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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY: _____

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
19 *Defendants*

) Case No. CV11 08081 DMG (MANx)
)
) **PLAINTIFF'S RESPONSE TO**
) **DEFENDANTS' MOTION FOR**
) **SUMMARY JUDGMENT/PARTIAL**
) **SUMMARY JUDGMENT;**
) **MEMORANDUM OF POINTS AND**
) **AUTHORITIES**
)
) 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

24 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

25 Plaintiff is responding to and objecting to Defendants' Motion for Summary
26 Judgment/Partial Summary Judgment; Memorandum of Points and Authorities.

27 This response and objection will be made on the grounds that:

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

1 1. The uncontroverted evidence shows that Plaintiff Mary
2 Cummins' ("Plaintiff") First Claim for Relief for Defamation succeeds as a matter
3 of law because the statements that Plaintiff alleges are defamatory are actionable.
4 Plaintiff is not a limited interest public figure under California law. Even if Plaintiff
5 were a limited interest public figure the false and defamatory statements were not
6 made in relation to Plaintiff's voluntary participation in a public controversy. The
7 statements made by Defendants are false, were not opinion and were made with
8 malice.

9 2. The uncontroverted evidence shows that Plaintiff Mary
10 Cummins' ("Plaintiff") Second Claim for Relief for Defamation Per Se succeeds as
11 a matter of law because the statements Plaintiff alleges are defamatory are
12 actionable. Plaintiff is not a limited interest public figure under California law. Even
13 if Plaintiff were a limited interest public figure the false and defamatory statements
14 were not made in relation to Plaintiff's voluntary participation in a public
15 controversy. The statements made by Defendants are false, were not opinion and
16 were made with malice.

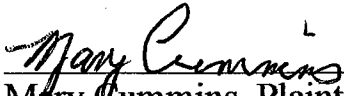
17 3. The uncontroverted evidence shows that Plaintiff Mary
18 Cummins' ("Plaintiff") Third Claim for Relief for Intentional Interference with
19 Business Relations succeeds as a matter of law because it is based on Plaintiff's
20 Defamation Claims. Because the statements Plaintiff alleges are defamatory are
21 actionable, this claim for relief also succeeds as a matter of law.

22 4. The uncontroverted evidence shows that Plaintiff Mary
23 Cummins' ("Plaintiff") Fourth Claim for Relief for Intentional Interference with
24 Prospective Economic Advantage succeeds as a matter of law because it is based on
25 Plaintiff's Defamation Claims. Because the statements that Plaintiff alleges are
26 defamatory are actionable, this claim for relief must also succeed as a matter of law.
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5. The uncontroverted evidence shows that Plaintiff Mary Cummins' ("Plaintiff") Fifth Claim for Relief for Intentional Infliction of Emotional Distress succeeds as a matter of law because it is based on Plaintiff's Defamation claims. Because the statements that Plaintiff alleges are defamatory are actionable, this claim for relief must also succeed as a matter of law.

This response, objection to Defendants' motion will be based on this notice, the Memorandum of Points and Authorities, Separate Statement of Undisputed Facts, Index of Evidentiary Exhibits, the Declaration of Mary Cummins filed and served herewith, the papers and records on file herein, and such oral and documentary evidence as may be presented at the hearing on this motion.

Respectfully submitted,


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

1 **MEMORANDUM OF POINTS AND AUTHORITIES AGAINST**
2 **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/PARTIAL**
3 **SUMMARY JUDGMENT**

4 **1. INTRODUCTION**

5 Plaintiff runs a non-profit wildlife rehabilitation group in California named
6 Animal Advocates. Defendant Amanda Lollar runs a bat sanctuary aka Bat World
7 Sanctuary in Texas. In or about June 2010, Plaintiff attended an internship run by
8 Defendant Lollar. During the internship Plaintiff witnessed Defendant Lollar commit
9 animal cruelty, animal neglect, violations of the health code, violations of the Animal
10 Welfare Act, violations of Texas Parks & Wildlife regulations, besides other things.
11 Plaintiff did hit her head and injure her back on Defendants' property. Plaintiff left
12 early in disgust at what she'd seen and returned to California. Plaintiff reported
13 Defendant to authorities and sought treatment for her injuries.

14 Plaintiff never demanded \$2,500 from Defendants to compensate her for her
15 injury. This is a total fabrication on part of Defendant. Defendant has never shown any
16 evidence of this claim. Plaintiff did not "initiate(d) her campaign of terror against
17 Defendants on the Internet." This is yet another example of Defendants' reckless and
18 malicious defamatory statements. Plaintiff has never published "false attacks against
19 their (Defendants') character." Plaintiff did rightfully report Defendant for abusing,
20 neglecting animals at their sanctuary and violating the law. Plaintiff witnessed
21 Defendant Lollar who has not gone past the ninth grade operating on bats without pain
22 relief. Bats were dying. People were being exposed to rabies.

23 In retaliation for Plaintiff reporting Defendants to authorities who did indeed
24 investigate, Defendants filed a false and meritless case against Plaintiff. Defendants
25 did prevail in that action June 14 but the Judge still has not signed an order. Plaintiff
26 has filed a notice of appeal, motion for new trial and objections to court order.

1 Defendants never showed the elements of defamation, breach of contract or malice
2 during the trial. The order may soon be thrown out.

3 Defendants started defaming and libeling Plaintiff in retaliation for reporting
4 Defendants to authorities. Defendants filed their defamation case against Plaintiff
5 September 2010. Plaintiff sent cease and desist emails to Defendant and their attorney
6 yet Defendants continued to libel and defame Plaintiff. Plaintiff did not file this
7 defamation suit until September 29, 2011, a year after Defendants filed their suit. It
8 was not "instant(ly)" as Defendants have stated.

9 Defendants have made countless defamatory statements about Plaintiff. In fact
10 they continue to do so to this very day. They have made many more websites, articles
11 and blogs devoted solely to defaming Plaintiff since this case was filed. Plaintiff stated
12 in her complaint and deposition that Defendants have stated that Plaintiff "has a
13 criminal record," was "convicted" of "theft of property, forged name on credit card," is
14 a "cyberstalker," "cybersquatter," was "picked up by police," "hacked into our
15 website" and "email list," was "picked up by the LAPD anti-terrorism task force,"
16 "posts pornography in children's chat rooms," "commits animal cruelty," "tortures
17 animals," is a "whore," "was charged with criminal contempt of court," Plaintiff's
18 "deposition was court ordered," among many other malicious and defamatory things.

19 In fact during the temporary injunction hearing Defendants' attorney Stephen
20 MacPhail stated that Defendant removed the following statements from the Internet,
21 i.e. "Plaintiff was in criminal contempt of court," Plaintiff is a "convicted criminal."
22 Defendant did remove those items from one or two places only to repost them in many
23 more. This shows the true malice of Defendants. The court never found Plaintiff in
24 "criminal contempt of court." Plaintiff's deposition was not "court ordered" but by
25 mutual agreement. Plaintiff is not a "convicted criminal."

26 Plaintiff has been greatly harmed by this defamation and has stated as much.
27 These false statements on the Internet have made it almost impossible for Plaintiff to
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1 get any work or donations for her non-profit organization. They have also caused
2 severe emotional distress. These defamatory items have been picked up by other
3 websites from which they can never be removed. The damage is permanent.

4 As described more fully herein, Plaintiff's claims for defamation succeed
5 because Defendants committed defamation and defamation per se. Plaintiff is not a
6 limited purpose public figure. Even if Plaintiff were a limited purpose public figure the
7 defamatory statements have nothing to do with her being a wildlife rehabilitator or real
8 estate appraiser. Defendants have stated that Plaintiff committed the crime of forgery,
9 fraud, theft, hacking, child pornography...which have nothing to do with wildlife
10 rehabilitation or real estate appraisal. Even if Plaintiff were a limited purpose public
11 figure the defamatory statements that may relate to her being a wildlife rehabilitator
12 were made with actual malice. Plaintiff has proof that Defendants knowingly posted
13 the false statements of fact with malice.

14 All of the statements upon which Plaintiff based her claims are actionable
15 because they are false statements of fact made with negligence and actual malice. They
16 were not opinions. Defendants' claim that Plaintiff posted the defamatory statements
17 about herself are ludicrous. Defendants have shown no proof of their outrageous and
18 false accusation. Plaintiff has been begging the Internet websites and Defendants to
19 remove these items.

20 Plaintiff can prove that Defendants made these statements. Defendant Lollar
21 admitted in her Texas deposition that she posted that Plaintiff "has a criminal record,"
22 was "convicted" of "theft of property, forged name on credit card," is a "cyberstalker,"
23 "cybersquatter," "hacked into our website," "email list," "demanded \$2,500 for a cat
24 scan," was "in criminal contempt of court," Plaintiff's deposition "was court ordered"
25 besides many other defamatory things. Judge Margaret Nagle will soon sign an order
26 compelling Google to reply to the subpoena for the identities of the John Does.
27 Plaintiff has not yet received the identities. Discovery is not over until September 3,
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1 2012. Plaintiff believes Defendant is one or more of the John Does which is why
2 Defendants objected to the subpoena for forced Plaintiff to file a motion to compel
3 which was heard July 24, 2012.

4 Because Plaintiff's remaining causes of action for interference with business and
5 prospective economic advantage, and infliction of emotional distress, are based on
6 Plaintiff's defamation claims, these causes of action succeed with Plaintiff's
7 defamation claims. Summary judgment must be denied.

8 **II. FACTUAL BACKGROUND**

9 June 2010 Plaintiff attended an internship at Bat World Sanctuary [Declaration
10 Plaintiff Mary Cummins ("Plaintiff's Declaration") Exhibit 1.] Plaintiff is already a
11 wildlife rehabilitator who rehabilitates bats. Plaintiff was told she would receive
12 advanced training in bat care. Instead Plaintiff witnessed Defendant Lollar commit
13 animal cruelty, animal neglect, violations of the health code, Animal Welfare Act,
14 Texas Parks & Wildlife regulations among other things. Plaintiff witnessed,
15 photographed and videotaped Defendant Lollar who did not go past the ninth grade
16 and is not a veterinarian operating on bats without pain relief. Plaintiff witnessed,
17 photographed and videotaped bats dying. Plaintiff found a bat with one wing that had
18 been dead under Defendant's desk for days. Plaintiff has been trained in recognizing
19 and investigating animal cruelty and neglect after going through the Police and
20 Humane academies.

21 Plaintiff injured her head and back on Defendants' property. Plaintiff left the
22 internship early after approximately ten days. Plaintiff returned to California, reported
23 Defendants for the violations she witnessed and sought treatment for her injuries.

24 Plaintiff made honest, detailed reports with photos and videos to authorities. The
25 authorities did indeed investigate. Defendants were found to be in violation and were
26 given instructions to follow by the agencies.

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1 Plaintiff with written and oral permission from Defendant posted videos and
2 photos online. Plaintiff made honest comments on the photos such as “she (Defendant)
3 debarked her dogs,” “she has rabies vaccinations,” “I found a dead bat with one wing
4 under her desk...” In retaliation for reporting Defendant to authorities and posting the
5 truth about her activities online, Defendant started defaming Plaintiff falsely calling
6 her a “convicted criminal.” Plaintiff has never been charged with or convicted of a
7 crime in her life. Plaintiff has never posted defamatory statements about herself trying
8 to “pin it” on others. Again, Defendants have shown no proof of these outrageous and
9 defamatory allegations. Plaintiff’s main goal is to get these defamatory items removed.

10 Defendants filed suit against Plaintiff in 2010, not 2011 as Defendant stated.
11 Plaintiff did not file this suit until a year later after she was sued by Defendants.
12 Defendants did not prevail on all causes of actions. The Judge has still not signed a
13 court order. Plaintiff filed notice of appeal, motion for new trial, objections to court
14 order and is awaiting hearing dates. The trial and order may be thrown out. Plaintiff
15 did amend her complaint December 2011.

16 Plaintiff stated in her complaint that Defendants published false statements on
17 the Internet about Plaintiff that injure Plaintiff and Plaintiff’s business. In deposition on
18 November 8, 2011 in Texas Defendant Lollar admitted she posted Plaintiff “has a
19 criminal record,” was found guilty of theft and forgery, “Case Number
20 LAW95W00B78-01 Count 1 484E(A) PC PTY THFT:ACQ CRED CRD W/O CONS
21 Count 2 484F(B) PC FORGE NAME ON CREDIT CARD Count 3 484G(A) PC
22 THEFT BY FORG/INVALID CRED CAR Count 4 484(A) PC THEFT OF
23 PROPERTY.” November 8, 2011 deposition, page 91, lines 12 - 25, page 92, lines 1 -
24 20. (Exhibit 2)

25 (start depo quote)

26 Q. (BY MS. CUMMINS) This is Exhibit 22. Can you tell me what that is?

27 A. It is a post made to my list serve.
28

1 Q. Did you make that post?

2 A. I can't tell who made it. Yeah, it says Bat World Sanctuary, so, yes, I made it.

3 Q. Could you please read that?

4 A. It says: Yes, she also has a criminal record.

5 And it lists case number and several different legal -- Court 1484EA, PC PTY
6 theft, ACQ credit card W/O cons. Another one says forged name on credit card,
7 another one says theft by forgery, invalid credit card. Another one that says theft of
8 property. Other lawsuits involve cyber squatting, which she lost via default judgment.
9 And then it says FA Beverly Hills, Incorporated versus Mary Cummins, ET, neighbor
10 dispute which she promptly settled, and defamation, which plaintiff abandoned
11 because they were able to get rid of her defamation. (end depo quote)

12 In Defendant Lollar's April 6, 2012 deposition in Los Angeles Defendant was
13 asked the same question and was shown the same exact exhibit. Under oath Defendant
14 stated she did NOT post the item which she previously admitted posting. Page 103,
15 line 25, page 104, lines 1 - 25, page 105 lines 1-5 (Exhibit 3)

16 (start depo quote) MS. CUMMINS: Okay.

17 I'm going to give to you Exhibit 67 which is a post made on the Yahoo Group
18 World Bat Line by user Bat World Sanctuary. It's post No. 33659. Have you seen that
19 post before?

20 A That's the post that you've shown me several times already that looks like
21 it's been manipulated.

22 MR. MACPHAIL: And for the record it's similar to -- I don't know if it's
23 identical to -- Exhibit 31.

24 MS. CUMMINS: It looks like it.

25 MR. MACPHAIL: It seems similar but I can't verify it word for word.

26 MS. CUMMINS: It looks like it to me.

27 BY MS. CUMMINS:

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1 Q So you're stating under oath that you did not make that post?

2 A I recall saying "Yes. She has a criminal record." That's what I recall
3 saying.

4 Q "Yes. She has a criminal record"?

5 A I'm sorry. Let me redact that. That's what I was reading. I recall saying
6 "Yes. It *appears* she has a criminal record."

7 Q Do you have a copy of the post that says "it appears"?

8 MR. MACPHAIL: Objection. Asked and answered. You can answer it again.

9 THE WITNESS: I'm sorry?

10 MR. MACPHAIL: You can answer. I'm just making an objection.

11 THE WITNESS: As I stated earlier that post has been deleted.(end depo quote)

12 Defendant Lollar admitted to posting that Plaintiff was a "convicted criminal"
13 under oath on November 8, 2011. On April 6, 2012 again under oath Defendant Lollar
14 stated she did not make that post. Defendant stated she posted that "It *appears* she has
15 a criminal record" yet was never able to produce this item in discovery. Defendant lied
16 about libeling Plaintiff under oath which shows true malice. This is but one example of
17 Defendant committing perjury in sworn testimony and statements.

18 This complaint is against Amanda Lollar, Bat World Sanctuary and John Does
19 1-10. Judge Margaret Nagle heard Plaintiff's motion to compel Google to comply with
20 subpoena and provide the identities of the John Does July 24, 2012. Judge ruled for the
21 Plaintiff and will be signing the order. Defendants did not want Plaintiff to have this
22 identifying information because it will most likely prove that Defendants are one or
23 more of the John Does.

24 Plaintiff also believes that Defendant is working in direct concert with the John
25 Does. Defendant admitted under oath to being in contact with them. Besides this
26 Defendant Lollar keeps reposting the items posted by the John Does even though
27 Defendant was sent cease and desist emails stating that what is posted is false and
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1 defamatory. As soon as Plaintiff receives the information from Google she can prove
2 that Defendants including John Does made ALL of the statements in question.
3 Nonetheless Defendant Lollar has already admitted to posting the worst of the items
4 stating that Plaintiff is a “convicted criminal.” Again, Plaintiff has never been charged
5 with or convicted of a crime in her entire life.

6 As was previously stated in Plaintiff’s motion for temporary injunction the dates
7 on the blog posts can be manipulated. The dates on the blogs have been manipulated to
8 make them appear to be outside of the statute of limitations. Plaintiff proved this by
9 showing the court two print outs of one blog printed at different times with different
10 blog post dates in her motion for temporary injunction. Plaintiff also showed a blog
11 post she made dated 1976 before Google, Blogger, the Internet as we know it today
12 even existed.

13 Defendant stated on the Internet that Plaintiff was “charged with criminal
14 contempt of court.” Plaintiff was never charged with “criminal” contempt of court.
15 Plaintiff was charged with “contempt of court” because Defendant had just hired an
16 attorney who could not make the deposition date.

17 During Plaintiff’s temporary injunction hearing Defendant’s attorney MacPhail
18 stated that Defendant Lollar removed the item that said Plaintiff was “charged with
19 criminal contempt.” Defendant removed the item from only one place. She did not
20 remove it from all sites she controls. Since then she has reposted it many times all over
21 the Internet falsely predating some of the posts to May 2011. This shows true malice
22 because Defendant knows it was not true and she told the Judge through her attorney
23 that she removed it.

24 During the same hearing Defendant’s attorney stated that Defendant had
25 removed the post in which she states Plaintiff is a “convicted criminal.” She may have
26 removed it from one place but Plaintiff cannot tell. Defendant merely made her Yahoo
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1 group private. It could be made public again at any time. Defendant has since reposted
2 a link to the item on the Internet. This again shows true malice.

3 Defendant Lollar stated “we won an injunction against her (Plaintiff)” May
4 2011. The injunction was void as Defendant never posted a bond, it was against third
5 parties, it included prior restraint which is unconstitutional and there was no trial date.
6 Even though Plaintiff knew it was void Plaintiff still complied with it as best she
7 possibly could. Defendant knew that the injunction was void yet she stated it was in
8 effect.

9 Defendant Lollar posted on her YouTube channel BWSvMC on her videos that
10 Plaintiff’s “deposition was court ordered.” The deposition depicted in the video was
11 not court ordered but on notice. (Exhibit 4) Again, Lollar through her attorney told
12 Judge Gee that she removed that item but she did not (Exhibit 5).

13 Defendant Lollar stated that Plaintiff’s complaints about Defendant were untrue
14 and found to be meritless. This is not true. All of Plaintiff’s complaints were true. The
15 agencies investigated Defendants. The Texas health department gave her a list of
16 instructions to follow in regard to handling bats properly.

17 Plaintiff has been involved in two other lawsuits involving claims of
18 defamation as a Defendant. Plaintiff reported two entities for securities fraud. In
19 retaliation Plaintiff was sued for defamation. Plaintiff prevailed in both of those
20 actions. What Plaintiff said about the entities was true. One entity was reprimanded by
21 the Securities and Exchange Commission (Kathy Knight-McConnell) and was then
22 sued for securities fraud. The other entity (Ashton Technology) was investigated by the
23 SEC and FBI (Exhibit 6). Many people were then arrested and sentenced to prison.
24 Plaintiff does not “bully” and “attempt to ruin the careers of professionals.” Plaintiff
25 reports people who break the law to authorities.

26 Plaintiff has identified damages which Plaintiff has sustained as a result of the
27 defamation. Plaintiff’s income has been severely negatively affected. Discovery is not
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1 over until September 3, 2012. Plaintiff intends to provide proof of damages in her
2 supplemental response to discovery. Plaintiff stated in her April 5, 2012 deposition that
3 she had not yet done her taxes for the previous year so she didn't have a dollar figure
4 available at that time.

5 Plaintiff is involved in wildlife rehabilitation as an unpaid volunteer. Plaintiff is
6 a real estate appraiser by trade. This does not make Plaintiff a limited public figure in
7 regard to these claims of defamation. The claims of defamation are unrelated to
8 Plaintiff's expertise. Plaintiff has not inserted herself into public debate in regard to
9 these claims of defamation.

10 **III. LEGAL ANALYSIS**

11 Plaintiff has alleged five claims for relief. Plaintiff's main complaint is
12 defamation. Defendants posted actionable false statements of fact about Plaintiff on the
13 Internet. Defendants posted them with negligence and actual malice. Plaintiff is not a
14 limited public figure in regard to these claims of defamation. The claims of defamation
15 i.e. credit card forgery, fraud, theft, Internet hacking, have nothing to do with
16 Plaintiff's expertise with animals or real estate.

17 **A. Defendants committed defamation upon Plaintiff**

18 As Per Cal. Civ. Code §§ 44, 45a, and 46 the elements of a defamation claim
19 are: (1) publication of a statement of fact (2) that is false, (3) unprivileged, (4) has a
20 natural tendency to injure or which causes "special damage," and (5) the defendant's
21 fault in publishing the statement amounted to at least negligence. In cases involving
22 matters of purely private concern, the burden of proving truth is on the defendant.
23 *Smith v. Maldonado*, 72 Cal.App.4th 637, 646 & n.5 (Cal. Ct. App. 1999).

24 Statements made about Plaintiff are actionable because they are false and are not
25 statements of opinion. Defendant admitted in her deposition that she posted that
26 Plaintiff was a "convicted criminal." Plaintiff has never been charged with or convicted
27 of a crime in her entire life. Defendant posted that Plaintiff committed the Federal
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1 crime of Internet hacking. Plaintiff has never hacked, never been charged with
2 hacking, never convicted of hacking. These were statements of fact. They were not
3 opinion.

4 **B. Defendants committed defamation per se upon Plaintiff**

5 A plaintiff need not show special damages (e.g., damages to the plaintiff's
6 property, business, trade, profession or occupation, including expenditures that resulted
7 from the defamation) if the statement is defamation per se. A statement is defamation
8 per se if it defames the plaintiff on its face, that is, without the need for extrinsic
9 evidence to explain the statement's defamatory nature. See Cal. Civ. Code § 45a; Yow
10 v. National Enquirer, Inc. 550 F.Supp.2d 1179, 1183 (E.D. Cal. 2008). For example, an
11 allegation that the plaintiff is guilty of a crime is defamatory on its face pursuant to
12 Cal. Civil Code § 45a.

13 Defendants stated that Plaintiff was guilty of the crimes of credit card fraud,
14 forgery, theft, hacking, animal cruelty among other things.

15 **C. Plaintiff is a private individual and not a limited-purpose public figure.**

16 Plaintiff is not a limited-purpose public figure in regard to these claims of
17 defamation. Plaintiff is a volunteer wildlife rehabilitator and real estate appraiser by
18 trade. Defendant has stated that Plaintiff was convicted of credit card fraud, forgery
19 and theft. Defendant further stated that Plaintiff committed the crime of hacking into
20 Defendant's website and email account. The crimes of credit card fraud and hacking
21 have nothing to do with wildlife rehabilitation or real estate appraising.

22 "For limited-purpose public figures, the actual malice standard extends only as
23 far as defamatory statements involve matters related to the topics about which they are
24 considered public figures. To return to our basketball example, the actual malice
25 standard would extend to statements involving the player's basketball career; however,
26 it would not extend to the details of his marriage" (Citizen Media Law Project -
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1 Proving Fault: Actual Malice)¹. Gertz v. Robert Welch Inc., 418 U.S. 323 (1972), Time
2 Inc. v. Firestone, 424 U.S. 448 (U.S. 1976), Pring v. Penthouse Int'l Ltd., 695 F.2d 438
3 (1982). The actual malice standard applies only to subject matter related to the
4 controversy in question or to the field in which the individual is prominent, not to the
5 person's entire life.

6 **D. Defendant posted the false statements with negligence and actual malice.**

7 "Actual malice" in the defamation context as publishing a statement while either
8 (1) knowing that it is false; or (2) acting with reckless disregard for the statement's
9 truth or falsity.

10 In this situation Plaintiff sent two cease and desist emails to Defendant's Texas
11 attorney (Exhibits 7, 8). Defendant admitted in deposition that her attorney gave her
12 the cease and desist emails. April 6, 2012 deposition, page 91 lines 1 - 6 (Exhibit 9)

13 (Depo quote start) MS. CUMMINS: I'm now going to hand to you Exhibit 60
14 which is an e-mail from me to your attorney -- another cease and desist -- dated May
15 11th, 2011.

16 BY MS. CUMMINS:

17 Q Did your attorney ever forward that e-mail to you?

18 A Yes. (Depo quote end)

19 The emails stated that the items posted were completely false. Even though
20 Defendant knew that the items were false, Defendant did not remove them. In fact
21 Defendant continued to post and share the false statements. Defendant knowingly
22 posted a false statement. Defendant acted with reckless disregard to the statement's
23 falsity which is malice.

24 In Defendant's November 8, 2011 deposition Defendant admitted that she made
25 the false statements in question. In Defendant's April 6, 2012 deposition Defendant
26 under oath denied making the false statements. Defendant stated that she said
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28 ¹ <http://www.citmedialaw.org/legal-guide/proving-fault-actual-malice-and-negligence>

1 “apparently” Plaintiff is a convicted criminal. Defendant has never shown proof that
2 she posted “apparently” because Defendant never posted that. Defendant perjured
3 herself under oath. The fact that Defendant lied about posting the false statement under
4 oath shows malice. The fact that Defendant continues to post the knowingly false
5 statement shows true malice.

6 **E. Plaintiff’s third, fourth and fifth claims for relief are based on Plaintiff’s**
7 **defamation claims and stand with the defamation claims.**

8 Defendants’ defamation caused the third, fourth and fifth claims for relief.

9 **CONCLUSION**

10 Based on the foregoing, Plaintiff can prevail on all of her causes of action.

11 Defendants’ Motion for Summary Judgment should be denied in its entirety.

12 Alternatively, Plaintiff requests that the Court deny Summary Adjudication as to only
13 those claims the court finds to be without merit as a merit of law.

14 Alternatively, Plaintiff requests that the Court defer considering the motion
15 because facts are currently unavailable to the non-movant Plaintiff. Discovery is not
16 over. Plaintiff needs the identities of the John Doe Defendants. Judge Nagle heard
17 Plaintiff’s motion to compel Google July 24, 2012 and ruled in favor of Plaintiff.
18 Plaintiff has not yet received the identifying data.

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Respectfully submitted,

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

DECLARATION OF PLAINTIFF MARY CUMMINS

I, MARY CUMMINS, declare as follows:

1. I am Mary Cummins Plaintiff in pro per. I make this declaration on my personal knowledge of the facts set forth herein.
2. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/ PARTIAL SUMMARY JUDGMENT as Exhibit 2 is a true and correct copy of the November 8, 2012 deposition of Amanda Lollar, i.e. cover page, reporter's certification, pages 91-92.
3. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/ PARTIAL SUMMARY JUDGMENT as Exhibit 3 is a true and correct copy of the April 6, 2012 deposition of Amanda Lollar, i.e. cover page, reporter's certification, pages 103-105.
4. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/ PARTIAL SUMMARY JUDGMENT as Exhibit 4 is a true copy of the August 25, 2012 deposition agreement for the deposition of Mary Cummins.
5. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/ PARTIAL SUMMARY JUDGMENT as Exhibit 5 is a true copy of a still of a video on Defendant's YouTube channel BWSvMC printed out July 25, 2012 which shows that Defendant stated that Plaintiff's deposition was "court ordered" when it was not. Defendant Lollar through her attorney told Judge Gee that she removed this item yet she did not.

Exhibit | 17

- 1 6. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES
2 AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/
3 PARTIAL SUMMARY JUDGMENT as Exhibit 6 is a true and correct copy of a
4 press release put out by the JohnDoes Anonymous Foundation about a
5 defamation lawsuit against Plaintiff in which Plaintiff prevailed.
- 6 7. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES
7 AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/
8 PARTIAL SUMMARY JUDGMENT as Exhibit 7 is a true and correct copy of a
9 cease and desist email sent to Defendants' Texas attorney Randy Turner dated
10 May 2, 2011.
- 11 8. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES
12 AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/
13 PARTIAL SUMMARY JUDGMENT as Exhibit 8 is a true and correct copy of a
14 cease and desist email sent to Defendants' Texas attorney Randy Turner dated
15 May 11, 2011 with attachment, message # 33659 from Yahoo group worldbatline
16 dated May 10, 2011 made by Defendant.
- 17 9. Attached to Plaintiff's MEMORANDUM OF POINTS AND AUTHORITIES
18 AGAINST DEFENDANTS' MOTION FOR SUMMARY JUDGMENT/
19 PARTIAL SUMMARY JUDGMENT as Exhibit 9 is a true and correct copy of
20 page 91 from Defendant's April 6, 2012 deposition.
- 21 10. I am President of Animal Advocates a California 501 3c corporation that
22 rehabilitates native wildlife.
- 23 11. I witnessed Defendant Lollar commit animal cruelty, animal neglect, violations
24 of the health code, Animal Welfare Action, Texas Parks & Wildlife regulations.
- 25 12. I injured my head and back at Bat World Sanctuary.
- 26 13. I reported Defendant Lollar to authorities upon my return to California.
- 27 14. I received treatment for my injuries in California.
- 28

DECLARATION OF PLAINTIFF MARY CUMMINS

- 1 15. I never demanded \$2,500 for a cat-scan from Defendants.
- 2 16. I never published false attacks on Defendant's character.
- 3 17. I witnessed Defendant Lollar performing surgery on bats. She is not a
4 veterinarian and did not go past the ninth grade.
- 5 18. The Texas Judge has not signed a court order on the Texas action.
- 6 19. I filed motion for new trial, objections to court order in the Texas action.
- 7 20. I filed this suit September of 2011.
- 8 21. Defendants have defamed me.
- 9 22. I have never been charged with or convicted of any crime in my entire life.
- 10 23. Defendants stated that I was a "convicted criminal."
- 11 24. Defendants' defamation is making it almost impossible to get any work or make
12 any money.
- 13 25. I have suffered severe emotional distress because of Defendants' defamation and
14 actions. I have nightmares, can't sleep much, am always upset, my heart rate is
15 30% faster than normal, my blood pressure has increased and I feel physically
16 ill .
- 17 26. I am a private individual, not a public figure or even a limited public figure.
- 18 27. I am a wildlife rehabilitator licensed by the California Department of Fish &
19 Game to rehabilitation all small native mammals.
- 20 28. I am a licensed California real estate appraiser.
- 21 29. I have never committed forgery, fraud, credit card theft, Internet hacking, child
22 pornography.
- 23 30. I sent two cease and desist emails to Defendant Lollar's Texas attorney Randy
24 Turner. The emails attached as exhibits state that Lollar's statements are false.
- 25 31. I was offered an internship at Bat World Sanctuary. I was promised that I would
26 be trained in advance bat care.
- 27
- 28

- 1 32. I took photos and videos with written and oral permission of bats, Defendant
2 Lollar and procedures while at Bat World.
- 3 33. I witnessed Defendant Lollar operating on bats when she is not a veterinarian.
- 4 34. I witnessed bats dying.
- 5 35. I found a dead bat with one wing under her desk.
- 6 36. I have gone through the Police Academy and Humane Academy. I have been
7 trained how to recognize and investigate animal cruelty, animal neglect and
8 animal abuse.
- 9 37. I arrived at Bat World June 19, 2010 and after ten days on June 28, 2010.
- 10 38. Defendants were found to be in violation of the Texas Health code in relation to
11 handling possibly rabid bats.
- 12 39. Defendants were found to be in violation of Texas Parks & Wildlife Department
13 in relation to allowing her bats to breed.
- 14 40. I have never posted defamatory items about myself. I have never tried to "pin"
15 such items on others.
- 16 41. Judge Margaret Nagle heard my motion to compel Google to comply with
17 subpoena July 24, 2012. Judge Nagle ordered Google to give me the identifying
18 data of the John Doe defendants.
- 19 42. I have not yet received the identifying data from Google.
- 20 43. As soon as I receive the data I will amend the complaint adding the Does as
21 Defendants by name.
- 22 44. Defendant Lollar admitted in the June Texas trial that she is in contact with the
23 John Does.
- 24 45. July 2012 I sent my second set of discovery requests to Plaintiffs. They have not
25 yet responded.
- 26 46. I was never found to be in criminal contempt of court ever.
- 27 47. My deposition was not "court ordered" but "noticed."
- 28

- 1 48. The dates on Google blog posts can be changed to any date desired.
- 2 49. Defendants changed the dates on their blog posts to make them seem to be out of
3 the two year statute of limitations. I provided proof in my motion for temporary
4 injunction.
- 5 50. Defendants' Texas injunction against me was void, overly broad, against third
6 parties and unconstitutional.
- 7 51. I was involved in two other defamation lawsuits, i.e. Kathy Knight-McConnell v
8 Mary Cummins, Ashton Technology Group, Fredric Rittereiser v Mary
9 Cummins. I prevailed in those actions. I did not defame Plaintiffs. I reported
10 them for securities fraud.
- 11 52. I do not "bully" and "attempt to ruin the careers of professionals." I report
12 people for securities fraud and animal cruelty, neglect, abuse.

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

15 Executed on July 25, 2012 at Los Angeles, California.

16 By: 
17 MARY CUMMINS

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NO. 352-248169-10

BAT WORLD SANCTUARY and)	IN THE DISTRICT COURT
AMANDA LOLLAR,)	
)	
Plaintiffs,)	
)	
VS.)	TARRANT COUNTY, TEXAS
)	
MARY CUMMINS,)	
)	
)	
Defendant.)	352ND JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

AMANDA LOLLAR

NOVEMBER 8, 2011

ORAL AND VIDEOTAPED DEPOSITION OF AMANDA LOLLAR,
produced as a witness at the instance of the DEFENDANT,
and duly sworn, was taken in the above-styled and
numbered cause on November 8, 2011, from 10:00 a.m. to
2:25 p.m., before Claudia White, CSR in and for the
State of Texas, reported by machine shorthand, at the
law offices of Stephanie Patton, 2101 Moneda, Haltom
City, Texas, pursuant to the Texas Rules of Civil
Procedure.

Job No. 12134

Exhibit 2 22

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NO. 352-248169-10

BAT WORLD SANCTUARY and)	IN THE DISTRICT COURT
AMANDA LOLLAR,)	
)	
Plaintiffs,)	
)	TARRANT COUNTY, TEXAS
VS.)	
)	
MARY CUMMINS,)	
)	
Defendant.)	352ND JUDICIAL DISTRICT
)	

REPORTER'S CERTIFICATION
DEPOSITION OF AMANDA LOLLAR
NOVEMBER 8, 2011

I, Claudia White, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, AMANDA LOLLAR, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on November 14, 2011, to the witness or to the attorney for the witness for examination, signature and return to me by December 13, 2011;

That the amount of time used by each party at the deposition is as follows:

Mr. Randy E. Turner, Esq. - 00 HOURS:00 MINUTE(S)

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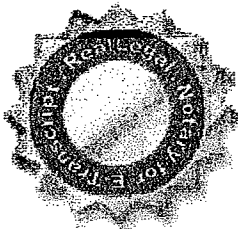
That pursuant to information given to the
Deposition officer at the time said testimony was taken,
the following includes counsel for all parties of
record:

Mr. Randy E. Turner, Esq., Attorney for Plaintiff
Mary Cummins, Pro Se, Attorney for Defendant

I further certify that I am neither counsel for,
related to, nor employed by any of the parties or
attorneys in the action in which this proceeding was
taken, and further that I am not financially or
otherwise interested in the outcome of the action.

Further certification requirements pursuant to Rule
203 of TRCP will be certified to after they have
occurred.

Certified to by me this 14th day of November, 2011.



Claudia White

Claudia White, Texas CSR #8242
Expiration Date: 12/31/12
Merit Court Reporters
Firm Registration No.133
307 West 7th Street, Suite 1350
Fort Worth, Texas 76102
Phone: 817-336-3042
Fax: 817-335-1203

FURTHER CERTIFICATION UNDER RULE 203 TRCP
The original deposition ~~was~~ was not returned to the

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deposition officer on December 5, 2011;

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to Mary Cummins, Pro Se; *via UPS Ground.*

That \$ 883.35 is the deposition officer's charges to the Defendant for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.

Certified to by me this *8th* day of *December*, 2011.

By: *Amanda Lollar*
For: Claudia White
Texas CSR #8242
Expiration Date: 12/31/12
Merit Court Reporters
Firm Registration No. #133
307 West 7th Street, Suite 1350
Fort Worth, Texas 76102
Phone: 817-336-3042
Fax: 817-335-1203

Job No. 12134.

1 A. I would assume myself and several volunteers.

2 Q. This was May 25th.

3 A. The same answer, I would assume myself and
4 several volunteers.

5 Q. What volunteers were there?

6 A. I'm trying to remember who was volunteering
7 then. I can't recall exactly. I'd have to check my
8 records.

9 Q. So if I were to ask you what volunteers were
10 there May 25th you would be able to give me a list?

11 A. Yes.

12 (Exhibit 22 marked.)

13 Q. (BY MS. CUMMINS) This is Exhibit 22. Can you
14 tell me what that is?

15 A. It is a post made to my list serve.

16 Q. Did you make that post?

17 A. I can't tell who made it. Yeah, it says Bat
18 World Sanctuary, so, yes, I made it.

19 Q. Could you please read that?

20 A. It says: Yes, she also has a criminal record.
21 And it lists case number and several different legal --
22 Court 1484EA, PC PTY theft, ACQ credit card W/O cons.
23 Another one says forged name on credit card, another one
24 says theft by forgery, invalid credit card. Another one
25 that says theft of property.

1 Other lawsuits involve cyber squatting,
2 which she lost via default judgment. And then it says
3 FA Beverly Hills, Incorporated versus Mary Cummins, ET,
4 neighbor dispute which she promptly settled, and
5 defamation, which plaintiff abandoned because they were
6 able to get rid of her defamation. She also goes by
7 Mary Cummins, Mary Cummins Cobb, and Mary Katherine
8 Cummins, and sometimes her name shows up as Mary
9 Cummings. She has used the same e-mail for years. She
10 has hundreds of aliases she uses, as well. Right now
11 she's encouraging her Facebook friends to repost the
12 videos and defamation I've managed to get removed.
13 These are the same items she was ordered to remove by
14 the court, so she is now in contempt. She either thinks
15 she's above the law or that she will never -- or that it
16 will never catch up to her. She typically bullies and
17 harasses her victims into giving up, but that's not
18 going to work for her this time around. Thank you,
19 Debbie, for your words of encouragement on our blog.
20 That really means a lot to us.

21 Q. Can you hand that back to me.

22 A. (Witness complies.)

23 Q. Now, everything that you wrote there, is that
24 the truth?

25 A. The truth as I know it.



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARY CUMMINS,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO.
)	CV11 08081 DMG (MANx)
AMANDA LOLLAR aka BAT WORLD)	
SANCTUARY, an individual)	
person, BAT WORLD SANCTUARY,)	
an unknown business entity,)	
JOHN DOES 1-10,)	
)	
Defendants.)	

VIDEOTAPED DEPOSITION OF AMANDA LORRAINE LOLLAR

Los Angeles, California

Friday, April 6, 2012

Reported By:
Teri E. Lingenfelter
CSR No. 5369

Exhibit 3

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CERTIFICATION

OF

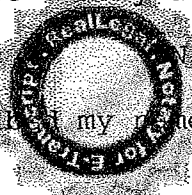
CERTIFIED SHORTHAND REPORTER

I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

WITNESS WHEREOF, I have this date subscribed my name _____



Julia Ray

Dated: _____

Certificate Number: 5369

10:48:00 1

THE WITNESS: No. I have never posted.

2

BY MS. CUMMINS:

3

Q Have you ever posted a review on GuideStar?

4

A I have never posted a review of your organization on GuideStar or of anything at all to do about you on GuideStar in any way, shape or form.

7

Q So you are not user Angel P.?

8

A No. I am not user Angel P. I have never posted to GuideStar on that site about you or your organization.

10

MS. CUMMINS: Sorry. I didn't have much time last night.

12

MR. MACPHAIL: Take your time.

13

MS. CUMMINS: I'll have to get to it later.

14

BY MS. CUMMINS:

10:50:02 15

Q Have you ever made any reviews or comments on GuideStar?

16

17

A No. Not that I recall.

18

MS. CUMMINS: I believe this is already one of the exhibits but I'm going to have to find it.

20

MR. MACPHAIL: Why don't you just mark a new one?

21

MS. CUMMINS: Okay.

22

MR. MACPHAIL: If we have duplicates we have duplicates. Do it that way.

23

→ 24

MS. CUMMINS: Okay.

25

I'm going to give to you Exhibit 67 which is a

10:50:43 1 post made on the Yahoo Group World Bat Line by user
2 Bat World Sanctuary. It's post No. 33659.

3 BY MS. CUMMINS:

4 Q Have you seen that post before?

5 A That's the post that you've shown me several
6 times already that looks like it's been manipulated.

7 MR. MACPHAIL: And for the record it's similar
8 to -- I don't know if it's identical to -- Exhibit 31.

9 MS. CUMMINS: It looks like it.

10 MR. MACPHAIL: It seems similar but I can't
11 verify it word for word.

12 MS. CUMMINS: It looks like it to me.

13 BY MS. CUMMINS:

14 Q So you're stating under oath that you did not
15 make that post?

16 A I recall saying "Yes. She has a criminal
17 record." That's what I recall saying.

18 Q "Yes. She has a criminal record"?

19 A I'm sorry. Let me redact that.

20 That's what I was reading. I recall saying "Yes.
21 It appears she has a criminal record."

22 Q Do you have a copy of the post that says "it
23 appears"?

24 MR. MACPHAIL: Objection. Asked and answered.

25 You can answer it again.

10:52:18 1

THE WITNESS: I'm sorry?

2

MR. MACPHAIL: You can answer. I'm just making
an objection.

3

THE WITNESS: As I stated earlier that post has
been deleted.

4

BY MS. CUMMINS:

5

Q You deleted the post?

6

A I deleted the post because we received a cease
and desist. I deleted every post on World Bat Line where
you were a part of the comment thread.

7

8

Q So there are currently no posts on World Bat Line
about me?

9

10

A There are currently no posts on World Bat Line
about you that I am aware of.

11

10:52:48 12

Q Are there any in the archives which are blocked?

13

A Those are all the posts that have been deleted.

14

Only members would be aware that those archives
are blocked.

15

16

Q A few minutes ago you stated you've never posted
a comment on GuideStar.

17

18

Is that true?

19

A I said I don't recall ever posting a comment on
GuideStar.

20

21

MS. CUMMINS: I'm going to hand you Exhibit 68

22

which is a comment on the GuideStar account for Bat World

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CAUSE NO. 352-248169-10

BAT WORLD SANCTUARY, ET AL. * IN THE DISTRICT COURT
*
*
VS. * TARRANT COUNTY, TEXAS
*
*
*
MARY CUMMINS * 352ND JUDICIAL DISTRICT

A G R E E M E N T

This agreement is being made pursuant to the Texas Rules of Civil Procedure, by agreement of the parties hereto, as follows:

Agreements for the deposition of MARY CUMMINS, taken on August 25, 2011, by the Plaintiffs.

* * * * *

WE, the attorneys here representing the parties listed herein, stipulate and agree to each of the following checked items, to-wit:

THIS DEPOSITION SHALL BE TAKEN PURSUANT TO:

Notice Agreement
 Subpoena Court Order
 Other (Please specify) _____

AGREEMENTS REGARDING OBJECTIONS:

Reserve all until the time of trial.
 Make all at the time of the taking of the deposition or all will be waived.
 Make objections in accordance with the Rules of Civil Procedure (Texas)

Michael Navarro, CSR
Dolores Stewart & Associates, Inc.
(817)810-0244

Exhibit 4 33

The image shows a screenshot of a YouTube video player. At the top left is the YouTube logo. Below it, the video title is "The contract". The channel name is "BWS/MC" with a subscriber count of 70. The video player itself is dark with white text in the center that reads: "Case Name: Bat World Sanctuary et al vs Mary Cummins", "Cause No. 352-248169-10", "District Court of Tarrant County, Texas", and "Court Ordered Deposition August 25, 2011". Below the video player, there are icons for Like, Add to, Share, and Print. The view count is 99. The description below the video states: "Uploaded by BWS/MC on Sep 10, 2011. Video of defendant MC of AnimalAdvocates us in a deposition taken on August 25, 2011. This video is copyrighted and owned by Amada Lollar and Bat World Sanctuary. This taped deposition is a public record and may freely be shared with others. No fees are to be collected for this video or evidence. Show more."

Exhibit 5

Philadelphia judge throws out Ashton suit

A Philadelphia Court of Common Pleas judge has thrown out a lawsuit filed earlier this year by Ashton Technology Group, Inc. and its CEO, Freddie Rittreiser, against a frequent online message board critic of the company and its CEO. The lawsuit was filed by Rittreiser and Ashton after the internet poster uploaded documents and other information connecting Ashton and Rittreiser to individuals who work for the Mafia, and who have been arrested by the FBI and indicted by the U.S. Attorney on charges of securities fraud, money laundering, and other Mafia-related activity. In the lawsuit, Rittreiser and Ashton sought court intervention to prevent the defendant, a self-employed Southern California business woman, from posting her research findings and opinions about the plaintiffs to investors on a Yahoo! stock message board.

The allegations were published in the midst of FBI and SEC investigations of Ashton's financial partners. Earlier this year, Ashton (symbol: ASTN) received notice that its stock would be delisted by Nasdaq by the end of the year. Following the investigations, several former Ashton consultants were indicted and jailed on the fraud charges. Ashton has never derived a profit from its operations since its launch in 1994, but instead relies on revenue from the sale of stock to feed its cash-hungry operations and management. Recently the company announced that it would be relying on death-spiral financing to meet its financial needs for 2001, thus sealing for good any hope that ASTN investors may have of ever recovering their losses. Death-spiral financing usually involves severe dilution of the outstanding shares, causing share value to plummet amidst short perks of market manipulations. Since Ashton filed the lawsuit against the Yahoo! board posters, its stock price has fallen approximately 90% from about \$3 to 30 cents, the price at the time of this writing.

The Pennsylvania court ruled that the Commonwealth of Pennsylvania held no personal jurisdiction over the defendant, because she had no minimal contacts within the state which would permit jurisdiction under Pennsylvania's "long-arm" statute. The defendant, who represented herself pro se, relied on the well-publicized case *Barrett v. Catacombs Press* in which a Philadelphia federal court had previously ruled that Pennsylvania held no jurisdiction in a similar internet case. That ruling by Judge Antwerpen has been cited by state and federal courts in many different states as a model for determining jurisdiction in states which have "long-arm" statutes similar to Pennsylvania.

Frequently companies such as Ashton file so-called SLAPP lawsuits (Strategic Litigation Against Public Participation) claiming "defamation" when the real intent is to somehow prevent the person from exercising his/her constitutionally protected right of free speech. The Ashton case follows a familiar pattern we have seen repeatedly, that is, that the corporation (we call them "bully corps") will file suit outside of the state of residence of the defendant, making it difficult of the defendants to defend and to object to discovery. That is because it is known to the company that the suit is frivolous from the outset, and the plaintiffs are counting on the inability of defendants to hire sufficient legal counsel due to economic and other circumstances. For example, one California law firm will not even make a telephone consultation to a defendant without first receiving a \$10,000.00 cash retainer. Therefore, many SLAPP plaintiffs are relying on the odds that a defendant will not have the cash resources to launch a substantial defense and counterclaims, and therefore the plaintiff may win by default.

The John Does Anonymous Foundation provides a free legal referral service for anonymous defendants in jurisdictions where lawyers have made their services available to defend on a pro bono or reduced fee basis. In situations where the Foundation is unable to make a referral, or, in cases such as Ashton where the Defendant wanted to represent herself, the johndoes.org web site provides various networking tools where pro se defendants can share information and experiences with one another.

Ashton Technology Group and Freddie Rittreiser were represented by the Pennsylvania law firm of Frank & Rosen. The lawyers for the plaintiffs have requested that the judge in the case reconsider her ruling. The defendant, Mary Cummins, a commercial real estate appraiser in southern California, represented herself pro se.

Staff Report

Exhibit 6

35

From: Mary Cummins <mmmaryinla@aol.com>
To: randy <randy@turnermckenzie.com>; randall <randall@turnermckenzie.com>
Subject: Cease and desist to Amanda Lollar
Date: Mon, May 2, 2011 3:24 pm

Because Lollar is represented by you, I cannot contact her directly. I am therefore sending this cease and desist to you.

Your client is posting the following completely untrue things on the public internet about me. She is also sending it to my FB friends and having others post it on my accounts.

She posted that I hacked her email account, I have a criminal history, I stalk people, I helped her mutilate the pregnant bat, I left Bat World after only four days because the workload was too much, I asked her to pay for a \$2,500 cat scan when I hit my head, the police are now prosecuting me... All of these things are absolutely and completely untrue. I saved copies of all of them. This is libel and defamation per se.

I have no criminal history at all. I've had numerous DOJ background checks to work with abused kids, go to the police academy and have my professional licenses. I've been the victim of a stalker. I have never stalked anyone. I videotaped Lollar mutilating the bat. I did not participate. I never had a cat scan nor did I ask her to pay for one. I just spoke with Mineral Wells police. They are not prosecuting or investigating me. They are investigating Lollar and Bat World. The USDA and Texas Parks & Wildlife are also investigating her.

Please, tell your client to cease and desist from libeling and defaming me.

I will see you Wednesday at the hearing. I leave tomorrow at 10:00 a.m. If there is any change, please, let me know before that time or as soon as possible. (310) 877-4770. Thanks.

Mary Cummins
Animal Advocates
<http://www.AnimalAdvocates.us>
<http://www.Facebook.com/AnimalAdvocatesUSA>
<http://AnimalAdvocatesWildlifeRehabilitation.Blogspot.com>
CA DFG permitted Wildlife Rehabilitator
Rio Hondo Police Academy
State Humane Association of California
Animal Law Enforcement Academy
HSUS NDART, EARS
IWRC, NWRA, CCWR

Exhibit 7

36

From: Mary Cummins <mmmaryinla@aol.com>
To: randy <randy@turnermckenzie.com>
Subject: Cease and desist to Amanda Lollar
Date: Wed, May 11, 2011 9:42 am
Attachments: worldbatline__Message__Re__Mary_Cummins-1.pdf (310K)

Your client is now falsely posting on the public internet that I have a criminal record. I do not. I've passed numerous DOJ background checks to work with abused children, go to the police academy, have my professional licenses and my gun permit. I've never been charged with a crime or found guilty of any crime. I am not the Mary Cummins below and she knows this. I've attached a pdf of the post as well.

"Re: Mary Cummins

Yes, she also has a criminal record:

Case Number LAW95W00B78-01
Count 1 484E(A) PC PTY THFT:ACQ CRED CRD W/O CONS
Count 2 484F(B) PC FORGE NAME ON CREDIT CARD
Count 3 484G(A) PC THEFT BY FORG/INVALID CRED CAR
Count 4 484(A) PC THEFT OF PROPERTY"

She posted that I was involved in cybersquatting and lost the case. I was not involved in cybersquatting. I saved their domain from a cybersquatter and gave it to them. The plaintiff ended up paying me for past work on their website which was over \$2,000. Only documents faxed end up digitized in this court. I didn't fax all of my documents.

"Other lawsuits involve cybersquatting which she lost via default judgment (BC329942, FAA BEVERLY HILLS INC VS MARY CUMMINGS ET AL),"

She posted that I had a neighbor dispute which I promptly settled. My neighbor destroyed my property and assaulted me. I got a restraining order on him and he had to pay me for the damage. There was no settlement. He then lost his home in foreclosure and was forced to move.

"neighbor dispute which she promptly settled (BC259366, Simas v. Cummins) and defamation which plaintiff abandoned because they were able to get rid of her defamation (LC049092).

I have no idea what the last case number is about at all.

Please, tell you client to cease and desist from libeling and defaming me. I would think by now you would have done some research on your client and realized she is not what she tells everyone. Remember, she told you she had the "largest bat sanctuary in the world" with 200-300

Exhibit 8

37

bats. All bat people including Lollar know the Guinness world record for largest bat sanctuary is 1.8 - 2.5 million. That is a huge difference.

Please, note that her complaint stated I posted my videos and photos AFTER I left. Look at the documents you submitted May 4, 2011. You can see the dates on the videos and photos. They were posted BEFORE I left except for the botched episiotomy video. She stated she gave me no permission to take or post them. She clearly did. Your client is not what she seems. She is lying to you. Do some research. You have another Steven Woods on your hands. I'm truly shocked that an animal lover like yourself would be representing someone who commits animal cruelty as evidenced by those videos.

**Mary Cummins
(310) 877-4770**

Hi, mary Sign Out Help

Make Y! Your Homepage

Yahoo! Mail

YAHOO! GROUPS

Search

Web Search

Start a Group | My Groups

worldbatline · World Bat Line

Search for other groups...

Search

Home Messages

Click here for the latest updates on Groups Message search

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Mary Cummins

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Yahoo! Groups Tips

Did you know... Hear how Yahoo! Groups has changed the lives of others. Take me there.

Best of Y! Groups



Check them out and nominate your group.

Already receiving group email?

Re: Mary Cummins

Tue May 10, 2011 6:49 pm

Yes, she also has a criminal record:

Show Message Option

- Case Number LAW95W00B78-01
- Count 1 484E(A) PC PTY THFT:ACQ CRED CRD W/O CONS
- Count 2 484F(B) PC FORGE NAME ON CREDIT CARD
- Count 3 484G(A) PC THEFT BY FORG/INVALID CRED CAR
- Count 4 484(A) PC THEFT OF PROPERTY

"batworldsanctuary"
 <sanctuary@...>
 batworldsanc...
 Offline
 Send Email

Other lawsuits involve cybersquatting which she lost via default judgment (BC329942, FAA BEVERLY HILLS INC VS MARY CUMMINGS ET AL), neighbor dispute which she promptly settled (BC259366, Simas v. Cummins) and defamation which plaintiff abandoned because they were able to get rid of her defamation (LC049092).

She also goes by Mary Cummins, Mary Cummins-Cobb and Mary Katherine Cummins. And sometimes her name shows up as Mary Cummings. And she has used the same email mmmaryinla@... for years. She has hundreds of aliases she uses as well.

Right now she's encouraging her facebook friends to re-post the videos and defamation I've managed to get removed. These are the same items

she was ordered to remove by the court, so she is now in contempt. She's either thinks she's above the law, or that this will never catch up to her. She typically bullies and harasses her victims into giving up, but that is not going to work for her this time around.

Thank you Debbie, for your words of encouragement on our blog. That really means a lot to us!

Amanda

-- In worldbatline@yahoogroups.com, Deborah Cottrell <doctorcottrell@...>

wrote:

>

> I'm sure a lot of you have seen this, but I found this link about "Psycho

> Mary Cummins." Her cyberstalking history goes back to at least 2002. Check

> this out:

>

> <http://mary-cummins-animal-advocates-crackpo.blogspot.com/>

>

> Debbie Cottrell DVM

> westendanimal.com

>

>

> [Non-text portions of this message have been removed]

>

Reply

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	Author	Sort by Date
Mary Cummins I'm sure a lot of you have seen this, but I found this link about "Psycho Mary Cummins." Her cyberstalking history goes back to at least 2002. Check this out: ...	Deborah Cottrell deborah_cott...	May 10, 2011 6:37 pm
Re: Mary Cummins Yes, she also has a criminal record: Case Number LAW95W00B78-01 Count 1 484E(A) PC PTY THFT:ACQ CRED CRD W/O CONS Count 2 484F(B) PC FORGE NAME ON CREDIT CARD ...	batworldsanctuary batworldsanc...	May 10, 2011 6:53 pm
Re: Mary Cummins She's currently using Facebook to trash - Kathy Estes Colorado ... [Non-text portions of this message have been removed]...	Kathy Estes kestes94598	5:01 am

40

worldbatline : Message: Re: Mary Cummins

5/11/11 8:58 AM

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10:27:06

1 Exhibit 60 which is an e-mail from me to your attorney --
2 another cease and desist -- dated May 11th, 2011.

3 BY MS. CUMMINS:



4 Q Did your attorney ever forward that e-mail to
5 you?

6 A Yes. This is the one that I just --

7 MR. MACPHAIL: Objection. For the record are you
8 referring to her attorney in Texas?

9 MS. CUMMINS: Yes. I'm sorry.

10 THE WITNESS: This is a post that looks like it's
11 also been manipulated.

12 BY MS. CUMMINS:

13 Q Can you hand that back to me?

14 A (Witness complies.)

10:27:56

15 Q Is this not a post which was posted on the
16 Yahoo Group World Bat Line?

17 A That doesn't look like the post I actually made.
18 It looks like that post has been manipulated.

19 Q Have you ever posted "Re: Mary Cummins. Yes.
20 She also has a criminal record"?

21 A I posted "Yes. It appears she has a criminal
22 record."

23 Q Do you have a copy of that post?

24 A No, I do not.

25 Q Why not?

Exhibit 9 42

FILED

NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY(S)

Mary Cummins
645 W. 9th St. #110-140
Los Angeles CA 90015

2012 JUL 25 PM 2:31
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BY: _____

Mary Cummins

CASE NUMBER

CV11 08081 DMG(MAN)

PLAINTIFF(S),

Amanda Lollar aka Batworld
Sanctuary, Bat World Sanctuary,
John Doe 1-10

DEFENDANT(S).

PROOF OF SERVICE - ACKNOWLEDGMENT
OF SERVICE

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, State of California, and not a party to the above-entitled cause. On July 25, 2012, I served a true copy of Plaintiff's Response to Defendants' Motion Summary Judgment by personally delivering it to the person (s) indicated below in the manner as provided in FRCP 5(b); by depositing it in the United States Mail in a sealed envelope with the postage thereon fully prepaid to the following: (list names and addresses for person(s) served. Attach additional pages if necessary.)

Place of Mailing: 645 W. 9th St #110-140 LA, CA 90015
Executed on July 25, 2012 at Los Angeles, California

Please check one of these boxes if service is made by mail:

- I hereby certify that I am a member of the Bar of the United States District Court, Central District of California.
- I hereby certify that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.
- I hereby certify under the penalty of perjury that the foregoing is true and correct.

Served via email + fax
Stephen MacPhail
555 S. Flower #600
Los Angeles CA 90071

Mary Cummins
Signature of Person Making Service

ACKNOWLEDGEMENT OF SERVICE

I, _____, received a true copy of the within document on _____.

Signature

Party Served