

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 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 MARY CUMMINS) Case No. BS143169
11)
12 *Petitioner*) AMENDED MOTION TO
13) RECONSIDER DENIAL OF CIVIL
14 v.) RESTRAINING ORDER, AWARD OF
15) LAWYER’S COSTS AND FEES,
16) REQUEST FOR NEW TRIAL
17) BEFORE A DIFFERENT JUDGE
18)
19) Date: August 16, 2013
20) Time: 8:30 a.m..
21) Dept: 75
22)

23 Petitioner Mary Cummins (“Cummins”) moves this Court to reconsider the denial
24 of her request for restraining order against Respondent Amanda Lollar (“Lollar”) and
25 order to pay Respondent’s legal costs and fees. Petitioner requests a new hearing
26 before a different Judge.

27 **I. INTRODUCTION**

28 Cummins contends that during the hearing conducted on her section 527.6 petition,
the trial judge exhibited bias against her in violation of her constitutional due process
right to a fair trial. Cummins further argues that the trial judge engaged in acts of
judicial misconduct and committed errors of law that deprived her of a fair trial.
Therefore a new hearing is warranted under Cal. Civ. Code of Proc. § 657 due to
irregularities in the section 527.6 hearing and the court's erroneous exclusion of

AMENDED MOTION TO RECONSIDER DENIAL OF CIVIL RESTRAINING ORDER, LAWYER’S COSTS AND
FEES, REQUEST FOR NEW TRIAL BEFORE A DIFFERENT JUDGE

1 evidence. Cummins requests to remand the matter for a new trial/hearing in front of a
2 new judge. Cummins gives notice that she will be recording audio and/or video of the
3 hearing.

4 **SUMMARY OF RELEVANT FACTS**

5 Cummins has gone through the police academy, Humane Academy to become a
6 Humane Officer. Cummins is on the Humane Society of the United States animal
7 cruelty and rescue team which investigates and reports animal cruelty.

8 Cummins was invited to intern with Lollar at Bat World Sanctuary in Texas.
9 Cummins went to Texas June 19 to June 28, 2010. Instead of learning advanced bat
10 care she witnessed and documented animal cruelty, animal neglect, violations of the
11 Animal Welfare Act and other violations.

12 Cummins left early and reported Lollar to authorities giving them photos and videos
13 besides the result of an investigation to authorities. Lollar was investigated. Violations
14 were found. A USDA veterinarian stated in writing that Lollar caused bats “pain,
15 suffering” and “death.” USDA stated in writing she violated the Animal Welfare Act.
16 Texas Parks & Wildlife Department also stated in writing that Lollar violated their
17 regulations.

18 In retaliation for Cummins reporting Lollar to authorities, Lollar has been
19 harassing, cyberstalking, stalking, defaming, libeling, slandering, threatening, inciting
20 others to harass, paying others to harass and assault, filing false reports with
21 government agencies against Cummins ... since July 2010 to the present.

22 Lollar hired Robert Young to serve documents on Cummins February 17, 2013.
23 Lollar’s attorney stated in writing he did not send the process server. He filed a notice
24 of inability to serve January 3, 2013 and was done with the case.

25 Cummins was preparing a private hall for the LA City Mayoral Convention. Young
26 trespassed into the closed private room, tried to lure Cummins out of the room under
27 false pretense, videotaped Cummins against her will openly and also with a hidden
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1 camera then struck Cummins with documents. Lollar then posted the edited video
2 online without Cummins' permission. It was removed by YouTube as a "depiction of
3 violence." Cummins retained a copy. Cummins filed a police report against Lollar and
4 Young for assault report # 131506821. Young admitted to the police he was paid by
5 Lollar to do this.

6 Since then Lollar tried to access Cummins' bank accounts pretending to be
7 Cummins using her social security number and personal identifying information
8 obtained illegally. The bank denied Lollar access and played the audio tape of the
9 phone call to Cummins who recognized Lollar's voice. Cummins filed another police
10 report for identity theft report # 130108757.

11 Prior to these incidents a molotov cocktail and an M-80 were found under
12 Cummins' car within weeks of each other but the perpetrator could not be identified.
13 Cummins suspects this was ordered by Lollar but has no proof.

14 Lollar posted a death threat against Cummins online which was included in the
15 original petition. Lollar is encouraging her 40,000 Facebook fans to attack Cummins.
16 Lollar is inciting her fans to commit violence against Cummins. Her fans have made
17 death threats. People have showed up at Cummins' home address which is not public.

18 This behavior caused Cummins to send a few cease and desist emails to Lollar's
19 attorneys instructing them to keep Lollar away from her. Cummins has informed
20 Lollar's attorneys that Cummins has a loaded permitted gun and will defend herself to
21 the full extent of the law if anyone trespasses upon her property and tries to harm her.

22 Lollar has continued harassing Cummins with a knowing and willful course of
23 conduct directed at Cummins that seriously alarms, annoys, harasses Cummins and
24 that serves no legitimate purpose. The course of conduct has caused Cummins and
25 would cause a reasonable person to suffer substantial emotional distress.

26 Three LAPD officers, two LAPD detectives and an LAPD attorney all told
27 Cummins that she qualified for and should get a restraining order against Lollar. LAPD
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1 stated an order would prevent Lollar from assaulting Cummins directly and also
2 prevent Lollar from ordering other people to assault, harass, stalk, threaten Cummins
3 on her behalf. LAPD gave Cummins printed directions to obtain a restraining order.
4 Cummins went to the restraining order clinic and they told Cummins she qualifies for
5 and should get the restraining order. They read and approved Cummins' signed forms.

6 Cummins applied for a TRO against Lollar May 24, 2013 and received it #
7 BS143169. Court Commissioner Carol Jane Hallowitz who became an attorney in
8 1977 signed the order. The Court told Cummins to be sure to bring all of her evidence
9 and witnesses to the hearing to show the Court. Cummins had Lollar served in Texas
10 May 28, 2013.

11 Instantly Lollar admitted she was served with the TRO then started violating the
12 restraining order by communicating directly with Cummins and continuing her
13 harassment. Lollar violated the TRO over 100 times during the first two weeks alone.
14 Cummins filed two violation of restraining order reports with LAPD with exhibits.
15 LAPD instructed Cummins to keep a log of the violations which she did.

16 June 14, 2013 was the restraining order hearing. The assigned Judge was not in
17 attendance. The Court Coordinator Sharon Charles stated an experienced attorney
18 would hear the cases that day. Cummins signed a form stating that she agreed to have
19 Judge pro tem Marjorie A. Marenus oversee the case. Marenus lists as one of her main
20 specialities in her website "Civil Harassment Restraining Orders." Marnenus has over
21 25 years of experience. Lollar did not show but her attorney Dean Rocco showed.
22 Rocco requested a two week extension so Lollar could arrange to "personally appear."
23 Lollar received the extension with a new hearing date of July 1, 2013. The TRO was
24 also extended by Marjorie Marenus.

25 Lollar continued to violate the restraining order at least another 50 times. If
26 anything the restraining order caused Lollar to increase her harassment by ten times.
27 Cummins continued to keep a log of the violations.
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1 Lollar's attorney Dean Rocco filed a response to Cummins' request for restraining
2 order. The response included unsigned documents, an unsworn statement by Lollar and
3 an unsworn statement by an unknown attorney Katherine M. McSweeney. At least
4 70% of what was stated in the responsive documents was completely false, misleading,
5 besides inadmissible in court.

6 Cummins filed a reply to their response noting the falsities with attached exhibits as
7 proof. The Judge quickly flipped through Cummins' 13 page reply with 12 exhibits
8 within a minute right before the case was heard July 1, 2013. Judge Carol Boas
9 Goodson oversaw the hearing and called the case.

10 The court order Exhibit 1 states "Oral argument taken from the petitioner."
11 Petitioner Cummins was NOT allowed to give oral argument. Cummins came prepared
12 with videos and a two inch tall stack of evidence of over 150 violations of the
13 temporary restraining order. She had another two inch stack of paper evidence and
14 videos of past harassment, threats and the assault. The Judge instantly ruled without
15 allowing Cummins to present her case or any evidence. Judge stated in court she ruled
16 based on the TRO application alone which was only a summary. The Judge prejudged
17 the case.

18 Judge Goodson instantly stated that the events happened in 2010 so it's too late to
19 do anything. Cummins replied that her application for TRO stated the events started in
20 2010 and were ongoing to the present.

21 Judge Goodson then allowed Lollar's attorney to plead his response without
22 allowing Cummins to first plead her case. Attorney Rocco mentioned a previous case
23 between Cummins and Lollar. Cummins stated "objection" because that case is
24 inadmissible as evidence in this case as it is not related. Judge Goodson ignored
25 Cummins' objection completely, did not even say "over ruled" or "sustained."

26 Attorney Rocco then referred to the unsworn statements in his reply. Cummins
27 again objected as hearsay. They were not even sworn statements. Neither Lollar nor the
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1 other attorney appeared in the case. Even if attorney Katherine M. McSweeney
2 appeared she was not a witness to anything. Again, Judge Goodson did not even
3 acknowledge Cummins' objections.

4 Attorney Rocco then mentioned a search for the common name "Cummins" in legal
5 filings in all of LA County. Rocco tried to infer that Petitioner was every "Cummins"
6 in the search results to make it appear that Petitioner is litigious. Cummins again tried
7 to object because Petitioner is not every person in the search results. Previous litigation
8 is also inadmissible as it is not related. Rocco tried to portray Cummins in false light
9 by making it seem that she is not only litigious but also loses most lawsuits which is
10 not true.

11 Rocco told the court that Cummins tried to get a restraining order on her neighbor
12 but was denied. Cummins did indeed get a restraining order on her neighbor after he
13 assaulted her multiple times. Rocco's own exhibit shows Cummins received the
14 restraining order. Rocco, McSweeney and Lollar all committed fraud upon the court in
15 their false written and oral statements to the Court.

16 Judge Goodson stated to Cummins that she finds her application for restraining
17 order "annoying." Judge Goodson also said that Cummins was "annoying." Judge
18 Goodson stated that restraining orders are only for people who are "stabbed with a
19 knife" or "hit with a two by four." Cummins then quoted Cal. Cod of Civ. Proc. §
20 527.6 (b)(3) which states the criteria for a civil harassment restraining order i.e.
21 **"Harassment' is unlawful violence, a credible threat of violence, or a knowing**
22 **and willful course of conduct directed at a specific person that seriously alarms,**
23 **annoys, or harasses the person, and that serves no legitimate purpose. The court**
24 **of conduct must be such as would cause a reasonable person to suffer substantial**
25 **emotional distress."**

26 Judge Goodson then stated that Cummins did not show substantial emotional
27 distress. Cummins tried to plead her case of emotional distress but was denied.
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1 Cummins has suffered severe emotional distress as a result of Lollar’s harassment.
2 Evidence of this was even included in the application for TRO. Cummins stated that
3 Lollar paid a man to serve her documents who instead hit her with the documents after
4 trespassing. Judge Goodson said paraphrased “that was legal service. Things get a little
5 physical with service.” Judge Goodson seems to have only read Respondent’s reply
6 and not Petitioner’s response to Respondent’s reply which proves their allegations
7 false.

8 Cummins then asked Judge Goodson for permission to ask a question and was
9 allowed. Cummins asked “if I had no grounds for a restraining order, why did the
10 police officers, detectives, LAPD lawyer tell me to get a restraining order? Why did
11 the restraining order clinic state that I should get the restraining order and my
12 documents looked fine? Why did the Commissioner allow the TRO? Why did the
13 judge pro tem agree for an extension?”

14 Judge Goodson then stated “The restraining order clinic is run by a bunch of law
15 students who don’t know anything. Commissioners approved the TRO and extension.
16 They approve all TRO’s. They don’t know anything.”

17 Judge Goodson denied Cummins’ request for restraining order. Judge Goodson then
18 ordered Cummins to pay \$6,350 in Lollar’s legal fees. Judge Goodson added “you
19 better get out there and start working to pay the judgement! It will follow you for 20
20 years! 20 YEARS!!!! Mr. Rocco, make sure you give Cummins your address so she
21 can send you the check within ninety days” while sneering directly at Cummins.

22 Immediately after returning home from the hearing Cummins called the court to
23 request a transcript of the proceedings. Cummins was then informed there is no audio
24 or written transcript because there are no court reporters. This was the first time
25 Cummins was notified that there are no court reporters.

26 **II. ARGUMENT**

27 **A. A new trial may be taken from a section 527.6 hearing**

1 Section 527.6 sets forth a procedure “for what is in effect a highly expedited lawsuit
2 on the issue of harassment” (Schraer v. Berkeley Property Owners' Assn. (1989) 207
3 Cal.App.3d 719, 732 (Schraer)), and “[t]he role of the court in a section 527.6 hearing
4 does not differ from its role in other trial settings where the court is the trier of fact.”
5 (Ensworth v. Mullvain (1990) 224 Cal.App.3d 1105, 1110.) Accordingly, a party to a
6 section 527.6 hearing may move for a new trial.

7 **B. Claim of Bias In Violation of Constitutional Due Process**

8 Cummins’ federal constitutional rights to due process were violated because the
9 trial judge was biased against her as evidenced by the Judge’s behavior during the
10 hearing. Judge Boas was hostile towards Cummins, interfered with her attempt to give
11 oral argument, ridiculed her testimony, questioned her argumentatively and
12 admonished her about another unrelated case. The Judge’s behavior demonstrated that
13 the judge was biased against her, in violation of her constitutional rights to due
14 process.

15 “ ‘A fair trial in a fair tribunal is a basic requirement of due process.’ [Citation.]”
16 (People v. Freeman (2010) 47 Cal.4th 993, 1000 (Freeman).) The federal due
17 process clause requires reversal based on judicial bias where there exists “ ‘the
18 probability of actual bias on the part of the judge or decisionmaker [that] is too high to
19 be constitutionally tolerable.’ ” (Freeman, supra, 47 Cal.4th at p. 996, quoting
20 Caperton v. A.T. Massey Coal Co. (2009) 556 U.S. ___, 129 S.Ct. 2252, 2257.) 3 It is
21 only “the exceptional case presenting extreme facts where a due process violation will
22 be found.” (Freeman, supra, 47 Cal.4th at p. 1005.)

23 It is not necessary to show that Cummins’ constitutional due process rights were
24 violated as a result of the trial judge's alleged bias against her. “It is a well-settled rule
25 that if statutory relief is adequate, it is unnecessary and inappropriate for a court to
26 reach constitutional issues.” (Americans for Safe Access v. County of Alameda
27 (2009) 174 Cal.App.4th 1287, 1295; see Department of Alcoholic Beverage Control v.
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1 Alcoholic Beverage Control Appeals Bd. (2006) 40 Cal.4th 1, 17, fn. 13 [“As a
2 prudential matter, we routinely decline to address constitutional questions when it is
3 unnecessary to reach them.”].) Such judicial restraint is warranted here, because, as
4 further discussed below, a new trial is mandated under section 657 and a new judge
5 should preside over the retrial.

6 There are grounds for granting a new trial (ABF Capital Corp. v. Berglass (2005)
7 130 Cal.App.4th 825, 832.)

8 **C. Errors Alleged to Justify a New Trial Under Cal. Code of Civ. Proc. § 657**

9 A new trial is warranted due to “[i]rregularity in the proceedings of the court by
10 which either party was prevented from having a fair trial.” (§ 657, subd. (1).)

11 “Irregularities” in the proceedings and errors of law were committed by the court.
12 (Estate of Friedman (1918) 178 Cal. 27, 39 [“On a motion for a new trial, upon the
13 ground of irregularities in the proceedings of the court, we are dealing with those
14 irregularities, and it is immaterial whether they result from bias and prejudice or not.”]);
15 Develop–Amatic Engineering v. Republic Mortgage Co. (1970) 12 Cal.App.3d 143,
16 150.)

17 There were numerous acts of judicial misconduct that prevented Cummins from
18 fairly presenting her case, including the court's prejudging of the case; its “assumption
19 of the role of de facto counsel for [Lollar],” including by aggressively cross-examining
20 and repeatedly expressing skepticism of her testimony; its constant interruptions
21 preventing Cummins from presenting her case; and the refusal to allow Cummins to
22 give oral testimony/argument and present evidence to the court.

23 A new trial should be granted based on the trial court's “error in law” in improperly
24 excluding evidence of events prior to 2013 to show a “course of conduct” justifying a
25 permanent injunction under section 527.6. (§ 657, subd. (7); § 527.6, subd. (b)(3).)

26 **1. Irregularities in the Section 527.6 Proceeding**

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1 The purpose of a section 527.6 hearing is to determine whether the plaintiff can
2 prove, by clear and convincing evidence, that he or she is the victim of harassment
3 justifying a permanent injunction against the harasser. (§ 527.6, subd. (d).) Section
4 527.6 defines harassment as “unlawful violence, a credible threat of violence, or a
5 knowing and willful course of conduct directed at a specific person that seriously
6 alarms, annoys, or harasses the person, and that serves no legitimate purpose. The
7 course of conduct must be such as would cause a reasonable person to suffer
8 substantial emotional distress, and must actually cause substantial emotional distress to
9 the plaintiff.” (§ 527.6, subd. (b).) A “course of conduct” is further defined as “a
10 pattern of conduct composed of a series of acts over a period of time, however short,
11 evidencing a continuity of purpose, including following or stalking an individual,
12 making harassing telephone calls to an individual, or sending harassing
13 correspondence to an individual by any means.” (§ 527.6, subd. (b)(3).)

14 There were indeed “irregularities” in the manner in which the court conducted the
15 proceeding that interfered with Cummins’ right to a fair hearing on the question
16 whether Lollar engaged in a willful and harassing course of conduct that reasonably
17 caused her emotional distress.

18 The Courts have significant leeway to control the conduct of a trial. (People v.
19 Fudge (1994) 7 Cal.4th 1075, 1108.) In particular, we note that section 527.6
20 expressly authorizes courts to make an “independent inquiry” during a hearing to
21 determine whether an injunction prohibiting harassment should be issued. (§ 527.6.
22 subd. (d).) Further, “[m]ere expressions of opinion by a trial judge based on actual
23 observation of the witnesses and evidence in the courtroom” should not be the basis for
24 reversing a judgment. (People v. Guerra (2006) 37 Cal.4th 1067, 1111.) However, in
25 this hearing, the court exceeded the bounds of reasonable conduct for a judge seeking
26 to exercise control of the proceedings and reach a fair and efficient result.

1 First, the July 1, 2013 hearing strongly suggests that the trial judge prejudged the
2 case. (McVey v. McVey (1955) 132 Cal.App.2d 120, 123 [“A trial judge should not
3 prejudice the issues but should keep an open mind until all of the evidence is presented
4 to him.”].) In Murr v. Murr, a non-jury divorce proceeding, the judge was found to
5 have committed judicial misconduct in prejudging the case. (Murr v. Murr (1948) 87
6 Cal.App.2d 511, 521 (Murr).)

7 In fact in Respondent’s reply to Petitioner’s motion to reconsider Respondent stated
8 pg 2 ”Judge (sic) Goodman denied the RRO on the face of the application itself.”
9 Respondent admits that Judge Goodson prejudged the case before Petitioner was able
10 to present her evidence and argue her case.

11 Immediately after the trial started, the judge stated to Cummins: “You are
12 annoying. I find your application for restraining order annoying” and “restraining
13 orders are not for two people who just don’t like each other.” The trial judge here
14 seemed similarly predisposed to rule against Cummins based on a preconceived notion
15 that the case involved run-of-the-mill disputes between two individuals, as opposed to
16 harassment that deserved to be enjoined.

17 The hearing suggests the trial judge had already made up her mind before the
18 testimony even began that the case was a waste of time. The court interrupted
19 Cummins repeatedly.

20 As in Murr, the court's many “ill-advised and unnecessary comments establish
21 definitely that [she] did not consider that the issues presented by plaintiff were worthy
22 of consideration.” (Murr, supra, 87 Cal.App.2d at p. 520.)

23 When Cummins who is pro se tried to present her case, the court essentially took
24 over the examination, questioning her in a one-sided manner and characterizing her
25 testimony to fit the court's view that Cummins’ request for an injunction was motivated
26 solely by minor personal disputes, rather than a fear of continued harassment.

27 Cummins acknowledges that “ “if a judge desires to be further informed on certain
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1 points mentioned in the testimony it is entirely proper for him to ask proper questions
2 for the purpose of developing all the facts in regard to them. Considerable latitude is
3 allowed the judge in this respect as long as a fair trial is indicated [to both parties].” ’ ’ ”
4 (Conservatorship of Pamela J. (2005) 133 Cal.App.4th 807, 827.) Moreover, in a
5 nonjury trial a judge may have greater leeway to examine witnesses than in a jury trial,
6 and particularly so here, given the court's authority under section 527.6 to “make an
7 independent inquiry.” (§ 527.6, subd. (d).) But the inquiry must be reasonable and
8 respectful. Here, the Judge cut off Cummins, belittled her, and mischaracterized her
9 testimony while questioning her in a way that was not consistent with permitting her to
10 present her case. The Judge clearly abused its discretion.

11 Cummins attempted to testify about other events such as a death threat Lollar made
12 personally over the phone but was again cut off. Cummins stated that Lollar hired a
13 process server who hit her with documents. Cummins tried to submit the video of the
14 assault but the Judge refused. The Judge dismissed her statement by saying “serving
15 documents can get physical.”

16 Repeatedly, the court cut off Cummins’ attempt to give testimony on other incidents
17 and the reasons Cummins was afraid of Lollar, inserting comments such as “that’s just
18 defamation, libel. Go sue her for it.” Cummins wanted to present the defamatory and
19 libelous blogs to show a “continued course of conduct” of “harassment” that “serves
20 no legitimate purposed.” Cummins also had evidence of over 150 violations of the
21 TRO, police reports which she tried to present but was denied. Looking at the
22 examination of Cummins as a whole, Cummins was not given a fair opportunity to
23 present her case for an injunction preventing harassment.

24 Respondent’s attorney stated in court documents that Cummins applied for a
25 restraining order against her neighbor and did not receive it. Cummins did indeed
26 receive the restraining order as evidenced by Respondent’s own Exhibit C. Lollar
27 stated she never contacted Cummins which is completely untrue. Lollar sent many,
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1 many emails and comments to Cummins which Cummins brought to the hearing but
2 was not allowed to present. Lollar stated she did not post a death threat yet in sworn
3 deposition Cummins submitted as an Exhibit Lollar admitted that she did. Lollar stated
4 that documents were dropped at Cummins' feet when Cummins was actually hit with
5 the documents as evidenced by video which Cummins linked to in her TRO
6 application but was not allowed to present at the hearing. Lollar was not even a witness
7 to the event and therefore could not give that testimony as it is hearsay.

8 Respondent's attorney stated in court documents that Cummins accused attorney
9 Randy Turner of placing an incendiary device under Cummins' car. Cummins NEVER
10 stated this. McSweeney's Exhibit L transcript from hearing minutes clearly shows
11 Cummins never stated this and McSweeney misquoted the court transcript. Respondent
12 repeatedly committed fraud upon the court by misstating the facts of the matter and
13 intentionally lying to the court.

14 In this case Respondent did not even appear at the hearing. At the previous hearing
15 Respondent's attorney requested a continuance so Respondent could arrange to
16 physically appear. There was no indication that Respondent would not appear.
17 Cummins was not allowed to examine Respondent at the hearing. The Judge was not
18 able to question Respondent. The Judge relied upon the unsworn statement written by
19 Respondent and an attorney. The unsworn statements contained many completely false
20 statements which Cummins was not allowed to refute and prove in court with her
21 evidence which she was not allowed to submit.

22 Cummins tried to object and stated "objection" to Respondent's attorney Dean
23 Rocco presenting unsworn statements as evidence, bringing up unrelated civil cases ...
24 but the Judge did not even acknowledge her objections. The Judge replied with "let the
25 man (Respondent's attorney Rocco) speak." Relying on the principle that "a judge's
26 examination of a witness may not be assigned as error on appeal where no objection
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1 was made when the questioning occurred” (People v. Corrigan (1957) 48 Cal.2d 551,
2 556) Cummins did indeed object and has not forfeited the claimed error.

3 After the Judge did not respond to Cummins’ first two objections Cummins gave up
4 trying to object. Given the tenor of these proceedings, inserting objections each time
5 the court interrupted and took over the questioning would have been futile. (People v.
6 Sturm (2006) 37 Cal.4th 1218, 1237; Haluck v. Ricoh Electronics, Inc. (2007) 151
7 Cal.App.4th 994, 1007.)

8 The Court’s repeated criticisms of Cummins further prevented Cummins from
9 properly putting on her case. (See Murr, supra, 87 Cal.App.2d at pp. 517–521.) The
10 court's treatment of Cummins throughout the hearing was “the antithesis of judicial
11 decorum and courtesy.” (Haluck v. Ricoh Electronics, Inc., supra, 151 Cal.App.4th at
12 p. 1003.)

13 The Judge’s prejudgment of the case, her improper questioning and
14 mischaracterizing of Cummins’ testimony, and her pattern of hostility towards
15 Cummins constituted judicial misconduct and “irregularities” in the proceedings.

16 **2. Errors in Law**

17 Cummins also contends that a new trial must be granted because the court
18 committed an “error in law” in improperly excluding evidence of harassing incidents
19 prior to 2013. (§ 657, subd. (7).) 5 The trial court's exclusion of evidence was an
20 abuse of discretion. (Tudor Ranches, Inc. v. State Comp. Ins. Fund (1998) 65
21 Cal.App.4th 1422, 1431.)

22 Section 527.6 directs the court to “receive any testimony that is relevant” at the
23 hearing on a petition for a permanent injunction against harassment. (§ 527.6, subd.
24 (d).) As discussed above, under section 527.6, harassment may consist of “a knowing
25 and willful course of conduct directed at a specific person that seriously alarms,
26 annoys, or harasses the person, and that serves no legitimate purpose,” and that
27 reasonably causes the plaintiff to suffer substantial emotional distress. (§ 527.6, subd.
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1 (b.) A course of conduct is further defined as “a pattern of conduct composed of a
2 series of acts over a period of time, however short, evidencing a continuity of
3 purpose.” (§ 527.6, subd. (b)(3).) Thus, in a section 527.6 hearing, the court is
4 “required to receive relevant testimony” regarding the alleged “course of conduct,”
5 “subject only to such reasonable limitations as are necessary to conserve the
6 expeditious nature of the harassment procedure set forth by . section 527.6.” (Schraer,
7 supra, 207 Cal.App.3d at p. 730, 733, fn. 6.)

8 The incidents forming the basis for Cummins’ application for a restraining order
9 first began in 2010. The Judge tried to immediately rule that the events all took place
10 in 2010. Cummins stated they started in 2010 and continued to today. The trial court
11 arbitrarily limited the evidence regarding instances of harassment to the time
12 immediately prior to the date the TRO was entered.

13 The trial court's ruling hampered Cummins’ ability to prove a “pattern of
14 harassment” or “course of conduct.” The trial court committed an “error in law” in
15 categorically excluding evidence of these prior events to establish a pattern of
16 harassing conduct, without any articulation of a reasonable basis for such a ruling.

17 Judge Goodson stated in the hearing that restraining orders are only for “people
18 who have been stabbed with a knife” or “hit with a two by four.” The Court ruled that
19 restraining orders are only granted when there has been physical violence. That is an
20 incorrect interpretation of section 527.6. Under section 527.6, harassment may consist
21 of “a knowing and willful course of conduct directed at a specific person that seriously
22 alarms, annoys, or harasses the person, and that serves no legitimate purpose,” and that
23 reasonably causes the plaintiff to suffer substantial emotional distress. (§ 527.6, subd.
24 (b).)

25 Lollar has been harassing Cummins since July 2010. The attacks have been
26 escalating and have become physical. Lollar paid a man to assault Cummins. Lollar
27 threatened to kill Cummins on the phone. Lollar is inciting her Facebook fans to
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1 commit violence against Cummins. Lollar has been committing criminal acts such as
2 trying to access Cummins' bank account. Lollar's behavior is indeed civil harassment
3 as per section 527.6.

4 In fact in Respondent's reply to Petitioner's motion to reconsider pg 5, 6
5 Respondent falsely stated that it is "Petitioner who has made threats of violence against
6 Respondent." Again, Respondent is committing fraud upon the court. Petitioner has
7 clearly stated in communications to Respondent's attorney that she fears for her life
8 and has a gun to protect herself from Respondent, "Cummins has informed Lollar's
9 attorneys that Cummins has a loaded permitted gun and will defend herself to the full
10 extent of the law if anyone trespasses upon her property and tries to harm her."
11 Cummins has not made threats of violence against Petitioner. Cummins has clearly
12 stated she fears for her life. In Respondent's Exhibit 3 C from the same reply Petitioner
13 states "I am prepared to legally defend myself against this crazy person." Legally
14 defending oneself is not a threat of illegal violence.

15 Not only did the Court incorrectly misstate the law at Cummins' hearing by stating
16 there must be physical violence but previously Judge Goodson awarded restraining
17 orders when there was NO physical violence involved.

18 (Case #BS140742) LAPD Chief Charlie Beck's wife Cindy Beck v Veronica
19 Roberts, January 9, 2013. Homeless person Veronica Roberts phoned Cindy Beck
20 stating the police chief was following and harassing her demanding that he stop.
21 Roberts later threatened to kill Cindy Beck on the phone. Judge Goodson stated "There
22 doesn't appear to be any reason why the restraining order should not be granted. In
23 fact, it appears appropriate."

24 (Case #BS141503) County of Los Angeles v Hashim Mwamba Bomani, March 6,
25 2013. Bomani merely ranted about an employee and the agency online. Judge Goodson
26 stated while she found his postings "insulting and libelous," they didn't "rise to the
27
28

1 level of a threat." However, Goodson added, "I'm concerned about this guy." Judge
2 Goodson ordered Bomani to stay away from the agency and three employees.

3 Judge Goodson granted restraining orders for people and entities associated with
4 Los Angeles city and county government when there was no physical violence
5 involved. The fact that Judge Goodson granted restraining orders in these two cases
6 that did not involve physical violence, clearly shows the Court's bias against Cummins
7 and commission of error in law.

8 Judge Goodson has a history of being biased and committing errors of law. In an
9 almost identical court proceeding (Radha Bharadwaj v William Mears, Case #
10 B222911, 2011) Judge Goodson denied Petitioner Bharadwaj a restraining order and
11 ordered her to pay respondent's legal fees. Bharadwaj appealed the decision stating
12 Judge Goodson was biased and committed errors of law. The transcript of the hearing
13 contains almost identical language and behavior which Judge Goodson expressed in
14 Cummins' hearing. That order was reversed and she was allowed a new trial with a
15 different judge.

16 In searching Judge Carol Boas Goodson's judicial reviews online, there is not one
17 positive review. Not only are all the reviews negative but they are extremely negative.
18 Most of them state "File your 170.6 as to this woman" and link to the actual form. For
19 this reason Petitioner is filing an Affidavit of Prejudice Peremptory Challenge to
20 Judicial Officer as per Cal. Cod. of Civ. Proc. § 170.6 (Exhibit 1).

21 **III. CONCLUSION**

22 Taken individually, it is possible that none of the above acts of judicial misconduct
23 or the error in excluding evidence would constitute an error that "materially affect[ed]
24 the substantial rights" of Cummins such that a new trial was necessary. (§ 657).

25 However, "the cumulative effect of the trial judge's conduct requires reversal."
26 (People v. Sturm, supra, 37 Cal.4th at p. 1243.) "The trial of a case should not only be
27 fair in fact, but it should also appear to be fair. And where the contrary appears, it
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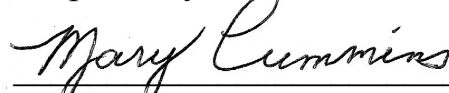
1 shocks the judicial instinct to allow the judgment to stand.” (Pratt v. Pratt (1903) 141
2 Cal. 247, 252.)

3 The order should be reversed and the matter remanded to the superior court for a
4 new trial before a different judge. (§ 187; Hernandez v. Paicius (2003) 109 Cal.App.
5 4th 452, 455, disapproved on another ground in Freeman, supra, 47 Cal.4th at p. 1006,
6 fn. 4.)

7 **IV. PRAYER**

8 WHEREFORE, PETITIONER MARY CUMMINS respectfully requests that the
9 court reverse the July 1, 2013 order and allow Cummins to have a new trial/hearing in
10 front of a different judge.

11
12
13 Respectfully submitted,

14 

15 Mary Cummins, Petitioner

16 Dated: August 15, 2013

17 645 W. 9th St. #110-140

18 Los Angeles, CA 90015

19 In Pro Per

20 Telephone: (310) 877-4770

1 PROOF OF SERVICE BY MAIL
2 (FRCivP 5 (b)) or
3 (CCP 1013a, 2015.5) or
4 (FRAP 25 (d))

5 I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles,
6 California 90015-1640. I am over the age of eighteen years.

7 I further declare that on the date hereof I served a copy of:

8 **PETITIONER'S AMENDED MOTION TO RECONSIDER DENIAL OF CIVIL**
9 **RESTRAINING ORDER, LAWYER'S COSTS AND FEES, REQUEST FOR**
10 **NEW TRIAL BEFORE A DIFFERENT JUDGE**

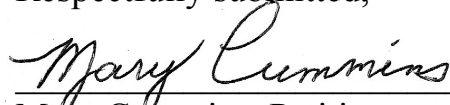
11 by USPS, fax and email to

12 **Rocco Dean**
13 Wilson, Elser, Moskowitz, Edelman & Dicker LLP
14 555 S Flower St #2900
725 S. Figueroa Blvd, #2500
Los Angeles, CA 90071

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

17 Executed this day, August 15, 2013, at Los Angeles, California

18
19
20 Respectfully submitted,

21 

22 Mary Cummins, Petitioner

23 Dated: August 15, 2013

24 645 W. 9th St. #110-140

25 Angeles, CA 90015

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