

MARY CUMMINS
Appellant, In Pro Per
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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

MARY CUMMINS,)	Appeal Case No. B327355
)	Trial Case No. B140207
Appellant)	APPELLANT'S MOTION TO STRIKE
)	OPENING BRIEF; REQUEST LEAVE
BAT WORLD SANCTUARY et al,)	TO FILE AMENDED OPENING
)	BRIEF
Appellee)	

**MOTION TO STRIKE OPENING BRIEF, REQUEST LEAVE TO FILE
AMENDED OPENING BRIEF**

TO THE HONORABLE PRESIDING JUSTICE AND TO THE HONORABLE
ASSOCIATE JUSTICES OF THE COURT OF APPEAL OF THE STATE OF
CALIFORNIA, SECOND APPELLATE DISTRICT:

Appellant requests that the Court Strike Appellant's Opening Brief filed August 12, 2024 and allow Appellant leave to file an Amended Brief or accept the Opening Brief which was filed August 19, 2024.

The Court rejected Appellant's August 12, 2024 Opening Brief due to lack of bookmarks and inclusion of an appendix i.e. "REJECTED by RCERVANTES: Your designation of record did not include an appendix, appendix and brief should be 2 separate filings. Appendix is missing bookmarks per CRC Rule 8.74(a)(3). Missing

1 proof of service to trial court per Rule 8.212(c)(1).”

2 Appellant filed another Opening Brief which was also rejected for another
3 reason. Appellant did not believe they could fix the mistakes in time so Appellant
4 instantly filed for an Extension which was granted, “One extension granted for a total
5 of 7 days: 08/12/2024 Requested - extension of time. Requested for 08/19/2024 By 7
6 Day(s) 08/13/2024 Granted - extension of time. Due on 08/19/2024 By 7 Day(s)”
7 Appellant believed they had seven days to file their final Opening Brief.

8 Appellant then spent the next seven days correcting the errors in the original
9 Opening Brief. The Table of Contents was missing page numbers, some citations were
10 missing, some issues were inadvertently omitted and the proof of service did not
11 include all interested parties. August 19, 2024 at 12:01 a.m. Appellant filed their
12 corrected Opening Brief before the extension due date.

13 Appellant then looked at the docket and saw “Filed proof of service.08/19/2024
14 Supplemental proof of service showing service of Appellant's opening brief showing
15 service to other Respondents.” Appellant emailed Court but not reply.

16 Appellant knew Appellant served all parties in the proof of service and
17 contacted the Court by phone. Ricardo Cervantes then said the proof of service of the
18 August 12, 2024 was not correct and had to be corrected. Appellant stated the proof of
19 service is correct in the Opening Brief filed today, August 19, 2024. Appellant was
20 advised to file Motion to file Amended Brief.

21 Appellant apologizes for any inconvenience this request may cause but believes
22 that the August 19, 2024 filed Opening Brief must be submitted in order to fully
23 preserve all issues for appellant, to fully protect appellant’s rights to a full and fair
24 hearing on all issues in his case by this Court, and to effectively represent appellant at
25 this stage of the proceedings as guaranteed by the California State Constitution (art. I,
26 § 15), and the Sixth Amendment to the United States Constitution. (*In re Banks* (1971)
4 Cal.3d 337; *In re Smith* (1970) 3 Cal.3d 192).

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1 For these reasons, Appellant respectfully requests leave of this court to strike
2 the August 12, 2024 Opening Brief and accept the filed amended August 19, 2024
3 Opening Brief.

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5 Mary Cummins, Appellant

6 August 19, 2024
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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 PO Box 18738, Los Angeles,
6 California 90018. I am over the age of eighteen years.

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

8 **APPELLANT'S MOTION FILE AMENDED BRIEF**

9 on the following interested parties by email to the following by ECF or USPS
10 mailed.

11 Philip H. Stillman
12 Stillman & Associates
13 pstillman@stillmanassociates.com
14 Amanda Lollar sanctuary@batworld.org
15 Bat World Sanctuary info@batworld.org
16 Judge Kristin Escalante by mail

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

19 Executed this day, August 19, 2024, at Los Angeles, California.

20 Respectfully submitted,

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23
24 Mary Cummins, Appellant

25 Dated: August 19, 2024
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MARY CUMMINS
Defendant Pro Se
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Los Angeles, CA 90018
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SECOND APPELLATE DISTRICT**

MARY CUMMINS

Appellant

v.

BAT WORLD SANCTUARY et al

Appellee

) Appeal Case No. B327355

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) APPELLANT'S MOTION TO STRIKE
) OPENING BRIEF; REQUEST LEAVE
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) BRIEF

PROPOSED ORDER

GOOD CAUSE HAVING BEEN SHOWN, IT IS ORDERED THAT: The
Motion to Strike Opening Brief and Request Leave to File Amended Opening
Brief is approved.

IT IS SO ORDERED.

Dated: _____

APPELLANT'S MOTION