

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 AMANDA LOLLAR aka BAT
15 WORLD SANCTUARY an individual
16 person, BAT WORLD SANCTUARY
17 an unknown business entity, JOHN
18 DOES 1-10
Defendants

) Case No. CV11 08081 DMG (MANx)
)
) **PLAINTIFF'S RESPONSE TO**
) **DEFENDANTS' OBJECTIONS TO**
) **DECLARATION OF MARY**
) **CUMMINS AND EXHIBITS**
) **THERE TO**

1 Plaintiff MARY CUMMINS submits her response to Defendants' objections to
2 Declaration of Mary Cummins and Exhibits submitted as follows:

3 Objection No. 1.

4 Plaintiff authenticated this exhibit. It is a still of a video taken from Defendant's
5 YouTube channel BWSvMC. Plaintiff downloaded this still July 25 2012.

6 Objection No. 2.

7 This is an email written by Plaintiff sent to Randy Turner. It is not hearsay as it
8 was written only by Plaintiff Mary Cummins.

9 Objection No. 3.

10 Plaintiff witnessed Defendant Lollar cutting a bat's vagina with scissors.
11 Plaintiff witnessed Defendant Lollar pulling the umbilicus out of a then pregnant bat
12 causing the uterus and vagina to be pulled down. The pup was born dead. The mother
13 later died. Plaintiff found a dead bat under Defendant Lollar's desk. It had been dead
14 for days as evidenced by its condition. Defendant Lollar allows her bats to breed. It is
15 against Texas Parks & Wildlife Department regulations to allow rehab and
16 unreleasable animals to breed. Defendant Lollar did not provide proper veterinary care
17 to the bats in her care. She did not seek the help of a veterinarian when a bat was
18 having difficult giving birth. She did not seek the help of a veterinarian when a bat
19 needed to be sutured.

20 Objection No. 4.

21 Plaintiff injured her head and back at Bat World Sanctuary. Doctors verified this
22 injury.

23 Objection No. 5.

24 Plaintiff did receive treatment for her injuries in California. Plaintiff was
25 prescribed physical therapy and medication for her injuries by her doctors. Plaintiff's
26 doctors have told her that she needs surgery.

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Objection No. 6.

Plaintiff has never posted false attacks about others.

Objection No. 7.

June 2010 Plaintiff witnessed Defendant Lollar try to suture a bat and try to do an episiotomy. Defendant Lollar admitted in deposition that she has not gone past the ninth grade, has never received training in animal care and is not a veterinarian.

Objection No. 8.

Defendants have posted false statements of fact about Plaintiff.

Objection No. 9.

Defendants stated May 2011 that Plaintiff was convicted of the crimes of forgery, theft, credit card fraud.

Objection No. 10.

Defendants' actions have caused financial damages to Plaintiff

Objection No. 11.

Plaintiff has suffered emotional distress as evidenced by physical symptoms.

Objection No. 12.

Plaintiff is indeed a private individual in relation to these claims of defamation. The claims of defamation have nothing to do with Plaintiff's areas of expertise.

Objection No. 13.

Plaintiff wrote two emails to attorney Randy Turner. Plaintiff wrote all of the emails. There is no hearsay.

Objection No. 14.

Plaintiff witnessed Defendant Lollar try to do an episiotomy on a bat. Lollar cut the bat's vagina with scissors three times. The baby was born dead. Mother later died. Defendant Lollar admitted in deposition she is not a veterinarian.

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1 Objection No. 15.

2 While Plaintiff was at Bat World June 2010 she witnessed bats dying under the
3 care of Defendant Lollar.

4 Objection No. 16.

5 Plaintiff found a dead bat under Defendant Lollar's desk while she was at Bat
6 World June 2010.

7 ///

8 Objection No. 17.

9 Plaintiff mis-typed the sentence. It should read "I arrived at Bat World June 19,
10 2012 and left after ten days on June 28, 2012."

11 Objection No. 18.

12 The Texas Department of Health sent a long list of instructions that Defendants
13 must follow in regard to caring for bats. Bats can carry rabies.

14 Objection No. 19.

15 Defendants were found to be in violation of Texas Parks & Wildlife Department.
16 Defendant Lollar was allowing her bats to breed which is a violation of her wildlife
17 rehabilitation permit. Plaintiff received the results of public information act requests.
18 One such result was a communication from TPWD stating that Defendant Lollar was
19 in violation of her permit for allowing bats to breed.

20 Objection No. 20.

21 Plaintiff has never posted defamatory items about herself.

22 Objection No. 21.

23 Adding the John Does is relevant to Plaintiff's response to Motion for Summary
24 Judgment. Some of the defamation was posted by the Does. Plaintiff believes that
25 Defendant Lollar may even be one of more of the Does.

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1 Objection No. 22.

2 Defendant Lollar stated in the Texas trial that she has been communicating with
3 the Does.

4 Objection No. 23.

5 Plaintiff sent her second set of discovery requests to Defendants. This is relevant
6 because the responses will provide proof that Defendant posted the defamatory items.

7 Objection No. 24.

8 The Judge in the Texas trial never signed an order that said Plaintiff was in
9 “criminal contempt of court.”

10 Objection No. 25.

11 Plaintiff’s Texas deposition was not court ordered. It was by “notice.” Copy of
12 the deposition agreement was provided in the exhibits.

13 Objection No. 26.

14 The dates on Google blog posts can be changed. Plaintiff proved this in the
15 hearing for temporary injunction. The dates had been changed on the blogs. Plaintiff
16 provided further example by changing a blog post date to the year 1976. Google,
17 Blogger, the Internet as we know it today did not exist at this time.

18 Objection No. 27.

19 Plaintiff proved in her temporary injunction hearing that the dates had been
20 changed. Two printouts of the same blog on different dates showed different blog
21 posts. The blog posts were posted within the last year but Does changed the dates to
22 make them appear to be posted over a year ago, i.e. outside of the statute of limitations
23 for defamation.

24 Objection No. 28.

25 The Texas injunction was void. Plaintiff’s Texas attorney stated this to the
26 Judge. Defendants tried to cure the issue by filing a bond soon after. The injunction
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1 was still void because it contained prior restraint which is unconstitutional, it did not
2 have a trial date and it was against third parties.

3 Objection No. 29.

4 Plaintiff did not defame Plaintiffs in the two previous defamation cases. Plaintiff
5 did report them for securities fraud.

6 Objection No. 30.

7 Exhibit 6 is an article written by an independent entity which shows that
8 Plaintiff Cummins reported a company for securities fraud. Plaintiff Cummins was in
9 retaliation sued for defamation. Plaintiff Cummins prevailed in the action. Members of
10 the entity were sentenced to prison for their actions.

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13 Respectfully submitted,

14
15 *Mary Cummins*
16 _____
17 Mary Cummins, Plaintiff
18 Dated: July 28, 2012
19 645 W. 9th St. #110-140
20 Los Angeles, CA 90015
21 In Pro Per
22 Telephone: (310) 877-4770

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 DEFENDANTS' OBJECTIONS TO
DECLARATION OF MARY CUMMINS AND EXHIBITS THERETO**

on the following 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.


Stephen M. MacPhail
Bragg & Kuluva
555 S. Flower St., #600
Los Angeles, CA 90071

I also emailed a copy to smacphail@braggkuluva.com

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

Executed this day, July 30, 2012, at Los Angeles, California

Respectfully submitted,



Mary Cummins, Plaintiff
Dated: July 30, 2012
645 W. 9th St. #110-140
Los Angeles, CA 90015
In Pro Per
Telephone: (310) 877-4770

1 MARY CUMMINS
2 Plaintiff
3 645 W. 9th St. #110-140
4 Los Angeles, CA 90015
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8 UNITED STATES DISTRICT COURT
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10 CENTRAL DISTRICT OF CALIFORNIA
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11 MARY CUMMINS
12 *Plaintiff*

13 v.

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15 WORLD SANCTUARY an individual
16 person, BAT WORLD SANCTUARY
17 an unknown business entity, JOHN
18 DOES 1-10
19 *Defendants*

) Case No. CV11 08081 DMG (MANx)
)
) **PLAINTIFF'S STATEMENT OF**
) **GENUINE DISPUTES OF**
) **MATERIAL FACTS IN RESPONSE**
) **TO DEFENDANTS' MOTION FOR**
) **SUMMARY JUDGMENT**

) Date: August 10, 2012
) Time: 9:30 a.m.
) Judge: Hon. Dolly M. Gee
) Courtroom: 7

) Complaint filed: September 29, 2011
) Discovery Cut off: September 3, 2012
) Pretrial Conf. Date: October 9, 2012
) Trial Date: November 6, 2012

23
24 Pursuant to Fed. R. Civ. P. 56(d) and Local Rule 56-2, Plaintiff Mary Cummins
25 sets forth the following material facts as to which it contends there exists a genuine
26 issue necessary to be litigated with respect to the Motion for Summary Judgment of
27 filed by Defendants Amanda Lollar, Bat World Sanctuary.

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**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/PARTIAL
SUMMARY JUDGMENT; MEMORANDUM OF POINTS AND AUTHORITIES**

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I. STATEMENT OF GENUINE DISPUTES OF MATERIAL FACTS.

The following facts are undisputed between the parties and are material to the arguments made by Defendants Amanda Lollar, Bat World Sanctuary in their Motion for Summary Judgment.

UNDISPUTED

- 1. Plaintiff attended an internship at Bat World Sanctuary June 2010.
- 2. Plaintiff left early.
- 3. Plaintiff filed this case September 2011.
- 4. Plaintiff does not currently know the names of all of the John Does who made all of the defamatory statements.
- 5. Plaintiff reported Defendant Lollar to government agencies for violations.
- 6. Plaintiff has been involved in two other lawsuits for defamation as a Defendant.
- 7. Plaintiff has achieved recognition in the fields of real estate and wildlife rehabilitation.

The following facts are genuinely disputed between the parties and are material to the arguments made by Defendants Amanda Lollar, Bat World Sanctuary in their Motion for Summary Judgment.

DISPUTED

- 1. Defendant Lollar stated that Plaintiff Mary Cummins was “convicted of crimes.” Plaintiff has never been charged with or convicted of a crime ever.
- 2. Defendant Lollar made that statement as a statement of fact. It was not an opinion.
- 3. Defendant Lollar made that statement with malice. Lollar was reckless in posting such an outrageous allegation without trying to verify it first.
- 4. Defendant Lollar made that statement with malice. Lollar was notified through a cease and desist email that the statement was not true yet she did not

1 remove it from the Internet until later. Since then Lollar continues to post this
2 material and links to this material.

3 5. Defendant Lollar stated that Plaintiff “hacked” into Lollar’s website and
4 email account. Hacking is a Federal crime. Plaintiff has never been charged with or
5 convicted of hacking ever. Plaintiff never hacked into Defendant Lollar’s website or
6 email account.

7 6. Yahoo group worldbatline was a public group up until around July 2011.
8 Defendant Lollar’s posts about Plaintiff were viewable by all on the Internet. It was
9 not a private listserv or group.

10 7. Defendant Lollar stated that Plaintiff was in “criminal contempt of court.”
11 Plaintiff has never been in criminal contempt of court.

12 8. Defendant Lollar stated that Plaintiff’s deposition was “court ordered.” It was
13 not court ordered but by notice.

14 9. Plaintiff never demanded \$2,500 from Defendant to compensate for
15 Plaintiff’s injury.

16 10. The Texas Judge has not signed the court order on the Texas lawsuit. The
17 order and trial may be thrown out after a hearing on August 17, 2012.

18 11. Plaintiff was sued by Defendant September 2010, not September 2011.

19 12. Plaintiff filed this suit against Defendants September 2011, a year after
20 Plaintiff was sued by Defendants in Texas.

21 13. Plaintiff is not a limited public figure but a private individual.

22 14. If Plaintiff were a limited public figure, it would only be in relation to her
23 fields of expertise which are real estate and wildlife rehabilitation.

24 15. The libel and defamation in this case have nothing to do with real estate or
25 wildlife rehabilitation.

26 16. Defendant Lollar posted false statements of facts about Plaintiff.
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1 17. Defendant Lollar posted false statements of facts about Plaintiff knowing that
2 it is false and/or acting with reckless disregard for the statement's truth or falsity.

3 18. Plaintiff has identified harm caused by the defamation.

4 19. Plaintiff has never posted defamatory items about herself.

5 20. Plaintiff has never posted defamatory items about herself trying to "pin" it on
6 others.

7 21. Plaintiff is also suing John Does. Amanda Lollar and Bat World Sanctuary
8 are not the only Defendants.

9 22. John Does made some of the defamatory statements.

10 23. Plaintiff never made false reports to government agencies about Defendants.
11 It is a crime to file a false report to a government agency about another.

12 24. The government agencies did not find Plaintiff's reports to be false.

13 25. Plaintiff never downloaded altered videos onto the Internet.

14 26. Plaintiff has never abused an animal.

15 27. Defendants did not have a valid injunction against Plaintiff.

16 28. Plaintiff does know about actions taken against Defendants in response to her
17 complaints. The Health Department of Texas issued a list of instructions Defendants
18 must follow.

19
20 Respectfully submitted,

21
22 _____
23 Mary Cummins, Plaintiff
24 Dated: July 28, 2012
25 645 W. 9th St. #110-140
26 Los Angeles, CA 90015
27 In Pro Per
28 Telephone: (310) 877-4770

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 STATEMENT OF GENUINE DISPUTES OF MATERIAL
FACTS IN RESPONSE TO DEFENDANTS' MOTION FOR SUMMARY
JUDGMENT**

on the following 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.

Stephen M. MacPhail
Bragg & Kuluva
555 S. Flower St., #600
Los Angeles, CA 90071

I also emailed a copy to smacphail@braggkuluva.com

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

Executed this day, July 30, 2012, at Los Angeles, California

Respectfully submitted,



Mary Cummins, Plaintiff

Dated: July 30, 2012

645 W. 9th St. #110-140

Los Angeles, CA 90015

In Pro Per

Telephone: (310) 877-4770