That press release is not defamation but true facts.

13 (2) The order demands Defendant to remove items that have nothing to do with Plaintiff,
14 i.e. Exhibit 18, Indybay 4 and 5. These articles are not about Plaintiffs but Plaintiffs'
15 attorney Randy Turner. Turner is not a party to this action.

16 (3) The order as stated contains errors. There are a few pages in Exhibit 17 that have
17 nothing to do with defamation or even Plaintiffs. Plaintiffs admitted in court they
18 should not have been in the exhibits. Defendant witnessed Judge Brigham briefly flip
19 through Exhibit 17. Exhibit 17 is lengthy. Defendant doesn't believe that Judge
20 Brigham viewed all the items in Exhibits 17 or 18.

21 (4) The order as stated is not specific or clear. Judge William Brigham stated in court;

22
23 "So, Mr. Turner, if you will prepare a final judgment in this case and mail a copy of it to
24 the defendant, Mary Cummins, at ***** Los Angeles, California 90015-1640, and
25 in that final judgment compensatory damages of \$3 million; exemplary damages of an
additional \$3 million; a permanent injunction on the items Plaintiffs' 17 and 18; liquidated
damages and then attorney fees of \$176,700. Mail it to her for her review. Her signature
is not necessary. Upon proper submission, it will be signed by the Court."

1 In court Plaintiffs stated they felt that only the items highlighted in yellow were
2 defamatory. For that reason that is all Defendant addressed in court. Plaintiffs stated
3 they were not asking to have the results of information act requests removed. Judge
4 Brigham's oral order stated "permanent injunction on the items Plaintiffs' 17 and 18." It
5 is not clear if this refers to all the links in the "URL Table of Contents," all pages in the
6 Exhibits including the information act request responses or only the highlighted words
7 and phrases which Plaintiffs stated were "defamatory."

8 If this order is demanding that Defendant remove the entire Facebook, Google,
9 YouTube, MySpace, Twitter, Blogs, websites listed in the "URL Table of Contents," it is
10 overly broad. (a) Defendant does not own all of those websites. Some are owned by
11 Animal Advocates a non-profit organization. Defendant is merely a board member of
12 Animal Advocates. Animal Advocates' main source of revenue is ads on its blogs,
13 websites and YouTube videos. Taking down those entire websites and not just the
14 highlighted phrases would cause grave financial damage to non-parties in this action.
15 Animal Advocates is not a party to this action. The YouTube account in question only
16 has two videos out of 228 videos total which relate to Plaintiff. They are very short
17 videos taken from Plaintiff's deposition which cannot possibly be defamatory. One video
18 is only about Plaintiffs' attorney Randy Turner. (b) Removing all of Defendant's and
19 others pages and websites would remove every word ever written about Plaintiffs and
20 their attorney. Plaintiffs stated only the highlighted phrases are supposedly defamatory.
21 Again, attorney Randy Turner is not a party to this action. Order would be demanding
22 that pages which are only about Turner be removed. Order would be overly broad and
23 would censor true freedom of speech.

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6.

The order includes \$3,000,000 in compensatory damages. Compensatory damages provide a plaintiff with the monetary amount necessary to replace what was lost, and nothing more. Plaintiffs did not show any financial damages. They did not prove that anything was lost. Judge did not rule according to the facts and evidence presented at trial.

7.

The order includes \$3,000,000 in exemplary damages. Exemplary damages are damages requested and/or awarded in a lawsuit when the defendant's willful acts were malicious, violent, oppressive, fraudulent, wanton, or grossly reckless. Defendant posted truthful items about Plaintiffs in order to protect animals and the public. Plaintiffs proved no malice. Defendant did not act with malice toward Plaintiff but with concern for the protection of animals and the public. Judge did not rule according to the facts and evidence presented at trial.

8.

The order includes liquidated damages per the contract. Again, Plaintiffs did not prove the elements of breach of contract. Defendant's actions would never have been a breach of the supposed contract. The contract clearly states;

"In the event that Trainee is notified in writing that Trainee's Certificate of Completion has been revoked by BWS and Trainee thereafter publishes, advertises or communicates to any person the fact that Trainee was trained by BWS or is certified by BWS, then Trainee agrees to pay BWS liquidated damages in the amount of \$10,000, and all attorney's fees incurred by BWS in enforcing this contract."

Defendant never received a certificate of completion as Defendant did not complete the full two week internship as she left early. No certificate of completion was revoked. Defendant has never published, advertised or communicated to any person that Trainee

1 was trained by BWS or is certified by BWS. This is the only mention of liquidated
2 damages and breach in the contract which Defendant still states she did not sign.
3 Therefore, there can be no liquidated damages or attorney's fees as per the supposed
4 contract. Judge did not rule according to the facts and evidence presented at trial.

5 9.

6 The order includes attorney fees in the amount of \$176,700. Again, Plaintiffs did not
7 prove breach of contract as noted in item 8. Plaintiffs also did not prove defamation.
8 Judge did not rule according to the facts and evidence presented at trial.

9 10.

10 Plaintiffs second amended complaint includes a cause of action for defamation per
11 se. Plaintiffs stated Defendant stated that Plaintiff Lollar gave the human pre-exposure
12 rabies vaccination to a human. In trial Plaintiff Lollar was asked "so you gave her the
13 vaccination free of charge?" Lollar replied "yes." Plaintiff was asked "so you gave her
14 (Sarah Kennedy) the vaccination?" Lollar replied "yes." Plaintiff admitted that she did
15 indeed give the rabies vaccination to a human. Defendant never stated that Plaintiff
16 injected a human with the rabies vaccine. Judge did not rule according to the facts and
17 evidence presented at trial.

18 11.

19 Defendant believes there is a conflict of interest between Plaintiffs' attorney Randy
20 Turner and Judge William Brigham. Defendant stated in this court to Judge Bonnie
21 Sudderth on May 10, 2011 that Randy Turner came up behind her before the May 4,
22 2011 hearing for temporary injunction. Turner told Defendant paraphrased "I've known
23 this Judge for years. He'll sign whatever I put in front of him." Judge Brigham did indeed
24 sign the temporary injunction which Randy Turner wrote that day. That temporary
25 injunction was void because no bond was posted, it was overly broad, against unrelated

1 third parties and evidenced prior restraint. Therefore a new trial with a new impartial
2 Judge is in order.

3 12.

4 Defendant believes that Plaintiffs' attorney Randy Turner was not honest in court.
5 Turner read a quote from a document to the effect "isn't it ironic that Turner's wife is on
6 the ethic's committee when Turner is so unethical." Turner stated to the court and
7 Defendant that, that was from Defendant's deposition. Then Turner cried. That was not
8 from Defendant's deposition but an anonymous comment made on an anonymous
9 article. Defendant believes the false statement and crocodile tears were made to bias
10 the Judge against Defendant.

11 Randy Turner took the stand under oath and was asked whether or not he'd been in
12 the bat flight cages. He replied yes. He was then asked if he had his rabies pre-
13 exposure shots. Only people with the shots can be anywhere near the bats as per the
14 Texas Department of Health orders to Plaintiffs. Turner then changed his story and said
15 he was actually outside of the cages and not inside. Turner was not truthful to the court.

16 Turner stated in court he never threatened to sue websites if they didn't remove
17 items. Turner did indeed threaten to add Indymedia as a defendant in this case. Turner
18 was not truthful to the court.

19 In support of the allegations set forth in this motion, Movant would direct the Court's
20 attention to the Affidavit of Defendant Mary Cummins attached to this motion and
21 incorporated by reference.

22 The granting of a new trial will not prejudice the other parties to this cause.

23 Movant is ready, able and willing to go to trial immediately and no delay, harm, or
24 prejudice will occur to the other parties as a result of Movant's motion.

1 Movant Defendant Mary Cummins prays that after notice and hearing the judgment
2 rendered in this cause be set aside and that Movant be granted a new trial.

3 Respectfully submitted,

4
5 Mary Cummins, Defendant Pro se
6 645 W 9th St, #110-140
7 Los Angeles, CA 90015-1640
8 Phone 310-877-4770
9 Email: mmmaryinla@aol.com

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By:


Mary Cummins, Defendant Pro Se

CERTIFICATE OF SERVICE

1 I, Mary Cummins, hereby certify that a TRUE COPY of the above **MOTION FOR NEW**
2 **TRIAL, OBJECTION TO COURT ORDER** was served on the Plaintiffs' Attorney of
3 record by FAX and by FIRST CLASS MAIL at
4 Randy Turner
5 Bailey & Galyen
6 1901 W. Airport Freeway
7 Bedford, TX 76021
8 Fax: 817-545-3677
9 this 18th Day of June, 2012

Mary Cummins

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

BAT WORLD SANCTUARY and
AMANDA LOLLAR,

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

§ IN THE DISTRICT COURT

§ TARRANT COUNTY, TEXAS

§ 352nd JUDICIAL DISTRICT

FIAT

Defendant's MOTION FOR NEW TRIAL, OBJECTION TO COURT ORDER was filed on June _____, 2012. Defendant requests that the foregoing be set for hearing.

IT IS THEREFORE ORDERED that a hearing before this court on said Motion be set for the _____ day of _____ at _____ a.m./p.m. in the 352nd District Court of Tarrant County, Fort Worth, Texas.

Date _____

Judge Presiding

BAT WORLD SANCTUARY and
AMANDA LOLLAR,

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

§ IN THE DISTRICT COURT

§ TARRANT COUNTY, TEXAS

§ 352nd JUDICIAL DISTRICT

ORDER ON MOTION FOR NEW TRIAL

On _____, the Court heard the motion for new trial duly filed on
_____ by Mary Cummins the Defendant in the above-entitled
and numbered cause.

The motion was duly presented to the Court, and the Court is of the opinion that the
motion should be

(Select one of the following by placing a check mark)

_____ granted.

_____ overruled.

and that a new trial is:

(Select one of the following by placing a check mark)

_____ granted.

_____ overruled.

SIGNED on _____

JUDGE PRESIDING

BAT WORLD SANCTUARY and
AMANDA LOLLAR,

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

**AFFIDAVIT OF MARY CUMMINS IN SUPPORT OF MOTION FOR NEW TRIAL,
OBJECTION TO COURT ORDER**

By way of this affidavit Defendant pro se Mary Cummins authenticates everything in her MOTION FOR NEW TRIAL, OBJECTION TO COURT ORDER.

1. I am requesting a new trial and objecting to the court order.
2. Plaintiffs failed to prove that I defamed them in the trial. They showed no physical evidence which proved that I wrote and published all of the items, that they were statements of fact, that the statements were defamatory, that the statements were false, that I acted negligently in publishing the statements or that Plaintiffs suffered damages as a result.
3. Plaintiffs in court failed to show proof of financial damages. Their own financial records given to me in discovery show they are making more money than before. Plaintiffs submitted one chart trying to show that donations were down. They showed no supporting underlying evidence, merely a piece of paper they wrote.
4. Plaintiffs failed to prove breach of contract. They did not prove a valid contract. There were no other witnesses to my supposed signing of the contract. Plaintiffs' own expert in her December 8, 2011 report stated that the signature was merely "probable." It was not "strongly probably" or a positive identification. Expert rewrote and changed her report *three times over the course of the case.*
5. Plaintiffs failed to prove that Plaintiffs performed according to the contract. Plaintiffs did not give me the training they promised.
6. Plaintiffs failed to prove that my behavior breached the contract. The only mention of breach of contract in the contract is in regards to a certificate and telling people that I

1 was trained by Bat World. I did not complete the two week internship. I did not receive a
2 certificate. I did not tell people that I was trained by Bat World.

3 7. Plaintiffs did not show causation in court. Defendant asked Plaintiff if Plaintiff had any
4 physical proof that I caused them any damage. They were not able to supply me with
5 any proof.

6 8. I filed a motion for contempt which was supposed to be heard at 9:00 a.m. before the
7 start of the trial. Judge William Brigham did not hear the motion. I was denied my right
8 to the proper judicial process. I did not receive all of the documents Judge Bonnie
9 Sudderth ordered Plaintiff to give to me. This affected the outcome of my case.

10 9. I had a process server serve a legal subpoena on Kate Rugroden of Bat World to
11 show for trial. She did not show for trial. She was a key witness in my case. This
12 affected the outcome of my case.

13 10. In court Plaintiffs attorney Randy Turner stated that only the items highlighted in
14 yellow in Exhibits 17 and 18 were supposedly "defamatory." I relied on this in my closing
15 summary.

16 11. In court Plaintiffs attorney Randy Turner stated that Plaintiffs were not requesting
17 that the results of information act requests be removed. I relied on this in my closing
18 summary.

19 13. Plaintiffs did not prove that I was acting in concert with others. They showed no
20 evidence at all.

21 13. I stated in court that I did not post most of those items. I don't know who posted
22 them. I only control my own websites. I don't have the power to remove other people's
23 websites.

24 14. Exhibit 17 page 174 contains a page which has nothing to do with Plaintiffs or this
25 case. Plaintiff stated that page was not supposed to be in there. There are errors in the
Exhibits.

15. There are items in Exhibit 17 which are ONLY about Plaintiffs attorney Randy
Turner. He is not a party to this action. Exhibit 17 page 128 - 130 is a blog post which is
ONLY about Turner.

16. There are items in Exhibit 18 which are ONLY about Plaintiffs attorney Randy
Turner. Items Indbay #4 and #5 are only about Randy Turner.

17. I personally own and control the following pages: facebook.com/marycummins,
google.com/107575973456452472889.

1 18. Animal Advocates owns the following pages: facebook.com/AnimalAdvocatesUSA,
2 twitter.com/mmmmaryinla, youtube.com/marycummins, myspace.com/mmmmaryinla,
3 animaladvocateswildliferehabilitation.blogspot.com, animaladvocates.us

4 19. I do not own or control raisethefist.com, indybay.com, indymedia.us, amazon.com,
5 prweb.com, laanimalwatch.blogspot.com, or
6 workingtohelpanimalstodaytomorrow.blogspot.com.

7 20. Animal Advocates' YouTube channel and ads on its blog are the main source of
8 income of Animal Advocates. Removing those accounts would cause great financial
9 damage to Animal Advocates.

10 21. Only one short video on Animal Advocates' YouTube account is about Plaintiffs. It is
11 about 30 seconds of Plaintiffs deposition.

12 22. One short video on Animal Advocates' YouTube account is about Randy Turner who
13 is not a party in this case. The other 226 videos are of animals and not related to this
14 case.

15 23. I did not act with malice in reporting Plaintiff to authorities and posting about them
16 on the Internet. I acted out of concern for animals and public safety. Plaintiffs did not
17 prove in court that I acted with malice.

18 24. After court Plaintiff Lollar was name calling me and taunting me while laughing in the
19 hallway. I believe her tears and victim-like behavior on the stand were for effect to bias
20 the Judge against me. When I met her in June 2010 she was very catty, mean spirited,
21 rude, and sometimes cold. She bragged about horrible things she had done to people.
22 She told me about some nasty plans she has for her husband. She had something
23 negative to say about everyone.

24 25. The supposed contract Plaintiffs' trial Exhibit 16 does state "In the event that Trainee
25 is notified in writing that Trainee's Certificate of Completion has been revoked by BWS
26 and Trainee thereafter publishes, advertises or communicates to any person the fact
27 that Trainee was trained by BWS or is certified by BWS, then Trainee agrees to pay
28 BWS liquidated damages in the amount of \$10,000, and all attorney's fees incurred by
29 BWS in enforcing this contract."

30 26. I asked Plaintiff in court "so you gave her the vaccination free of charge?" Lollar
31 replied "yes." Plaintiff was asked "so you gave her (Sarah Kennedy) the vaccination?"
32 Lollar replied "yes." Plaintiff admitted that she did indeed give the rabies vaccination to a
33 human. Defendant never stated that Plaintiff injected a human with the rabies vaccine.


34 27. Before the May 4, 2011 hearing for temporary injunction Randy Turner walked from
35 the Plaintiffs' side all the way over to my side. He sat directly behind me in an empty
court room and said "I've known this Judge for years." Then he said paraphrased "He'll
sign whatever I put in front of him." Judge William Brigham did sign the overly broad and

1 void injunction which Turner had written ahead of time. I believe there is a conflict of
2 interest. I am requesting a new trial with a different Judge for this reason.

3 28. Randy Turner read to the court the following paraphrased, "isn't it ironic that
4 Turner's wife is on the ethic's committee when Turner is so unethical." Turner stated to
5 the court that I said that in my deposition. Then Turner cried. That was not from my
6 deposition but an anonymous comment made on an anonymous article. I believe Turner
7 was trying to bias the Judge against me. I heard the Judge snicker at me when Turner
8 said that.

9 29. I have not yet received a copy of the Judge's written order or Turner's proposed
10 order. I have only seen the transcript from the court proceedings posted by Plaintiffs.

11 This instrument was acknowledged before me on this 18th day of June, 2012, by:

12 
13 _____
14 Mary Cummins
15 645 W 9th St, #110-140
16 Los Angeles, CA 90015
17 Phone 310-877-4770

18 In witness whereof I hereunto set my hand and official seal.

19 _____
20 Notary Public

21 My commission expires: _____
22
23
24
25

See Attached

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

On 06-18-12 before me, Alberto Pereira, NOTARY PUBLIC
Date Title Insert Name and Title of the Officer

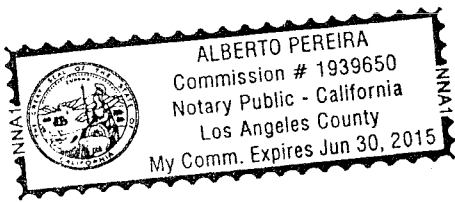
personally appeared MARY CUMMINS
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Affidavit of Mary Cummins

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: Mary Cummins

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

Top of thumb here

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER

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