

1 MARY CUMMINS
2 Debtor, Defendant, In Pro Per
3 645 W. 9th St. #110-140
4 Los Angeles, CA 90015
5 Direct: (310) 877-4770
6 Fax: (310) 494-9395
7 Email: mmmaryinla@aol.com

8 UNITED STATES BANKRUPTCY APPELLATE PANEL
9 OF THE NINTH CIRCUIT

| | | |
|--------------------------------------------------------------|---|---------------------------------------------------|
| 10 In re: | } | BAP No. CC-21-1100 |
| 11 MARY CUMMINS-COBB, | } | Bk. No. 2:17-bk-24993-RK |
| 12 | } | Adv. No. 2:18-ap-01066-RK |
| 13 Debtor | } | DEFENDANT’S REPLY TO CLERK’S ORDER RE FINALITY |
| 14 MARY CUMMINS-COBB | | |
| 15 Appellant | } | |
| 17 KONSTANTIN KHIONIDI, as Trustee 18 of the COBBS TRUST, | } | |
| 19 Appellee. | } | |

20
21 **INTRODUCTION**

22
23 May 13, 2021 Susan M. Sprawl the Clerk of Court for the Bankruptcy Appellate
24 Panel of the Ninth Circuit filed an order for Appellant Mary Cummins to reply by May
25 27, 2021 as to (a) how the order on appeal is final and immediately reviewable under
26 28 U.S.C. § 158(1)(a) or (b) file a motion for leave to appeal explaining why the BAP
27 should hear the above referenced appeal before the full and final disposition of the
28 entire Adversary Proceeding.

1 Defendant comes now and files Defendant's reply stating the order on appeal is
2 final and immediately reviewable. If the BAP does not agree, Defendant in the
3 alternative is also simultaneously filing, lodging a motion for leave to appeal.

4 **THE ORDER ON APPEAL IS FINAL**

5 Per Federal Rules of Civil Procedure 17(a) "An action must be prosecuted in the
6 name of the real party in interest." Plaintiff Konstantin Khionidi does not exist and
7 therefore cannot legally file a complaint, i.e. the Adversary Proceeding (Motion to
8 Dismiss, Doc# 198, Motion to Rehear Motion to Dismiss, Doc# 206).

9 Defendant stated repeatedly with supporting evidence that Plaintiff does not exist
10 and therefore has unclean hands in Defendant's Motion for Summary Judgment. The
11 Court never acknowledged or ruled on the specific issue of the Plaintiff being a real
12 person or not who can legally file a complaint in the Adversary Proceeding Summary
13 Judgment order Doc# 117. For this reason Defendant filed the Motion to Dismiss per
14 FRCP 17(a) before the order on the Motion for Summary Judgment was final.

15 The entire Adversary Proceeding should be dismissed before the order on the
16 Motion for Summary Judgment is final. The fact that Plaintiff is not a real person
17 capable of filing a legal complaint i.e. the Adverse Proceeding, takes precedence over
18 the later filing of the Motion for Summary judgment in the case.

19 February 26, 2021 Defendant filed Doc #198 Motion to Dismiss per FRCP 17(a).
20 Hearing set March 30, 2021. Court denied the Motion March 18, 2021, Doc #202, 203.

21 March 23, 2021 Defendant filed Doc #206 Motion to Rehear Motion to Dismiss.
22 Hearing set April 27, 2021. Court denied the Motion April 27, 2021, Doc #208.

23 Defendant filed the Motion to Appeal in a timely manner within 14 days of the
24 order on the Motion to Rehear the Motion to Dismiss on May 10, 2021. Defendant is
25 appealing the denial of the Motion to Dismiss per FRCP 17(a). Defendant didn't
26 specifically state "FRCP 17(a)" in Defendant's Motion for Summary Judgment which
27 was denied so FRCP 17(a) can't be appealed based on the Motion for Summary
28

1 judgment order. Defendant did state in the MSJ that Plaintiff did not exist and
2 therefore had committed fraud upon the court and had unclean hands.

3 Defendant is an indigent pro se party not in the legal profession. Defendant did not
4 know when Defendant filed Defendant's original Motion for Summary Judgment that a
5 party who does not exist cannot file a lawsuit in Federal Court per FRCP 17(a).

6 Defendant did state and cite in a separate Motion for Contempt August 19, 2020 Doc
7 #179 pg 3, lines 4-15.

8 "In this case Plaintiff doesn't even exist. Original Plaintiff Amanda Lollar who is
9 actually still the real Plaintiff allegedly gave this judgment to a Russian living in
10 Russia Konstantin Khionidi. Stillman swore in Court he would prove Khionidi existed
11 by having Khionidi sign a notarized agreement. Khionidi has never done this because
12 Khionidi does not exist. A person who does not exist can't file a lawsuit. Plaintiff
13 intentionally filed a complaint with the purpose to hide using a fictitious name without
14 leave of court. CAL. CODE CIV. PRO. § 367: "Every action must be prosecuted in the
15 name of the real party in interest." Plaintiff Amanda Lollar admitted that Lollar is the
16 Russian to Defendant (Declaration). The underlying agreement shows that Lollar is
17 still the real Plaintiff. This makes the Adverse Proceeding null and void. The case
18 should be dismissed."

19 September 8, 2020 on video at the hearing for the Motion Contempt above
20 Defendant again stated and cited C.C.C.P. § 367. Judge Robert Kwan acknowledged
21 this and replied, stated on the record "that is state law and not federal." Judge Robert
22 Kwan clearly knew Defendant's intention to dismiss the case because Plaintiff isn't
23 real and can't file a lawsuit. The Federal law is the exact same as the California state
24 law, i.e. Federal Rules of Civil Procedure 17(a) "An action must be prosecuted in the
25 name of the real party in interest." If a case is not filed in the name of a real party in
26 interest, the case must be dismissed per Federal law (Motion to Dismiss).

27 Judge Robert Kwan should have either dismissed the Adversary Proceeding,
28 Summary Judgment or instructed Defendant to file a Motion to Dismiss based on the
Federal law, i.e. "a trial judge should instruct a self-represented litigant in the proper
procedures for any action he or she is obviously attempting to accomplish. Facilitating

1 an unrepresented litigant’s presentation of his or her own case, as the litigant has
2 conceived it, is the provision of legal information, not legal advice.”¹ That did not
3 happen so Defendant filed the Motion to Dismiss.

4 **CONCLUSION**

5 The order on appeal is final and immediately reviewable under 28 U.S.C. §
6 158(a)(1). Per Federal Rules of Civil Procedure 17(a) “An action must be prosecuted
7 in the name of the real party in interest.” Plaintiff Konstantin Khionidi does not exist
8 and therefore cannot legally file a complaint, i.e. the Adversary Proceeding or the
9 Motion for Summary Judgment. Defendant requests that the Court dismiss Plaintiff’s
10 Adversary Proceeding because Plaintiff is not a real person and cannot file a lawsuit.

11 Respectfully submitted,

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14 Mary Cummins, Defendant pro se

15 May 25, 2021
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28 ¹ California Court Judge Pro Se Reference Guide
<https://www.courts.ca.gov/partners/documents/ReachingOutOverreaching.pdf>

DECLARATION OF DEFENDANT MARY CUMMINS

I, MARY CUMMINS, declare as follows:

1. I am Mary Cummins Defendant in pro per. I make this declaration on my personal knowledge of the facts set forth herein.
2. Everything in DEFENDANT’S REPLY TO CLERK’S ORDER RE FINALITY was written by me and is the truth to the best of my knowledge.
3. All exhibits cited, footnoted, attached are true and correct copies of the originals.
4. Ex Plaintiff Amanda Lollar told me in person to my face in 2015 that the Russian does not exist. Lollar stated Lollar is the alleged “Russian” then Lollar laughed at me.

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

Executed on May 25, 2021 at Los Angeles, California.

By: 
MARY CUMMINS

PROOF OF SERVICE
(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:

DEFENDANT’S REPLY TO CLERK’S ORDER RE FINALITY

on the following interested parties by email to the following and by ECF.

Philip H. Stillman
Stillman & Associates
pstillman@stillmanassociates.com

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

Executed this day, May 25, 2021, at Los Angeles, California.

Respectfully submitted,



Mary Cummins, Defendant
Dated: May 25, 2021
645 W. 9th St. #110-140
Los Angeles, CA 90015

1 MARY CUMMINS
2 Debtor, Defendant, In Pro Per
3 645 W. 9th St. #110-140
4 Los Angeles, CA 90015
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8 UNITED STATES BANKRUPTCY APPELLATE PANEL
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| 14 MARY CUMMINS-COBB | | |
| 15 | } | |
| 16 Appellant | } | |
| 17 KONSTANTIN KHIONIDI, as Trustee | } | |
| 18 of the COBBS TRUST, | } | |
| 19 Appellee. | } | |

20
21 **INTRODUCTION**

22
23 May 13, 2021 Susan M. Sprawl the Clerk of Court for the Bankruptcy Appellate
24 Panel of the Ninth Circuit filed an order (Bankruptcy Appellate Panel Docket #
25 21-1100 Doc #3) for Appellant Mary Cummins to reply by May 27, 2021 as to (a) how
26 the order on appeal is final and immediately reviewable under 28 U.S.C. § 158(1)(a) or
27 (b) file a motion for leave to appeal explaining why the BAP should hear the above
28

1 referenced appeal before the full and final disposition of the entire Adversary
2 Proceeding. Defendant comes now and files Defendant's Motion for Leave to Appeal.

3 **FACTS OF THE CASE**

4 Per Federal Rules of Civil Procedure 17(a) "An action must be prosecuted in the
5 name of the real party in interest." Plaintiff Konstantin Khionidi does not exist and
6 therefore cannot legally file a complaint, i.e. the Adversary Proceeding (Motion to
7 Dismiss, Doc# 198, Motion to Rehear Motion to Dismiss, Doc# 206, Declaration,
8 Mary Cummins, Defendant).

9 Defendant stated repeatedly with supporting evidence that Plaintiff does not exist
10 and therefore has unclean hands in Defendant's Motion for Summary Judgment. The
11 Court never acknowledged or ruled on the specific issue of the Plaintiff being a real
12 person or not who can legally file a complaint in the Adversary Proceeding Summary
13 Judgment order Doc# 117. For this reason Defendant filed the Motion to Dismiss per
14 FRCP 17(a) before the order on the Motion for Summary Judgment was final.

15 The entire Adversary Proceeding should be dismissed before the order on the
16 Motion for Summary Judgment is final. The fact that Plaintiff is not a real person
17 capable of filing a legal complaint i.e. the Adverse Proceeding, takes precedence over
18 the later filing of the Motion for Summary Judgment in the case. Plaintiff should have
19 never been allowed to file the Motion for Summary Judgment.
20

21 February 26, 2021 Defendant filed Adversary Proceeding Doc #198 Motion to
22 Dismiss per FRCP 17(a). Hearing set March 30, 2021. Court denied the Motion March
23 18, 2021, Doc #202, 203 (Exhibit 1).

24 March 23, 2021 Defendant filed Doc #206 Motion to Rehear Motion to Dismiss.
25 Hearing set April 27, 2021. Court denied the Motion April 27, 2021, Doc #208,
26 (Exhibit 2).

27 Defendant filed the Motion to Appeal in a timely manner within 14 days of the
28 order on the Motion to Rehear the Motion to Dismiss on May 10, 2021. Defendant is

1 appealing the denial of the Motion to Dismiss per FRCP 17(a). Defendant didn't
2 specifically state "FRCP 17(a)" in Defendant's Motion for Summary Judgment which
3 was denied so FRCP 17(a) can't be appealed based on the Motion for Summary
4 judgment order. Defendant did state in the Motion for Summary Judgment that
5 Plaintiff did not exist and therefore had committed fraud upon the court and had
6 unclean hands.

7 Defendant is an indigent pro se party not in the legal profession. Defendant did not
8 know when Defendant filed Defendant's original Motion for Summary Judgment that a
9 party who does not exist cannot file a lawsuit in Federal Court per FRCP 17(a).
10 Defendant did state and cite in a separate Motion for Contempt August 19, 2020 Doc
11 #179 pg 3, lines 4-15.

12 "In this case Plaintiff doesn't even exist. Original Plaintiff Amanda Lollar (Lollar)
13 who is actually still the real Plaintiff allegedly gave this judgment to a Russian living
14 in Russia Konstantin Khionidi. Stillman (Plaintiff's attorney) swore in Court he would
15 prove Khionidi existed by having Khionidi sign a notarized agreement. Khionidi has
16 never done this because Khionidi does not exist. A person who does not exist can't
17 file a lawsuit. Plaintiff intentionally filed a complaint with the purpose to hide using a
18 fictitious name without leave of court. CAL. CODE CIV. PRO. § 367: "Every action
19 must be prosecuted in the name of the real party in interest." Plaintiff Amanda Lollar
20 admitted that Lollar is the Russian to Defendant (Declaration). The underlying
21 agreement shows that Lollar is still the real Plaintiff. This makes the Adverse
22 Proceeding null and void. The case should be dismissed."

23 September 8, 2020 on video at the hearing for the Motion Contempt above
24 Defendant again stated and cited C.C.C.P. § 367. Judge Robert Kwan acknowledged
25 this and replied, stated on the record "that is state law and not federal." Judge Robert
26 Kwan clearly knew Defendant's intention to dismiss the case because Plaintiff isn't
27 real and can't file a lawsuit. The Federal law is the exact same as the California state
28 law, i.e. Federal Rules of Civil Procedure 17(a) "An action must be prosecuted in the
name of the real party in interest." If a case is not filed in the name of a real party in
interest, the case must be dismissed per Federal law (Motion to Dismiss case citations).

1 Judge Robert Kwan should have either dismissed the Adversary Proceeding,
2 Summary Judgment or instructed Defendant to file a Motion to Dismiss based on the
3 Federal law, i.e. “a trial judge should instruct a self-represented litigant in the proper
4 procedures for any action he or she is obviously attempting to accomplish. Facilitating
5 an unrepresented litigant’s presentation of his or her own case, as the litigant has
6 conceived it, is the provision of legal information, not legal advice.”¹ That did not
7 happen so Defendant filed the Motion to Dismiss.

8 **QUESTIONS ON APPEAL, STATEMENT OF ISSUES**

- 9 1. Whether the Bankruptcy Court erred in finding that Defendant’s Motion to
10 Dismiss was not timely.
11 2. Whether the Bankruptcy Court erred in finding that the assignment of the
12 Plaintiff’s judgment was valid considering Plaintiff does not exist.
13 3. Whether the Bankruptcy Court erred in finding that Plaintiff exists, if the Court
14 found that Plaintiff exists, which Defendant disputes.
15 4. Whether the Bankruptcy Court erred in allowing a Plaintiff who does not exist to
16 file a lawsuit, i.e. the Adversary Proceeding, per F.R.C.P. 17(a).
17 5. Whether the Bankruptcy Court erred in not dismissing the Adversary Proceeding
18 because Plaintiff does not exist per F.R.C.P. 17(a).
19

20 **RELIEF SOUGHT**

21 Per Federal Rules of Civil Procedure 17(a) “An action must be prosecuted in the
22 name of the real party in interest.” Plaintiff Konstantin Khionidi does not exist and
23 therefore cannot legally file a complaint, i.e. the Adversary Proceeding or the Motion
24 for Summary Judgment. Defendant requests that the Court dismiss Plaintiff’s
25 Adversary Proceeding because Plaintiff is not a real person and cannot file a lawsuit.
26

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28 ¹ California Court Judge Pro Se Reference Guide
<https://www.courts.ca.gov/partners/documents/ReachingOutOverreaching.pdf>

1 Defendant requests that Defendant’s Motion for Leave to Appeal be granted.
2 Defendant requests that the Appeal of the Motion to Dismiss be heard before the order
3 on the Motion for Summary Judgment is final. Defendant requests that the Appeal be
4 heard by the Appellate Panel of the Ninth Circuit and not the District Court. The
5 District Court is clearly too busy to hear the case. The District Court Judge Andre
6 Birot refused to hear a single motion in a previous appeal. Defendant lost motions by
7 default because the Judge refused to hear them or rule at all.

8 Plaintiff’s attorney Philip Stillman stated that Plaintiff will request that the case be
9 transferred to District Court Judge Andre Birot which heard a previous appeal on a
10 previous Motion. Defendant objects and will file Motion to Recuse if necessary. Judge
11 Andre Birot should not hear the case. Besides refusing to hear any Motions Judge
12 Andre Birot has a clear history of bias against pro se parties and specifically Defendant
13 based on previous actions. Judge Birot’s previous order was just an exact copy/paste of
14 the original order with no analysis. Judge Birot also refused to make accommodations
15 for an indigent pro se party during the very beginning of the pandemic before the
16 Courthouse finally made pandemic orders.

17 It is clear that Judge Andre Birot never even looked at the original ridiculous six
18 page \$10,000,000+ judgment from the 2010 Texas defamation case (Case# 352-
19 248169-10, Exhibit 3). The judgment does not state “malice,” “defamation,” “slander,”
20 “libel...” The judgment is only an unconstitutional take down order with prior restraint
21 and an unspecified monetary judgment. All of the claims except one were reversed on
22 appeal. All claims to co-Plaintiff Bat World Sanctuary (BWS) were reversed yet BWS
23 is included in the underlying California Sister State judgment.

24 Plaintiff did not show even ONE element of defamation. Plaintiff never stated what
25 they felt was defamatory before, during or even after the trial. The items in the take
26 down order are not defamation or defamation per the Judgment. The Court never stated
27 the items were defamatory. Plaintiff never stated the items were defamatory during the
28

1 trial. Most of the items in the list were clearly stated by Plaintiff, Government
2 Agencies, Head of USDA, USDA Veterinarian, Texas Veterinary Board, Plaintiff's
3 veterinarian, public officials and other known and unknown people who are not
4 Defendant. What Defendant did state came from fair and privileged reports to
5 government agencies. Plaintiff at trial stated those were "fair and privileged reports"
6 and not "defamation." Defendant reported Original Plaintiff for violations of the
7 Animal Welfare Act and Plaintiff lost their Federal USDA permit (Lollar, BWS lose
8 USDA permit².

9 Lollar the real current owner of the Judgment stated under oath at trial that they had
10 no evidence of any damages or causation of anything by Defendant (Motion Summary
11 Judgment). Attorney Paul Levy in their Amicus Brief in the case stated the items were
12 not defamatory (Amicus Brief, Paul Alan Levy, Public Citizen, ACLU³, part of court
13 record). There was no separate hearing for damages for an indigent out of state pro se
14 Defendant (Amicus Brief, Los Angeles, California Attorney David Casselman⁴, part of
15 court record). In order to show defamation with malice in order for a judgment to be
16 nondischargeable one must first prove defamation, defamation by Defendant which
17 was never done.

18 Because Plaintiff does not exist it would be fraud upon the Court for Plaintiff to file
19 a reply to Defendant's Motion for Leave. If the Court allows Plaintiff's attorney Philip
20 Stillman to reply or file any legal document for Plaintiff, the Court should order
21 Plaintiff to show proof that Plaintiff exists such as copy of Plaintiff's passport and
22 include a signature notarized by a US Notary Public. Stillman swore to the previous
23 Court that the Plaintiff would notarize an assignment of the judgment in front of a US
24 notary back to Lollar when the issue of Plaintiff being a real person or not was first
25

26 _____
27 ² Amanda Lollar, Bat World Sanctuary lose USDA permit

http://www.marycummins.com/amanda_lollar_bat_world_sanctuary_usda_cancelled.pdf

³ Paul Alan Levy, Public Citizen, Amicus Brief http://www.animaladvocates.us/cummins_amicus_brief.pdf

⁴ David Casselman, Amicus Brief

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

1 raised. Plaintiff could never do that after months of trying. Judge Robert Kwan allowed
2 it even though Defendant objected.

3 All throughout the debtor case, bankruptcy case and Adversary Proceeding Plaintiff
4 has never shown proof that they exist. Plaintiff did show proof that they don't exist. In
5 bankruptcy Adversary Proceeding discovery Defendant requested proof such as a copy
6 of Plaintiff's identification card or passport and Plaintiff refused. Defendant filed a
7 motion to compel production and the Court denied it. The real Plaintiff filed the
8 Adversary Proceeding as a fake person so they would never have to answer any
9 discovery which is what happened. Plaintiff's attorney stated they could not be
10 deposed because they allegedly live in "Russia" which is over 100 miles away.
11 Defendant wasn't allowed to depose the real Plaintiff because they were deemed a
12 "third party." The ridiculousness of the illegal use of a fake Plaintiff in this case is
13 beyond belief. If fake people could file lawsuits and hold assets, criminals would be
14 taking full advantage of such a loophole.

15 **WHY APPEAL SHOULD BE GRANTED**

16 The Appeal should be granted because a person who does not exist cannot file a
17 lawsuit per F.R.C.P. 17(a). It is fraud upon the court and any lawsuit must be
18 dismissed (Motion to Dismiss case citations).

19 The Appeal of the Motion to Dismiss must be heard before the order on the Motion
20 for Summary Judgment in the Adversary Proceeding case is final. The fact that
21 Plaintiff does not exist and is not allowed to file a legal complaint such as the
22 Adversary Proceeding takes precedence over the later filing of the Motion for
23 Summary Judgment. The specific issue of F.R.C.P. 17(a) wasn't raised in the Motion
24 for Summary judgment.
25

26 **CONCLUSION**

27 Per Federal Rules of Civil Procedure 17(a) "An action must be prosecuted in the
28 name of the real party in interest." Plaintiff Konstantin Khionidi does not exist and

1 therefore cannot legally file a complaint, i.e. the Adversary Proceeding or the Motion
2 for Summary Judgment. Defendant requests that the Court dismiss Plaintiff's
3 Adversary Proceeding, Motion for Summary Judgment because Plaintiff is not a real
4 person and cannot file a lawsuit.

5 Because Defendant is a non-lawyer pro se Party, Defendant kindly requests that the
6 Court understand Defendant's main goal is to dismiss the Adversary Proceeding,
7 Summary Judgment in the bankruptcy and discharge the underlying California Sister
8 State Judgment. Defendant does not have the legal expertise to know the exact
9 language or process that is necessary to accomplish this goal. Defendant respectfully
10 requests that the Court use its knowledge and expertise to make a fair ruling in this
11 case.

12 Respectfully submitted,

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15 Mary Cummins, Defendant pro se

16 May 25, 2021
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DECLARATION OF DEFENDANT MARY CUMMINS

I, MARY CUMMINS, declare as follows:

1. I am Mary Cummins Defendant in pro per. I make this declaration on my personal knowledge of the facts set forth herein.
2. Everything in DEFENDANT’S MOTION FOR LEAVE TO APPEAL was written by me and is the truth to the best of my knowledge.
3. All exhibits cited, footnoted, attached are true and correct copies of the originals.
4. Ex Plaintiff Amanda Lollar told me in person to my face in 2015 that the Russian does not exist. Lollar stated Lollar is the alleged “Russian” then Lollar laughed at me.

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

Executed on May 25, 2021 at Los Angeles, California.

By: 
MARY CUMMINS

1 PROOF OF SERVICE
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 DEFENDANT'S MOTION FOR LEAVE TO APPEAL

9 on the following interested parties by email to the following and by ECF.

10 Philip H. Stillman
11 Stillman & Associates
12 pstillman@stillmanassociates.com
13

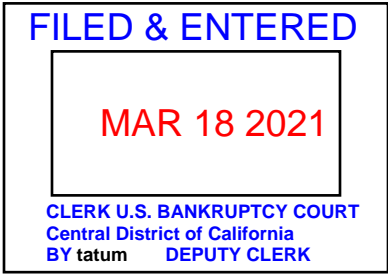
14
15 I declare under penalty of perjury, under the laws of the State of California, that the
16 foregoing is true and correct.

17 Executed this day, May 25, 2021, at Los Angeles, California.

18 Respectfully submitted,

19
20 
21

22 Mary Cummins, Defendant
23 Dated: May 25, 2021
24 645 W. 9th St. #110-140
25 Los Angeles, CA 90015
26
27
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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

MARY CUMMINS-COBB,

Debtor.

Case No. 2:17-bk-24993-RK

Chapter 7

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

ORDER DENYING DEFENDANT'S MOTION TO DISMISS THE ADVERSARY PROCEEDING AND PLAINTIFF'S EX PARTE APPLICATION TO STRIKE MOTION TO DISMISS

KONSTANTIN KHIONIDI, AS TRUSTEE OF THE COBBS TRUST,

Plaintiff,

vs.

MARY CUMMINS-COBB,

Defendant.

Vacated Hearing

Date: March 30, 2021

Time: 2:30 p.m.

Courtroom: 1675

Having issued its statement of decision re: defendant's motion to dismiss the adversary proceeding, filed on February 26, 2021 (Docket No. 198), and plaintiff's ex parte application to strike in response thereto, filed on March 9, 2021 (Docket No. 200),

//

1 the court denies the motion to dismiss and the application to strike the motion to dismiss
2 for the reasons stated in the statement of decision. The hearing noticed on the motion
3 to dismiss for March 30, 2021 at 2:30 p.m. is vacated, and no appearances are required
4 on March 30, 2021.

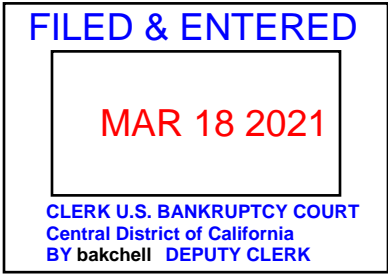
5 IT IS SO ORDERED.

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24 Date: March 18, 2021



25 _____
26 Robert Kwan
27 United States Bankruptcy Judge
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION**

In re:

MARY CUMMINS-COBB,

Debtor.

Case No. 2:17-bk-24993-RK

Chapter 7

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

**STATEMENT OF DECISION RE:
DEFENDANT’S MOTION TO DISMISS THE
ADVERSARY PROCEEDING AND
PLAINTIFF’S EX PARTE APPLICATION TO
STRIKE MOTION TO DISMISS**

KONSTANTIN KHIONIDI, AS TRUSTEE
OF THE COBBS TRUST,

Plaintiff,

vs.

MARY CUMMINS-COBB,

Defendant.

Vacated Hearing
Date: March 30, 2021
Time: 2:30 p.m.
Courtroom: 1675

Having considered defendant’s motion to dismiss the adversary proceeding, filed on February 26, 2021 (Docket No. 198), and plaintiff’s ex parte application to strike in response thereto, filed on March 9, 2021 (Docket No. 200), the court rules as follows.

1. Pursuant to Local Bankruptcy Rule 9013-1(j)(3), the court determines that

1 oral argument on the motion to dismiss the adversary proceeding is not
2 necessary and dispenses with it, and the court takes the motion to dismiss
3 under submission and vacates the hearing on the motion to dismiss
4 noticed before the court on March 30, 2021 at 2:30 p.m.

5 2. The motion to dismiss fails to set forth a proper legal basis for dismissing
6 the adversary proceeding after the entry of final judgment in favor of
7 plaintiff, which has been affirmed on appeal to the district court. This
8 court's judgment affirmed on appeal determined that the Cobbs Trust was
9 valid and plaintiff as its representative had standing to bring the adversary
10 proceeding. Thus, the court's determinations already addressed the issue
11 raised by defendant in her motion to dismiss regarding whether plaintiff is
12 the real party in interest under Federal Rule of Civil Procedure 17(a). In
13 determining that the trust is valid and that plaintiff as its representative had
14 standing to bring the adversary proceeding, the court determines that
15 plaintiff was the real party in interest under Federal Rules of Civil
16 Procedure 17(a). Defendant's remedy to contest the judgment based on
17 the court's determinations is an appeal, not a post-judgment motion to
18 dismiss, which the court determines to lack merit.

19 3. Accordingly, the motion will be denied.

20 4. Plaintiff's ex parte application to strike the motion to dismiss will be denied
21 as moot.

22 5. No appearances are required on the hearing on the motion on March 30,
23 2021, which hearing is now vacated.

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6. A final order denying the motion to dismiss and the application is being filed and entered concurrently herewith.

IT IS SO ORDERED.

###

Date: March 18, 2021



Robert Kwan
United States Bankruptcy Judge



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:
MARY CUMMINS-COBB,

Debtor.

KONSTANTIN KHIONIDI, AS TRUSTEE
OF THE COBBS TRUST,

Plaintiff,

vs.

MARY CUMMINS-COBB,

Defendant.

Case No. 2:17-bk-24993-RK
Chapter 7
Adv. No. 2:18-ap-01066-RK
**ORDER DENYING DEFENDANT'S MOTION
TO REHEAR MOTION TO DISMISS**

Hearing via Zoom for Government
Date: April 27, 2021
Time: 2:30 p.m.
Courtroom: 1675

On April 27, 2021, the court held a hearing on Defendant Mary Cummins-Cobb's Motion to Rehear Motion to Dismiss, filed on March 23, 2021, (Docket No. 206). Philip Stillman of Stillman & Associates appeared on behalf of Plaintiff Konstantin Khionidi, as Trustee of the Cobbs Trust. Ms. Cummins-Cobb appeared and represented herself. Having considered the motion and the arguments made at the April 27, 2021 hearing, the court hereby DENIES the motion to dismiss for the reasons stated on the record at

1 the hearing and in its prior statement of decision on defendant's prior motion to dismiss
2 filed and entered on March 18, 2021 (Docket No. 203).

3 IT IS SO ORDERED.

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25 Date: April 27, 2021



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Robert Kwan
United States Bankruptcy Judge

CAUSE NO. 352-248169-10

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

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.


JUDGE PRESIDING