

**APPELLANT REQUESTS
ORAL ARGUMENT**

2:20-cv-02149-AB

IN APPEAL IN THE
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARY CUMMINS,
Defendant and Appellant,

v.

KONSTANTIN KHIONIDI, as Trustee of the COBBS TRUST
Plaintiff and Appellee

Appeal from Order of US Bankruptcy Court Adverse Proceeding
Central District of California
Case Nos. 2:18-ap-01066-RK, 2:17-bk-24993-RK Honorable Robert Kwan

APPELLANT'S OPENING BRIEF

Mary Cummins
Petitioner, Plaintiff, Appellant In Pro Per
645 W. 9th St. #110-140
Los Angeles, CA 90015-1640
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**United States District Court Central District
State of California**

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Court of Appeal Case Number: 2:18-ap-01066-RK

Case Name: Konstantin Khionidi v Mary Cummins

Please check the applicable box:

- There are NO interested entities or parties to list in this certificate pursuant to California Rules of Court rule 8.208(d).

Interested entities or parties are listed below:

None

 Dated: September 11, 2020
Signature of Party Submitting Form

Printed Name: Mary Cummins

Party Represented: Defendant

IDENTITY OF PARTIES AND COUNSEL

APPELLANT:

Mary Cummins

In Pro Per

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APPELLEE:

Konstantin Khionidi, Trustee of the Cobbs Trust

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<i>United States Bankruptcy Appellate Panel, of the Ninth Circuit. May 5, 2015 530 B.R. 456 (B.A.P. 9th Cir. 2015)</i>		

EX PARTE MOTION REQUESTING EXTENSION TO FILE OB

August 7, 2020 Appellant filed an ex parte motion requesting a 30 day extension to file the Opening Brief. The Court didn't rule on the Motion before it was due so Appellant filed it as-is unfinished August 10, 2020. On September 9, 2020 the Court finally ruled on the Motion and gave Appellant two days to file, refile the Opening Brief. Appellant didn't see the ruling until the next day.

When Defendant originally filed the Opening Brief it showed up filed on the docket in this case as "08/10/2020 33 APPELLANTS OPENING BRIEF filed by In re Debtor Mary Katherine Cobb-Cummins. (Cobb-Cummins, Mary) (Entered: 08/10/2020)." For some reason it shows up in "Court U.S. Court Of Appeals, Ninth Circuit - Bankruptcy Appellate Panel." Appellant contacted ECF September 10, 2020 and asked for instructions to file it in the correct court. Appellant was told to file it the same way it was originally filed. Appellant was told it's impossible for it to end up in the Circuit Court. Appellant is refiling the same way per instructions and advising the Court it could again end up in the Circuit Court.

STATEMENT OF THE CASE

Defendant, Appellant Mary Cummins ("Cummins") appeals from a February 10, 2020 order (2:18-AP-01066 Doc #117) denying Defendant's

motion for summary judgment (2:18-AP-01066 Doc #91) and granting partial summary judgment in favor of non-moving plaintiff on his fourth claim for relief under 11 U.S.C. § 523 (a)(6) (Appendix #3). Appellant argues that the court abused its discretion in denying Appellant's Motion for Summary Judgment to dismiss the Adversary Proceeding as the judgment is dischargeable, Plaintiff has no standing as they don't exist and Plaintiff has unclean hands.

STATEMENT REGARDING ORAL ARGUMENT

Defendant Appellant believes that oral argument will significantly aid in clarifying the issues involved in this appeal. This case presents important issues regarding validity of judgments, dischargeability and unclean hands. Appellant requests to appear by phone or brief if Justices have questions.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant is a well respected Los Angeles real estate appraiser, real estate legal expert¹ and head of non-profit Animal Advocates which has worked positively with Los Angeles City and County for years² (all footnotes are in the court record and specifically noted as such in request of the record). Appellant was appointed and approved to be on the Los Angeles City Prop F Committee by Mayor Eric Garcetti, was named to be a

¹ Mary Cummins Curriculum Vitae real estate <http://www.marycummins.com/marycumminscurriculumvitae.pdf>

² Mary Cummins Curriculum Vitae Animal Advocates <http://animaladvocates.us/Mary%20Cummins%20Animal%20Advocates%20resume%20curriculum%20vitae.pdf>

Commissioner for LA Animal Services under Mayor Antonio Villaraigosa, worked with Mayor Jim Hahn for the 2004 city wildlife policy³, went through the Police Academy and Humane Academy to become a Humane Officer and has received numerous awards from the City, Los Angeles Business Journal, Great Non-Profits and other agencies and organizations over 35+ years.

In 2010 Cummins went to Bat World Sanctuary run by actual Plaintiff Amanda Lollar in Texas to attend an internship to learn more about bats. Instead Cummins witnessed animal cruelty, neglect, violations of the Animal Welfare Act, Health Dept.... Cummins as a mandatory reporter submitted 100% factual, fair, privileged reports, video, photos to authorities about the original violations of the Animal Welfare Act, Texas Parks & Wildlife Department, Texas Health Department and other government agencies. Appellees were investigated. Violations were found. The main USDA veterinarian stated Appellee Lollar caused “pain, suffering and death,” “violated the Animal Welfare Act” and caused bats to die⁴. Appellees lost their USDA permit and were reprimanded by many government agencies for violations.

³ Mary Cummins new LA Wildlife Policy <https://www.businesswire.com/news/home/20040824005654/en/City-Los-Angeles-Approves-Wildlife-Policy>

⁴ Amanda Lollar violations, loses USDA permit
http://www.marycummins.com/amanda_lollar_bat_world_sanctuary_usda_cancelled.pdf

Appellant never defamed Plaintiff (#Doc 91, pg 3, line 4). In retaliation Appellant Cummins was falsely, frivolously sued for defamation, breach of contract, copyright by Appellees, Texas case 352-248269-10 in 2010 (Appendix #1 2012 Sister State Judgment).

Immediately before one hearing and the trial the sitting Judge Bonnie Sudderth specifically requested Judge William Brigham a retired visiting Judge over the mandatory retirement age of 75 in Texas to sit in for Sudderth for a “vacation” only for those two very specific times. 84 year old long retired Judge Brigham was assigned the case for five days from June 10 to June 15, 2012 but never signed and filed an oath of office as mandated by Texas law. Judge Brigham never had legal jurisdiction over the case. Judge Brigham no longer had jurisdiction by time when it was signed August 27, 2012.

Before one hearing Plaintiff's Texas attorney Randy Turner stated to Cummins in the court room “I've known this Judge for many years. He'll sign anything I put in front of him.” Plaintiff never denied this. Cummins was never even notified about the change of Judges. Judge William signed every order written by Randall Turner without even reading or editing them. One order forced Cummins to remove articles, comments made by others in other people's websites which Cummins does not control some of which

were in Chinese which Cummins does not speak.

This “visiting judge” routine is a judicial scam used to game the system⁵ “The sitting judge follows the same plan of using visiting judges to make rulings in controversial or politically sensitive cases, so the elected judges won’t have to suffer the fallout from voters or influential sides in the litigation.” (George Flynn Houston Press 61903 p.19). In this case the visiting Judge made a ruling not based on any evidence or law but as a favor to his long time personal friend Randall Turner. Turner even mailed the final judgment for signature to the judge’s personal residence.

Judge William Brigham has been called to sit in for “vacationing” Judges in criminal cases including appeals in Texas. Judge Brigham has sent African Americans, Latinos and poor people to prison. Judge Brigham never signed or filed an oath of office for those cases either. Those people are still in prison and have contacted Appellant. Texas is the number one state for false criminal convictions due to corruption.

Even though Appellees never showed even one element of defamation, i.e. never stated what they thought was defamatory or who wrote/posted what, no element of breach of contract, they admitted they had no proof of any damages, admitted they had no proof of causation in trial, Appellant

⁵ Gaming the Texas Judicial system with assigned Judges
<http://marycummins.com/eliminate%20assigned%20judges.pdf>

lost the trial court in the amount of approximately \$6,176,000. Not only did Plaintiff never even mention damages or show any proof of damages but there was never a separate trial for damages. Any damages would have to relate to Defendant's net worth or actual damages. Defendant was indigent at the time because of the cost of defending the case spending every penny of Defendant's savings and assets. Los Angeles attorney David Casselman argued this point in Casselman's Amicus Brief⁶. Number one freedom of speech attorney Paul Alan Levy filed another amicus brief from Public Citizen and the ACLU based on the lack of any valid defamation claim⁷.

The six page judgment is a take down order only. It doesn't say "defamation," "defamatory..." It states nothing else is included in the judgment other than what is specifically written. Appellees subsequently filed a sister state judgment in Los Angeles, California case BS140207 in 2012.

The Second Court of Appeals Court in Texas released their opinion April 2015 18 months after the case was submitted on briefs and after Judge Brigham died. The Court reversed the breach of contract claim and

⁶ David Casselman amicus brief

http://www.animaladvocates.us/mary_cummins_v_bat_world_sanctuary_amicus_letter.pdf

⁷ Paul Alan Levy, Public Citizen, amicus brief http://www.animaladvocates.us/cummins_amicus_brief.pdf

associated liquidated damages and attorney fees by Appellee Bat World Sanctuary. The one remaining claim was not reversed⁸.

Immediately after the opinion was released April 2015 Plaintiff Lollar filed an identical copy/paste lawsuit 2015-00259-2/3. Since the 2010 case was filed the Texas Defamation Mitigation Act and Citizen Participation Acts passed to cut down on the many identical frivolous defamation cases such as this one. Plaintiff now had to specifically state and show defamatory items and prove it is defamation. Because Appellant never defamed Plaintiff, Plaintiff forged their exhibits and submitted a perjured affidavit stating the exhibits were true and correct copies of the originals which are still online today. Appellant never wrote or posted any of the listed items! No one did. Plaintiff forged them⁹.

That case was appealed¹⁰ and the Appeals Court stated the forgery and perjury should have been dealt with in the trial court which it was. The trial court dismissed that case earlier this year. Currently there is a criminal investigation into forgery, perjury, fraud by Plaintiff Amanda Lollar and her Texas attorney Randy Turner in that case.

⁸ Mary Cummins v Amanda Lollar, BWS <http://www.search.txcourts.gov/Case.aspx?cn=02-12-00285-CV&coa=coa02>

⁹ Lollar v Cummins case dismissed due to forgery, perjury <http://marycumminsamandalollarlawsuit.blogspot.com/>

¹⁰ Mary Cummins v Amanda Lollar <http://www.search.txcourts.gov/Case.aspx?cn=07-16-00337-CV&coa=coa07>

Plaintiff Amanda Lollar allegedly gave, assigned the judgment to Russian citizen living in Russia “Konstantin Khionidi, Trustee of the Cobbs Trust” March 2017. Khionidi’s attorney did not send, serve the assignment or notice of debtor hearing to Appellant. Instead Appellee Khionidi forged a proof of service for an address where Appellant hadn’t lived in years. Appellee allegedly mailed the same to Appellant minus Appellant’s unit number which means Appellant never received it. Appellant proved the server of process did not even exist. The purpose was so Appellant would never be notified of the debtor exam and miss it so a bench warrant would be issued. The purpose was to have Appellant arrested, thrown in jail and violently assaulted in Los Angeles County jail with no means of bail destroying Appellant’s reputation and life. This proves that Plaintiff’s sole purpose is scorched earth litigation. Thankfully Appellee finally bragged online to media who posted about the looming arrest. Appellant checked all of the legal cases and found the debtor hearing, replied and the bench warrant was rescinded.

At the first debtor hearing Plaintiff Amanda Lollar from Texas showed up and stated to Appellant paraphrased “Did you see the look on her face? She was so shocked to realize the Russian is just us.” Plaintiff Amanda Lollar is pretending to be, impersonating Konstantin Khionidi who does not

exist. Someone who does not exist cannot file a lawsuit. This case and now reply to appeal must be dismissed due to unclean hands. Lollar flew in from Texas and sat right next to Plaintiff's attorney at every hearing telling the attorney exactly what to do. Plaintiff's attorney stated in writing Lollar is working directly on this case.

The underlying trust agreement Doc #68 is a free California probate form downloaded from the internet in English. Plaintiff Lollar is still listed as the owner of the judgment in the agreement. To this date Plaintiff has not filed any evidence to show that Plaintiff Khionidi actually exists because Plaintiff Khionidi does not exist. Plaintiff's attorney swore for months that a notarized signature would be provided by Khionidi but it never was. The agreement states Khionidi lives in California then later states he lives in Russia. Khionidi refused to be deposed Plaintiff's attorney stating he lives in Russia which is more than 100 miles from Los Angeles. It's ludicrous to think a Plaintiff in a case the Plaintiff filed in Los Angeles would not have to sit for a deposition in Los Angeles.

Appellant filed for bankruptcy December 7, 2017 2:17-bk-24993-RK .
The last day an Adverse Proceeding could be filed Plaintiff filed.
In this case Plaintiff Amanda Lollar is again pretending to be Russian strawman and current Plaintiff Konstantin Khionidi who does not exist.

The actual underlying Judgement is a six page take down order listing items Appellant never wrote or posted including items written and posted by Plaintiff Lollar, government officials and others, Appendix #1. It was found to be unconstitutional as it included prior restraint. It doesn't say "defamation," "defamatory," "with malice..." or anything else that would make the judgment non-dischargeable. It clearly states "All other relief not expressly granted in this judgment is denied." The Court ruled in 2018 that the judgment is dischargeable (2:18-ap-01066-RK, Doc #20). The judgement is also void as Judge Brigham never had jurisdiction over the case. The judgment does not even list the claims of the lawsuit.

Plaintiff and their attorney have unclean hands because Plaintiff Khionidi does not exist, Plaintiff forged proof of service, Plaintiff committed forgery and perjury in the identical case which was just dismissed, violation of protection orders, violation of redaction rule, contempt of court, Plaintiff impersonating Russian Khionidi, perjury in legal filings, forged exhibits and other reasons Appellant has shown the Court and will show the Court.

COURT RECORD ON APPEAL

Appellant is using limited online court docs in this appeal. Appellant's computer crashed so all copies of those court documents would have to be retrieved from an external hard drive. Appellant was not able to retrieve the

documents. Appellant can't afford to buy the documents on Pacer. The docs can't be accessed for free. Retrieving these documents is taking time which is why a request for extension was filed. The original OB was also lost and had to be rewritten.

ARGUMENT

Appellant argues that Judge Robert Kwan abused his discretion by not finding that the judgment is dischargeable, Plaintiff has no legal standing and Plaintiff has unclean hands. Appellant submits same arguments as in the original and later Motions to Dismiss, Motion for Summary Judgment and adds additional clarification.

1. Judgment is dischargeable

a. Judgement doesn't state "defamation" or "malice"

The Judgment doesn't state the items or any items are "defamation, defamatory, slander, libel" or posted with "malice," Doc #91 pg 3. The judgment specifically states nothing else is included in the judgment, "all other relief not expressly granted in this judgment is denied." The judgment doesn't even list the claims. The judgment was written by Plaintiff's Texas attorney who is a personal injury attorney.

The state court judgment did not include a finding equivalent to willfulness as required for § 523(a)(6) nondischargeability. The judgment doesn't even state any behavior or action that could be construed as willful or not, i.e. defamation. The Judgment doesn't meet the willfulness standard per 11 U.S.C. 523(a)(6) as indicated in *In re Plyam*, supra and is therefore dischargeable per Judge Robert Kwan's May 25, 2018 order¹¹ Appendix #2,

"Deny plaintiff's motion for judgment on the pleadings because: (1) no proof of service on defendant (LBR 9013-1(a), FRBP 7005 and FRCP 5(b)(2) requires mail service on defendant - no proof of consent by defendant to electronic service); (2) no proof of standing to assert claim of Amanda Lollar - defendant denies that plaintiff is Lollar's assignee in her answer, which also precludes judgment on the pleadings; (3) no showing that plaintiff is entitled to judgment on the pleadings that the elements of collateral estoppel meet the standards of Texas law under which the state court judgment was entered and the judgment entitled to collateral estoppel effect under Texas law meets the federal standards for debt dischargeability claims under 11 U.S.C. 523(a)(6) under *In re Plyam*, 530 B.R. 456 (9th Cir. BAP 2015).

Although defendant filed a motion for continuance in order to have more time to respond to plaintiff's reply, the court is inclined to deny the motion for continuance because the court thinks plaintiff's motion needs to be substantially revised to address the court's concerns about the application of collateral estoppel here since plaintiff's analysis is conclusory and insufficient because there is no analysis of Texas law of collateral estoppel to show the collateral estoppel effect of the Texas judgment. The court is not so sure that the motion can be granted on its face because the opinion of the Texas Court of Appeals stated at page 20 of its memorandum opinion (attached as Exhibit 2 to Plaintiff's Complaint) that the standard of proof requires only at least negligence for defamation claims between private parties concerning private speech, which does not meet the willfulness standard of 11 U.S.C. 523(a)(6) as indicated in *In re Plyam*, supra, and at page 59 of its memorandum opinion that recovery of exemplary or punitive damages in Texas civil practice can be met by showing gross negligence which also does not meet the willfulness standard of 11 U.S.C. 523(a)(6) as indicated in *In re Plyam*, supra. Plaintiff will have to provide a complete analysis of the requirements of

¹¹ Judge Robert Kwan order MSJ dischargeable
https://www.cacb.uscourts.gov/sites/cacb/files/documents/opinions/LA-18-01066-RK_CumminsCobbOrder19.pdf

Texas law to prove a defamation claim and entitlement to exemplary damages and to establish the collateral estoppel effect of a judgment on a defamation claim and a claim for exemplary damages in order to show that these requirements satisfy the federal standards of debt dischargeability under 11 U.S.C. 523(a)(6).”

According to Federal Rules of Civil Procedure 58, “a judgment is entered when it is reduced to writing, signed by the judge, and filed with the clerk of court.” This means that since October 1, 1994, statements made by the judge from the bench are not enforceable orders or judgments and a judge is not required to enter a written order or judgment that conforms to any statement made from the bench. In this case only the written, signed judgment matters. Others words spoken by the Judge or Appeals Court don’t matter in relation to the claim. The judgment in question even states that it is fully contained. Nothing else can be added to the judgment. The Appeals Court cannot add language to the judgment which is not in the actual judgment.

b. Appeals Court can’t add new items to trial court judgment

The 2nd Court of Appeals misquoted the record repeatedly including the judgment. Nothing can be added to an existing judgment. The Appeals Court can’t add a claim to the judgment that does not exist in the judgment. Again, defamation is not mentioned in the judgment.

The Appeals Court can only rule upon the judgment, actual evidence and laws.

- c. Judgment is void as Judge never signed, filed oath of office
- d. Judgement is void as Judge didn't have jurisdiction when signed
- e. Judgment is void as Judge was over mandatory retirement age of 75
- f. Judgment was obtained through fraud

Plaintiff forged exhibits and submitted perjured testimony

2. Plaintiff has no standing in the case as Plaintiff does not exist

Per CAL. CODE CIV. PRO. § 367: "Every action must be prosecuted in the name of the real party in interest." To not do so is fraud upon the Court. Plaintiff's first Adversary Proceeding complaint contained a fundamental lie. The fraud upon the court was intentional to interfere with the judicial proceedings, prevent discovery and impede the litigation process which it has done. If this is not the proper regulation to cite, please Appellant is citing any relevant Federal regulation. It is inconceivable to think that someone who does not exist can sue others in a court of law. There was no motion to request an anonymous filing or to correct the name of the Plaintiff. It is now too late to substitute in a new Plaintiff.

Even though Defendant stated the claim is that Plaintiff does not exist, Judge Kwan only considered whether or not the assignment was

valid. Even then if a party does not exist an assignment cannot be valid. On top of this the trust agreement is not valid for all of the reasons stated in the original Motion for Summary Judgment Doc #91 pg 5 – 7.

Plaintiff had promised to prove that Plaintiff exists by having Plaintiff notarize a document. After months of requests for continuances no notarized document was ever produced. No notarized document was produced because Plaintiff does not exist.

As stated in prior documents in this case Plaintiff Amanda Lollar stated in person that Lollar is the “Russian Plaintiff.” This is fraud upon the court.

3. Plaintiff has unclean hands in judgment, bankruptcy case and appeal

a. Unclean hands bankruptcy case

1. Plaintiff doesn't exist

See above. This is fraud upon the court and cause for dismissal.

2. Plaintiff lied, committed perjury in court filed documents

Plaintiff has lied repeatedly in this litigation Doc# 91 pg 8-9. Plaintiff lied in the Sister State judgment case BS140207 in hopes of falsely having Appellant arrested. Plaintiff has violated the redaction rule repeatedly and violated every single protective order in ten years of

litigation in this case. Plaintiff even lied, committed perjury in this Appeal 2:20-cv-02149-AB Doc# 35. Plaintiff admitted to this Court to committing the crimes of forging documents, submitting perjured statements to the California DMV and to having someone physically stalk Appellant for years. There was no reason to follow Appellant at an address as Appellant is the one who gave the address to Plaintiff. Appellant admitted Appellant was at the address. There was also no reason to forge documents to illegally obtain CA DMV registration data when Appellant gave that information to Plaintiff. All of this proves this is scorched earth litigation because Appellant reported Plaintiff Amanda Lollar for committing animal cruelty, killing animals and violating important government regulations.

If Plaintiff truly wanted to “collect a debt,” Plaintiff would remove their 400+ false and defamatory websites, blogs, pages ... about Appellant. The purpose of the websites, blogs, Facebook pages falsely stating Appellant is a “fatty fatty” “nigger nosed” “bald” “toothless” “butt fugly” “warty piggy nosed” “convicted criminal” with “STDs” is solely to harass Appellant and interfere with Appellant’s ability to make money and live life in peace. These illegal actions serve no legitimate purpose.

CONCLUSION

For the foregoing reasons, Defendant's motion to dismiss the Adversary Proceeding because the judgment is dischargeable, Plaintiff has no standing and Plaintiff has unclean hands should have been granted.

The above acts of judicial misconduct or the error in excluding evidence would constitute an error that "materially affect[ed] the substantial rights" of Cummins such that a new trial was necessary (§ 657), "the cumulative effect of the trial judge's conduct requires reversal." (People v. Sturm, supra, 37 Cal.4th at p. 1243.) "The trial of a case should not only be fair in fact, but it should also appear to be fair. And where the contrary appears, it shocks the judicial instinct to allow the judgment to stand." (Pratt v. Pratt (1903) 141 Cal. 247, 252.)

The Court is asked to reverse the order, dismiss the Adversary Proceeding and find that the judgment is dischargeable. Appellant also requests an award of fees and costs for this appeal and the other court proceedings in amounts to be determined.

Respectfully submitted,



Mary Cummins
Appellant In Pro Per

CERTIFICATE OF COMPLIANCE

Pursuant to California Rule of Court 8.204(c)(1)

Pursuant to California Rule of Court 8.204(c)(1), I certify that the text of this brief is less than the maximum per mandate. In so certifying, I am relying on the word count of Microsoft Word 2003, the computer program used to prepare this brief.

DATED: September 11, 2020

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Cummins".

By _____

Mary Cummins

Appellant in Pro Per

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

I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles, California 90015-1640. I am over the age of eighteen years. I further declare that on the date hereof I served a copy of:

APPELLANT'S OPENING BRIEF

on the following parties by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at 645 W. 9th St. #110-140, Los Angeles, CA 90015-1640.

**Philip Stillman
Stillman & Associates**

**Judge Robert Kwan
US Bankruptcy Court**

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

Executed this day, September 11, 2010, at Los Angeles, California.

Respectfully submitted,



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

**APPELLANT'S APPENDIX
TABLE OF CONTENTS**

Relevant Court Orders, Notices

1. 2012 Sister State Judgment
2. 1st Order Motion Summary Judgment
3. 2nd Order Motion Summary Judgment

Relevant Statutory and Constitutional Authority

CAUSE NO. 352-248169-10

BAT WORLD SANCTUARY and AMANDA LOLLAR Plaintiffs, v. MARY CUMMINS, Defendant	§ § § § § § § § §	IN THE DISTRICT COURT OF TARRANT COUNTY, TEXAS 352ND JUDICIAL DISTRICT
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JUDGMENT

ON the 11th day of June this cause came on to be heard. Amanda Lollar, Plaintiff whose last three digits of her Texas driver's license number are 000, appeared in person and by her attorney and announced ready for trial. Bat World Sanctuary, Plaintiff, appeared by and through its attorney and announced ready for trial. Mary Cummins, Defendant whose last three digits of her California driver's license number are 781 appeared *pro se* and announced ready for trial. No jury having been demanded, all questions of fact were submitted to the Court.

After hearing the evidence and arguments of counsel and the defendant the Court finds that the plaintiffs, Amanda Lollar and Bat World Sanctuary, are entitled to recover from the defendant, Mary Cummins.

IT IS THEREFORE ORDERED that Amanda Lollar recover from Mary Cummins actual damages in the amount of THREE MILLION DOLLARS (\$3,000,000.00).

IT IS FURTHER ORDERED that Amanda Lollar recover from Mary Cummins exemplary damages in the amount of THREE MILLION DOLLARS (\$3,000,000.00).

IT IS FURTHER ORDERED that Bat World Sanctuary recover from Mary Cummins actual damages in the amount of TEN THOUSAND DOLLARS (\$10,000.00).

IT IS FURTHER ORDERED that Bat World Sanctuary recover from Mary Cummins attorney's fees in the amount of ONE HUNDRED SEVENTY SIX THOUSAND SEVEN HUNDRED DOLLARS (\$176,700.00).

IT IS ORDERED that Mary Cummins be permanently enjoined and she is ORDERED to immediately and permanently remove from the internet the following statements which currently appear at <http://www.animaladvocates.us/batWorldLawsuit/>:

1. They breed animals in the facility.

APPENDIX I

2. Pretty ironic for this group to certify Bat World Sanctuary when the health department told her to leave town and they had to gut the building and remove her belongings.
3. Vet recommended blood and stool tests. Lollar declined. She just wants empirical therapy. If that doesn't work, she wants to euth the dog. She refused treatment. When I was at Bat World June 19, 2010 to June 28, 2010 I saw her use her fingers to pull out one of the dog's teeth, i.e. oral surgery on dogs.
4. The current method she suggests is also inhumane. The bats die of suffocation. She also forgets to mention that the drugs she suggests must be used under the direction of a veterinarian. She doesn't even administer the gas legally, humanely, or safely.
5. He should not be working for free for someone who commits animal cruelty.
6. I doubt he'll be speaking about this embarrassing little case where he is actually representing someone who commits animal cruelty and neglect.
7. She took the money that came from the dissolution of Bonnie Bradshaw's group and bought a new silver Honda Eclipse. That money was supposed to go for animals. This is what Lollar does with money that is given to Bat World.
8. Lollar never even washed her hands before surgery, you can see dirty finger nails in the photos, no surgical garments, no mask, hat, nothing. Night and day.
9. Just confirmed that Amanda Lollar of Bat World Sanctuary is illegally obtaining human and animal rabies vaccinations. ...Again, breaking the law. I'm amazed she admitted to having the vaccine and buying it when she is doing it illegally.
10. She does not state that it died from neglect of care. She also chose to euth it instead of treating it as her vet suggested. She'd previously turned down care which her vet suggested.
11. When I was at Bat World she told me the place where she buys her rabies vaccine thinks she's a doctor.
12. Earlier in the year the vet noted the dog had major dental issues yet she didn't have the vet treat them. You know how painful it would be to have a mouth full of rotten teeth? That's animal neglect.
13. BREAKING NEWS!!! Amanda Lollar of Bat World Sanctuary admits in writing that she and Bat World Sanctuary are being forced to leave Mineral Wells because of all the complaints to the City and Health Department.
14. The dogs rear claws are super long. There is no way she could stand. ... She has to drag herself on cement.
15. She tells people to use Isoflurane illegally, inhumanely and unsafely in her book.

16. He didn't care that she admitted to illegally having the human rabies vaccination, admitted to using drugs not according to the label or that she "proudly" admitted to performing surgery.
17. In the video Lollar takes tweezers and just pulls out the molars of a conscious bat that is fighting and biting her while it bleeds. Lollar is proud of this and posted this video in her book and online. Bat experts know that bats must be unconscious and intubated to remove molars. Can you imagine the pain that bat felt?
18. Pulling molars out of conscious bats is not "cutting-edge" though cutting open conscious bats might fall into that "category." Operating on bats using the drop anesthesia technique or amputating wings instead of pinning them is also not cutting edge but cave man veterinary practice.
19. Lollar is exposing people to rabies by not checking their cards.
20. Her recent story about the episiotomy at the depo was that, that was not the bat's vagina and uterus being pulled out. It was the "placenta separating." It clearly was not.
21. She'd already yanked out the placenta which is what helped cause the prolapse, besides cutting way too much and pulling too hard. She really needs to get her vision checked. Someone with very bad vision is the last person who should be slicing into microbats.
22. Yeah, I look like crap in the videos but at least there are no videos of me hacking an animal to death.
23. She's been breeding her bats illegally. She's committing fraud asking for money for a project she cannot and will not do.
24. She said she would use the bag for the trip then return it to Walmart for a refund. She admitted to me with an evil laugh that she does this frequently.
25. Rabies complaint against Bat World Sanctuary. General sanitation laws, harboring high risk rabies animals, allowing them in downtown.
26. Amanda Lollar and her buildings have been written up so many times for building violations, safety issues, rabies, histoplasmosis, no address, unsightly building, build up of guano 6-8 feet... People have been reporting her smelly building and rabid bats for over 15 years.
27. She's basically experimenting on bats. The bats are dying because she doesn't take them to the vet. That's okay because she can just go get more bats.
28. Amanda Lollar of Bat World Sanctuary found guilty of illegally breeding bats at her facility. It is a violation of her permit.

29. Amanda Lollar of Bat World Sanctuary is now sending threats of extortion from Mineral Wells, Texas. Because she's sending it over the computer it's a Federal crime.
30. She has violated the following regulations listed on her permit. "15 a. Permit holder is prohibited from a. Propagating, selling or bartering animals or animal remains received or held under authority of this permit." She is allowing the bats to breed.
31. The complaints going back 18 years were about alleged animal cruelty, animal neglect, violations of the health code and building and safety regulations.
32. The complaints stretching back 18 years were about animal cruelty, animal neglect, violations of the health code, violations of Texas Parks & Wildlife regulations, violations of the Animal Welfare Act, building violations and a report about a rabid bat biting a toddler directly next door to Bat World Sanctuary.
33. Here is the disgusting photo of my face which they photoshopped semen onto. They then added the caption "Yep, screw you too, Mmmmary!" They named the file "mmmm." This is how disgusting and childish these people are.

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and she is ordered to immediately and permanently remove from the following URL's in their entirety:

1. http://www.animaladvocates.us/batWorldLawsuit/Amanda_Lollar_Bat_World_Sanctuary_Breeding_Bats.pdf
2. http://www.animaladvocates.us/batWorldLawsuit/amanda_lollar_1994_manual_original.pdf
3. <http://www.animaladvocates.us/batWorldLawsuit/mmmm.jpg>

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and she is ORDERED to immediately and permanently remove from the internet the following statements which currently appear at http://www.animaladvocates.us/mary_cummins_sues_amanda_lollar_bat_world_sanctuary

1. She's the one who handles rabid bats with her bare hands.

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and she is ORDERED to immediately and permanently remove from the internet the following statements which currently appear at <https://www.facebook.com/marycummins>:

1. Update: Health Dept. forced Bat World Sanctuary to leave town. In January they gutted the building, cleaned it and removed her property.

2. Amanda who runs bat sanctuary just uses her bare hands. The rabid bats even bite her.

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and she is ORDERED to immediately and permanently remove from the internet the following statements which currently appear at <https://www.facebook.com/AnimalAdvocatesUSA>:

1. Update: Health Dept. forced Bat World Sanctuary to leave town. In January they gutted the building, cleaned it and removed her property.

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and she is ORDERED to immediately and permanently remove from the internet the following statements which currently appear at <https://plus.google.com/107575973456452472889>:

1. Bat World Sanctuary admits in writing they are being forced to leave the City because of all the complaints to the City and Health Dept.

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and she is ORDERED to immediately and permanently remove from the internet the following statements which currently appear at <http://twitter.com/MMMARYinLA>:

1. Bat World Sanctuary admits in writing that they are being forced to leave the City because of all the complaints to the City and Health Dept.
2. Update: Health Dept. forced Bat World Sanctuary to leave town. They gutted her building, cleaned it and removed her property.
3. Amanda Lollar commits animal cruelty at Bat World Sanctuary <http://goo.gl/fb/ufv4x>

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and she is ORDERED to immediately and permanently remove from the internet the following statements which currently appear at <http://www.myspace.com/mmmaryinla>:

1. Health Dept. forced Bat World Sanctuary to leave town. They gutted her building, cleaned it and removed her property.
2. Bat World Sanctuary admits in writing they are being forced to leave the City because of all the complaints to the City and Health Dept.

IT IS FURTHER ORDERED that Mary Cummins be permanently enjoined and prohibited from posting on the internet or publishing to any person any video recording of any episiotomy that was recorded or made at Bat World Sanctuary.

IT IS FURTHER ORDERED that the total amount of the judgment here rendered will bear interest at the rate of five percent (5%) per year from the date of this judgment until paid.

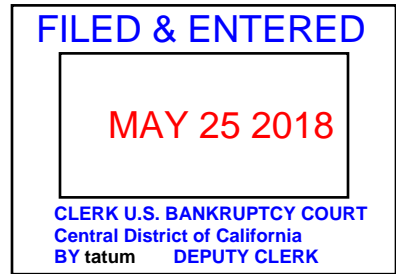
All costs of court spent or incurred in this cause are adjudged against Mary Cummins, defendant.

All writs and processes for the enforcement and collection of this judgment or the costs of court may issue as necessary.

All other relief not expressly granted in this judgment is denied.

SIGNED this 27 day of August, 2012.

William Brigham
JUDGE PRESIDING



NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
MARY KATHERINE CUMMINS-COBB,
Debtor.

Case No. 2:17-bk-24993-RK
Chapter 7
Adv. No. 2:18-ap-01066-RK

**ORDER DENYING MOTION FOR
JUDGMENT ON THE PLEADINGS
WITHOUT PREJUDICE**

KONSTANTIN KHIONIDI, as Trustee of
the Cobbs Trust,
Plaintiff,
vs.
MARY KATHERINE CUMMINS-COBB,
Defendant.

Date: May 22, 2018
Time: 2:30 PM
Courtroom: 1675

This adversary proceeding came on for hearing before the undersigned United States Bankruptcy Judge on May 22, 2018 on Plaintiff Konstantin Khionidi's ("Plaintiff") Motion for Judgment on the Pleadings (Docket No. 10) filed on April 27, 2018. Philip H. Stillman, of the law firm of Stillman & Associates, appeared for Plaintiff. Defendant Mary Katherine Cummins-Cobb, who is self-represented, appeared for herself.

1 The court having considered Defendant Mary Katherine Cummins-Cobb's
2 opposition (Docket No. 16) filed on May 17, 2018 and Plaintiff's reply (Docket No. 17)
3 filed on May 18, 2018 and the oral arguments of the parties at the hearing, the court
4 denies the Motion without prejudice for the reasons stated in the court's tentative ruling
5 (copy of tentative ruling attached hereto) posted online on the court's website before the
6 hearing as modified by the court's oral comments and ruling stated at the hearing
7 regarding service of the motion on Defendant. Defendant orally stated at the hearing
8 that she consented to email service of the moving papers, and as the court stated at the
9 hearing, the lack of proof of service of the motion is not a ground for denial of the
10 Motion. However, absent proof of a written stipulation regarding email service, which is
11 filed on the case docket, Plaintiff is not relieved from the obligation to serve all pleadings
12 and other papers on Defendant by mail or other means of service as required by
13 Federal Rule of Bankruptcy Procedure 7005, making Federal Rule of Civil Procedure
14 5(a) applicable to this adversary proceeding.

15 IT IS SO ORDERED.

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25 Date: May 25, 2018



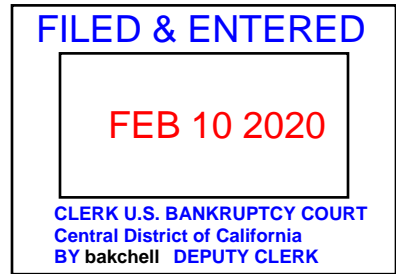
Robert Kwan
United States Bankruptcy Judge

ATTACHMENT – TENTATIVE RULING

Deny plaintiff's motion for judgment on the pleadings because: (1) no proof of service on defendant (LBR 9013-1(a), FRBP 7005 and FRCP 5(b)(2) requires mail service on defendant - no proof of consent by defendant to electronic service); (2) no proof of standing to assert claim of Amanda Lollar - defendant denies that plaintiff is Lollar's assignee in her answer, which also precludes judgment on the pleadings; (3) no showing that plaintiff is entitled to judgment on the pleadings that the elements of collateral estoppel meet the standards of Texas law under which the state court judgment was entered and the judgment entitled to collateral estoppel effect under Texas law meets the federal standards for debt dischargeability claims under 11 U.S.C. 523(a)(6) under *In re Plyam*, 530 B.R. 456 (9th Cir. BAP 2015).

Although defendant filed a motion for continuance in order to have more time to respond to plaintiff's reply, the court is inclined to deny the motion for continuance because the court thinks plaintiff's motion needs to be substantially revised to address the court's concerns about the application of collateral estoppel here since plaintiff's analysis is conclusory and insufficient because there is no analysis of Texas law of collateral estoppel to show the collateral estoppel effect of the Texas judgment. The court is not so sure that the motion can be granted on its face because the opinion of the Texas Court of Appeals stated at page 20 of its memorandum opinion (attached as Exhibit 2 to Plaintiff's Complaint) that the standard of proof requires only at least negligence for defamation claims between private parties concerning private speech, which does not meet the willfulness standard of 11 U.S.C. 523(a)(6) as indicated in *In re Plyam*, supra, and at page 59 of its memorandum opinion that recovery of exemplary or punitive damages in Texas civil practice can be met by showing gross negligence which also does not meet the willfulness standard of 11 U.S.C. 523(a)(6) as indicated in *In re Plyam*, supra. Plaintiff will have to provide a complete analysis of the requirements of Texas law to prove a defamation claim and entitlement to exemplary damages and to establish the collateral estoppel effect of a judgment on a defamation claim and a claim for exemplary damages in order to show that these requirements satisfy the federal standards of debt dischargeability under 11 U.S.C. 523(a)(6). Denial of the motion will be without prejudice to allow plaintiff the opportunity to remedy these deficiencies. In resubmitting the motion, plaintiff should also submit a copy of the state court complaint which relates to the state court judgment so that the court can see what exactly were the claims upon which judgment was rendered. Plaintiff should also submit any express findings of fact made by the Texas trial court which were not attached to the complaint, which findings may show whether the standards of proof met in the state court case satisfy the federal standard of willfulness and malice under 11 U.S.C. 523(a)(6).

Appearances are required on 5/22/18, but counsel and self-represented parties may appear by telephone in accordance with the court's telephone appearance procedures posted online on the court's website.



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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

MARY CUMMINS-COBB,

Debtor.

No. 2:17-bk-24993-RK

Chapter 7

Adv. No. 2:18-ap-01066-RK

**ORDER DENYING DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT AND
GRANTING PARTIAL SUMMARY
JUDGMENT IN FAVOR OF NON-MOVING
PLAINTIFF ON HIS FOURTH CLAIM FOR
RELIEF UNDER 11 U.S.C. § 523(a)(6)**

KONSTANTIN KHIONIDI, AS TRUSTEE
OF THE COBBS TRUST,

Plaintiff,

v.

MARY CUMMINS-COBB,

Defendant.

25 Having entered its statement of uncontroverted facts and conclusions of law on
26 the Motion of Defendant Mary Cummins-Cobb for summary judgment, for the reasons
27 stated therein, the court denies Defendant's motion for summary judgment and grants
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1 partial summary judgment in favor of Plaintiff Konstantin Khiondi, as Trustee of the
2 Cobbs Trust, on his fourth claim for relief in the Complaint under 11 U.S.C. § 523(a)(6).

3 Plaintiff is ordered to lodge a proposed judgment consistent with this order and
4 the court's statement of uncontroverted facts and conclusions of law on the Motion of
5 Defendant for Summary Judgment within 30 days of the entry of this order.
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7 IT IS SO ORDERED.

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25 Date: February 10, 2020



26 Robert Kwan
27 United States Bankruptcy Judge
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