

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

BAT WORLD SANCTUARY,
et al

Plaintiff

v.

MARY CUMMINS
Appellant, Defendant

) Appeal Court: B327355

) Trial Court: B140207

PETITION FOR REVIEW

Following Affirmance of Judgment
By the Court of Appeal
Second Appellate District, Division 8
Court of Appeal Case No. B327355

Mary Cummins
Appellant In Pro Per
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Plaintiff

v.

MARY CUMMINS
Appellant

) Appeal Court: B327355

) Trial Court: B140207

PETITION FOR REVIEW

TO THE HONORABLE PATRICIA GUERRERO, CHIEF JUSTICE,
AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE
SUPREME COURT OF THE STATE OF CALIFORNIA:

Pursuant to Rule 8.500, California Rules of Court, Mary Cummins Defendant and Appellant (Appellant), hereby petitions this Court to grant review of the decision of the Court of Appeal for the 2nd Appellate District, Division 8, filed on June 18, 2025 which affirmed the judgment. A copy of the opinion of the Court of Appeal is attached as Appendix.

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ISSUES PRESENTED

This petition presents three important questions of constitutional law on which direct conflicts exist in the decisional authority regarding a party's right to a fair trial. It also deals with a clear error in the lower court's citation of the record, application of the law and its interpretation of the facts.

1. Does this Court of Appeals decision uphold Appellant's right to a fair trial when the trial court Judge intentionally lied multiple times on the record and later admitted it in writing?
2. Can the Court's complete misstatement, miscitation of a previous court order on the most vital issue of res judicata be allowed to stand?
3. Can an underlying void judgment be renewed in a California sister state judgment?

WHY REVIEW SHOULD BE GRANTED

Under the Due Process Clause of the 14th Amendment of the Constitution, everyone is entitled to an impartial judiciary. Appellant was deprived of a fair trial. Judge Kristin S. Escalante (Escalante) intentionally lied multiple times in the court hearing and written order about Appellant filing a Request for Court Reporter with fee waiver. Thankfully Appellant gave notice in the Motion to Vacate that the hearing would be recorded and Appellant recorded the hearing (CT V2 p 357). Only after Appellant provided the audio and transcript (Appendix: Transcript) did Judge Escalante months later state they made "mistakes," "misstatements" and "errors" (CT Vol 2 p 485 ¶5). When Appellant stated in the hearing that they filed the Request for Court Reporter the Judge's assistant stated the same two times and even waived the paper in front of the Judge's face. Escalante still denied it. Escalante is clearly biased and the case should never be sent back to Escalante's court. The Appeal's court refused to send the case back for rehearing or at a minimum back to a new Judge.

The Appeals Court made a major factual error about a previous court ruling which is pivotal to the case. There is no res judicata on the issue of CCP § 367. The previous cases were in Federal Court and not State court. CCP § 367 is a state issue. The previous order did not deal with the issues of CCP § 367 making it impossible for the issue to have

been previously ruled upon. Plaintiff Lollar admitted in person in court and in writing that Plaintiff Khionidid is a straw man who does not exist (CT V 1 p 231). Plaintiff Lollar stated Lollar is Khionidi and Lollar owns the judgment. Lollar merely signed a one party assignment of the judgment to a Khionidi. Because Khionidi does not exist there was no acceptance of the assignment and the assignment is therefore void. You need two people for a valid agreement or assignment. One party assignment doesn't confer legal standing to another to file a complaint.

Appellant argued that the Renewal of the underlying Judgment of the Sister State Judgment is void because the Texas judgment was never properly renewed. The Texas renewal was not signed by a judge (CT V 1 p 247). Per Texas law it must be signed by a judge to be renewed to be valid. It's legally impossible to renew a sister state judgment where the underlying judgement is void.

STATEMENT OF FACTS

Appellant is a well respected real estate expert and wildlife rehabilitator in Los Angeles, California (CT V 1 p 222, CT V 1 p 75-81). Appellant has received numerous awards, was appointed by Mayor Eric Garcetti to be on the Prop F Committee and was asked to be a Commissioner for Los Angeles Animal Services Commission under Mayor Antonio Villaraigosa.

Appellant attended a bat internship at Bat World Sanctuary (BWS) in Texas in July 2010. Appellant left early after witnessing Plaintiff Amanda Lollar (Lollar) commit animal cruelty and violate the Animal Welfare Act and other regulations. Appellant as a mandatory reporter reported Lollar, Bat World Sanctuary for animal cruelty and violations of regulations. In retaliation Appellant was frivolously sued for defamation and breach of contract in Texas in 2010 case #352-248169-10 (CT V 1 p 222).

Before, during and after the trial Plaintiff never stated what they felt was defamatory. There was never a list of alleged defamatory statements. In court Plaintiff's Texas attorney stated to Appellant "I've known this judge for many years. He'll sign anything I put in front of him,"(CT V 1 p 222). Visiting Judge William Brigham did indeed sign the six page court order without even putting on his glasses or reading it.

Plaintiff's attorney sent the order to the Judge's personal residence. Later in the proceedings the Judge stated on the record "Do ya think we're a couple of good ole boys, do ya?" Judge Brigham had not even signed an oath of office when he heard the case as a visiting Judge so Brigham had no jurisdiction over the case at all. Brigham was 84 years old well beyond the mandatory retirement age for Judges of 75.

August 27, 2012 Judge William Brigham signed a court order for over \$6,100,000 even though there was never a hearing for damages against indigent Appellant (Appendix: Judgment). Appellant appealed case #02-12-00285-CV and the Court reversed the take down order, breach of contract claim, liquidated damages, attorney fees and all claims to BWS April 2015. The defamation claim to Lollar was not reversed.

Because of many identical frivolous defamation cases Texas passed the Defamation Mitigation Act and Citizen Participation Act soon after the original lawsuit in 2011. Plaintiff's actions and lawsuit would be prohibited today. In fact Plaintiff sued Appellant in an identical copy/paste lawsuit filed immediately after Appellant won most claims on appeal case #2015-002259-3. Because of the passage of the Defamation Mitigation Act Plaintiff had to state what they felt was defamatory. Because Appellant NEVER defamed Plaintiff EVER Plaintiff forged all of their exhibits and submitted perjured affidavits claiming they were exact copies of the originals which are still online today proving them false. Plaintiff defamed themselves in the exhibits then sued Appellant for Plaintiff's own defamation! That case was ultimately dismissed due to forged documents and perjured affidavits in 2019.

November 9, 2012 a Sister State Judgment was filed in California. April 7, 2017 the Judgement was allegedly assigned from Lollar to alleged Russian citizen Khionidi. The assignment is only signed and notarized by Lollar. Khionidi allegedly signed a California Probate Trust (CT V 1 p 266) without a notary as some proof of transfer stating they live in Russia, California which does not exist. Khionidi has never notarized any document or appeared at any hearing or deposition. Appellant was never served with the sister state judgment or assignment making them void. There is no valid proof of service.

What followed the Sister State Judgment was years of motion abuse, debtor hearing abuse, forged proofs of service, Contempt Orders against Plaintiffs and relentless harassment and defamation by Plaintiff. The judgment is worth much less than zero due to Plaintiff's own legal fees spent to harass Appellant in this scorched earth litigation yet Plaintiff continues.

Plaintiffs filed to renew the Sister State Judgment September 2022. Appellant filed a Motion to Vacate on a few grounds, namely that Plaintiff doesn't exist and the underlying judgment is void. Escalante denied the motion. Appellant appealed. Appellees Lollar and (BWS) did not reply at all. Appellee Khionidid replied but didn't possess the court record because they didn't order it so they did not cite the record. Their brief should have been stricken for that reason but wasn't. That appeal was denied June 18, 2025.

Appellant filed a petition for rehearing in the Court of Appeal. That petition proved that the Appeals Court made factual errors about a vital previous court order. The Appeals Court cited an order on page 39-41 when there are only 36 pages in the original order. The actual order stated something very, very different than what the Appeal Court cited which was written by Appellee. A previous Federal Court never stated that Plaintiff was a real person and had legal standing per CA 367.

STATEMENT OF THE CASE

This Court issued its Opinion on June 18, 2025 (Appendix: Opinion), affirming the lower court order. Respondent appeals because the Court's Opinion ("Opinion") contains several critical legal, factual and procedural mistakes that, once corrected, would result in the Motion to Vacate being granted.

Appellant petitions this Court for review regarding the three main issues stated above. Appellant incorporates and cites everything in the original Motion to Vacate, Appeal Briefs, Court Record, Oral Argument and Petition Rehear in this Petition for Review.

ARGUMENT

I. Opinion Erred Because Appellant Did Not Receive a Fair Trial

Under the Due Process Clause of the 14th Amendment of the Constitution, everyone is entitled to an impartial judiciary. Escalante blatantly lying multiple times about a material fact in the case related to the parties or issues creates a conflict of interest, violating CCP 170.1. “A judge's dishonesty casts serious doubt on their ability to remain impartial.” “Lying, especially if done intentionally to obstruct justice or gain an unfair advantage, is considered judicial misconduct.”

Per California Code of Civil Procedure Section 170.1(c), “an appellate court has the discretionary authority to direct that further proceedings be heard before a different trial judge than the one whose judgment was reviewed. This power exists independent of whether a timely disqualification motion was filed in the trial court. The statute explicitly states that "at the request of a party or on its own motion an appellate court shall consider whether in the interests of justice it should direct that further proceedings be heard before a trial judge other than the judge whose judgment or order was reviewed by the appellate court." 170.1(iii)c.

Escalante disregarded facts and law in this case to deny a court reporter in the hopes no appeal would be legally possible and no one would ever know what Escalante said in the hearing. Had Appellant not given notice and legally recorded the hearing, the appeal would have been automatically lost. The fact that the Appeals Court made mistakes to deny the Appeal on other grounds is moot. The injustice was committed. The bell cannot be unrung. Judge Escalante should not hear this case. Another judge should be appointed. Not all issues have been resolved in this appeal. Appellees Lollar and BWS did not reply at all. The underlying judgment is still void because it was not legally renewed in Texas or California. Appellee is still in contempt of two court orders. This case must now go back to the trial court to hear these issues and others.

The Court wrote in the Opinion pg 4, paragraph 1, “We presume the honesty and integrity of those serving as judges.” The Court cannot presume honesty and integrity in regard to Escalante because Escalante lied and falsely stated Appellant didn’t properly request a court reporter with fee waiver (CT V 2 p 445, AUDIO OF HEARING). Escalante’s assistant stated twice on the record that Appellant did file the document and

even waved it in the air in front of Escalante's face. Appellant also told the court twice that the document was filed. The document was even cited in the Motion to Vacate. Escalante lied in the court order stating the request for reporter with fee waiver was not filed. Only after Escalante saw the hearing audio and transcript months later did Escalante finally state in writing that Escalante made an "error," "mistake." Had there been no audio or transcript Escalante never would have admitted to an "error." It was not an error but an intentional lie and cover up. The case should be sent back to a new Judge for a new trial for this reason. Escalante can never be fair to Appellant. Their behavior will only be much worse in the future. Appellant requested that the Appeal Court send the case back to a different judge but Appeal Court did not.

II. Opinion Erred Because Konstantin Khionidi Has Never Been Proven to Exist as a Real Person per CCP § 367 by any Court. Order miscited, misstated.

The Opinion erred because no Court has ever ruled that Appellee Khionidi is a real person who can file a lawsuit per CCP § 367. Code of Civil Procedure Section § 367 in California states that "Every action must be prosecuted in the name of the real party in interest, except as otherwise provided by statute." This means the "real party in interest" is the person or entity with the legal right to bring a lawsuit under the applicable law. They are the ones who hold the title to the claim or property in the legal action. Code of Civil Procedure Section 367 essentially ensures that the correct party files the lawsuit. If the suit is brought by someone who is not the real party in interest, not capable of being a real party, the case should be dismissed. The real party is Lollar and not Khionidi. Lollar did not file the Motion to Renew Sister State Judgment. Appellee's attorney finally admitted in the Appeal that Lollar is a party with interest in the judgment. It's now too late for Lollar to renew the judgment.

There is no res judicata in this case. The Court clearly never bothered to read the record or the cases cited by Appellee which were outside of the court record. Appellant never cited this record or issue in Appellant's Brief. The text of the ruling in the case cited by Appellee is not in any briefs. The text of the ruling is not in the court record. "It is not uncommon for respondent's counsel to move to strike a brief that lacks citations to

the record, includes mistaken or misleading citations or where it includes materials in the record that were not before the trial court at the time of decision or are immaterial to the issues on appeal. See *Doers v. Golden Gate Bridge, Highway & Transp. Dist.*, 23 Cal. 3d 180 at 184 (1979) and *Kendall v. Allied Investigations Inc.*, 197 Cal. App. 3d 619 at 625 (1988). “In cases that grossly misstate facts with erroneous citations to the record or where the record includes inappropriate items, an appellant might face a motion for sanctions, as well.” Khionidid’s attorney Philip Stillman should have been sanctioned for filing a brief with no real citations to the court record and fake citations.

As the California Court of Appeal Second Appellate District states in its Notice to Litigants: “When practicing appellate law, there are at least three immutable rules: first, take great care to prepare a complete record; second, if it is not in the record, it did not happen; and third, when in doubt, refer back to rules one and two.” *Protect Our Water v. County of Merced* (2003) 110 Cal. App. 4th 362, 364.”¹

Most importantly the Court itself miscites the record and legal citation completely. Appellant stated in oral argument that Appellant demands the court cite the actual text of the ruling in the Opinion that states Khionidi was proven with facts and evidence to be a real person who can file a lawsuit per CCP 367. Appellant stated this knowing there are no such words in any court order. Appellant stated they didn’t believe the Court read the ruling and this has now been proven true. This Court stated the below in the Opinion Item II, pg 7, P 1. “(In re Cummins-Cobb (Bankr. C.D.Cal. Feb. 10, 2020, No. 2:17-bk-24993-RK) 2020 Bankr. LEXIS 358, pp. *39–*41; Cummins-Cobb v. Khionidi (In re Cummins-Cobb) (C.D.Cal. Dec. 28, 2021, No. 2:21-cv-04671-AB) 2021 U.S. Dist. LEXIS 247738, p. *2.) The trial court correctly concluded that the issue of Khionidi’s standing has already been conclusively and finally resolved in Khionidi’s favor in an adversary bankruptcy proceeding.” That is not what the original order actually said!

There is no pg 39-41 in the Court ruling. There are only 36 pages in the ruling. This proves Court never even bothered to look at it and just took Plaintiff’s attorney’s

¹ California Courts of Appeal: When Preparing an Appellate Brief, Prep the Record, then Stick to It. LA Times https://www.counselpress.com/page_blog_single.cfm?bid=122

word for what Stillman wrote in their uncited reply brief. Appellant even stated in oral argument that the Court is just believing Stillman's lying words without any evidence. The ruling never stated that Khionidid has been proven with facts and evidence to be a real person who can file a lawsuit per 367 in state court. This order came from a federal bankruptcy case. The ruling which is outside of the court record and not included in Appellant's brief vaguely and oddly states (sic) **"Plaintiff has offered sufficient and uncontroverted evidence of his standing to sue because on the assignment of the judgment of the Texas Courts from Amanda Lollar, the original plaintiff, to him as trustee of the trust."** The assignment doesn't prove Khionidi exists. It doesn't prove there were two parties to the assignment or that Khionidid is even legally capable of entering into a contract. This was a bankruptcy case in Federal Court with different regulations and laws. Appellant stated all this in brief and oral argument (April 30, 2025 audio oral argument). Judge Robert Kwan who made that ruling even stated on the record that CCP 367 can and should be raised in state court. Kwan stated it has not and could not be raised in Kwan's federal court. Appellant did as Kwan instructed and raised it in State court.

Appellant argues in their appeal that Khionidi is not a real person and has never been proven to be a real living person by any court. On the contrary Plaintiff Lollar has stated many times in writing and orally in court that they are the Russian and real owner of the judgment. Appellee has never even denied this! Appellant further argued that Lollar did sign an assignment of judgment but it's void because Khionidi does not exist. As argued in the trial court and Appeal you need two people for an agreement and a transfer of assets. Khionidi is suing as the trustee of the Cobbs Trust. The judgment is not in the Cobb's trust. The trust is void and invalid for all the reasons stated in the Appeal and Motion to Vacate. A one party only assignment doesn't prove that Khionidi is a real person who can sue per 367.

Khionidi has stated many times through their attorney Philip Stillman they will prove they exist and notarize a document. Stillman even stated to the Court they would assign the judgment back to Lollar. This never happened because Khionidi does not exist.

It also proves Khionidi is Lollar if they would sign back over the worthless judgment. If Khionidi could have proven they exist, they would have done so instead of wasting legal fees and years of litigation to try to deflect and skirt the issue.

The Court makes other misstatements of the record stating Opinion Pg 2, Paragraph 3, "In 2017, Lollar assigned the judgment to Konstantin Khionidi, as trustee of the Cobbs Trust. On September 1, 2022, Khionidi applied for the renewal of the judgment."

This was never proven. It is not fact. This is the issue of the Motion to Vacate and Appeal. You need two people to legally assign a judgment to someone else. One can sign an assignment but it's not valid and actually assigned unless there are two real parties including the one to be assigned, receive the judgment. Khionidid does not exist. If one party assignment of assets were legal, criminals would be hiding ill gotten gains in fake names all the time. This is Contracts 101. In California, for an agreement between two people to be legally binding as a contract, it must meet essential elements, as outlined in the California Civil Code, particularly Section 1550.² Khionidid did not apply for the renewal. Lollar did. The renewal wasn't signed by a Judge so it's void (CT V 1 p 247).

III. Opinion Erred Because Texas Judgment was Void

Appellant cited court orders, transcripts, Plaintiff's exhibits, Appellant's exhibits proving the Texas judgment was void. There were deficiencies in the renewal. The most important one is you cannot renew a sister state judgment that has already expired in the original state. It is void. "A "sister state judgment" refers to a judgment from a court in one state that a party wants to enforce in another state. If the original judgment has expired based on the laws of the state where it was issued, it's generally not enforceable, and therefore cannot be registered or renewed in another state." Since a void judgment is unenforceable from its inception, there is nothing to renew. The core concept in California law regarding judgments and their renewal is that a void judgment cannot be renewed. A judgment that is void is considered to have no legal force or effect from the beginning ("void ab initio"). *Peralta v. Heights Medical Center, Inc.* (1988) 485 US 80,

² CCP Sec 1550 <https://law.justia.com/codes/california/code-civ/division-3/part-2/title-1/chapter-1/section-1550/>

86–87, 108 S. Ct. 896, 900: This US Supreme Court case established that a void judgment must be set aside regardless of the merits of the underlying lawsuit, particularly in cases involving improper service of summons. *Nagel v. P & M Distributors, Inc.* (1969) 273 Cal. App. 2d 176: This California case held that a judgment void on its face is subject to being set aside at any time. *Falahati v. Kondo* (2005) 127 Cal.App.4th 823, 830). A void judgment can be set aside at any time per CCP 664.5.

Here is one example that proves the record and law were properly cited. The Texas Judgment is void because the renewal of the Texas judgment was not signed by a judge per Texas Rules of Civil Procedure 505.1(c)(3), (CT V 1 p 247). 505.1 c (3) states that a judgment and renewal of a judgment must "be signed by the judge." The judgment was not signed by a judge and legally renewed within the ten year date of issuance which was August 27, 2012 per Texas Civil Practice and Remedies Code 34.001. The judgment can no longer be revived because it has been two years since the expiration of the original ten year term per TCP 34.001. This makes the sister state judgment void and unrenewable. All of this was cited to in the Motion to Vacate and Appeal. Legal documents were cited, i.e. Application for Writ of Execution (CT V 1p 284), Writ of Execution (CT V 1 p 247) which show it was not signed by a judge.

Appellant proved that the renewal of the sister state judgment was void for many reasons. One reason is Appellant was never served with notice of sister state judgment. "When domesticating a judgment from another state, the judgment cannot be enforced until it has been served on the debtor and a certain period has passed since service." Appellant was never served with the entry of sister state judgment. There is no proof of service. It was never received. That means the judgment cannot be enforced. "California Code of Civil Procedure Section 664.5: This statute generally outlines the requirements for serving notice of entry of judgment in California. It specifies that in a contested action or special proceeding, the party submitting the judgment for entry must serve a copy of the notice to all parties who have appeared in the case and file the original notice with proof of service with the court." A party can file a motion to set aside (or vacate) a void judgment. Appellant filed such a Motion to Vacate. "There is no time limit to challenge a

judgment that is void on its face (i.e., it's clearly invalid based on the court record).” The renewal was also void because of all the other issues raised and cited in the Motion to Vacate and Appeal.

Appellant was not properly or timely served the Renewal of Judgment for all reasons stated in Motion to Vacate and Appeal. Appellant was not served a copy of the April 2017 Acknowledgement of Assignment of Judgment. The address for Appellant is incorrect on the filing, i.e. 645 W 9th St. Appellant’s address was 645 W 9th St #110-140. That item would have been returned as undeliverable as there are at least 1,000 addresses at that location for many businesses, apartments and mailboxes. Appellant was not served a copy of the Application for Entry of Judgment on Sister State Judgment. The lack of service was intentional. Plaintiff intentionally fails to serve documents in hopes of winning issues by default due to lack of response. Plaintiff caused a bench warrant to be issued for Appellant because they did not serve a notice of debtor hearing. The only reason Appellant wasn’t arrested is because Plaintiff bragged online that Appellant would soon be arrested. All of these things make the renewal void.

The Justices did not ask any questions for clarification during oral argument. The Appeals Court did not ask Appellant for any written clarifications, supplemental briefing or corrections including case and record citations.

CONCLUSION

A fair trial is a vital constitutional right that must be guarded by the courts. A mistake and false citation on the most vital issue in this case was made by the Appeals Court and must be corrected. A void judgment cannot renewed. As set forth above, this Court should grant review of the instant matter to protect and preserve important constitutional right.

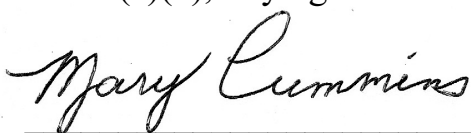
Respectfully submitted,



Mary Cummins July 18, 2025

CERTIFICATE OF WORD COUNT

I, Mary Cummins, Appellant, certify that this brief consists of 4,305 words exclusive of those portions of the brief specified in California Rules of Court, rule 8.204 (c)(3), relying on the word count of free program WPS Office.



Mary Cummins July 18, 2025

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APPELLANT’S APPENDIX
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Relevant Court Orders, Notices

1. Order Appeal Court
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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 PO Box 18738, Los Angeles, CA 90018. I am over the age of eighteen years. I further declare that on the date hereof I served a copy of:

PETITION FOR REVIEW

on the following parties by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at USPO and/or by filing via ECF.

Konstantin Khionidi

c/o Philip Stillman

Stillman & Associates

Bat World Sanctuary

info@batworld.org

Amanda Lollar

Sanctuary@batworld.org

Judge Kristin Escalante

111 N Hill St Dept 24

Los Angeles, CA 90012

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this day, July 18, 2025, at Los Angeles, California.

Respectfully submitted,



Mary Cummins

Document received by the CA Supreme Court.

FILED

Jun 18, 2025

EVA McCLINTOCK, Clerk

mfigueroa

Deputy Clerk

Filed 6/18/25

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

BAT WORLD SANCTUARY et
al.,

Plaintiffs and Respondents,

v.

MARY CUMMINS,

Defendant and Appellant.

B327355

(Los Angeles County
Super. Ct. No. BS140207)

APPEAL from orders of the Superior Court of Los Angeles County. Kristin S. Escalante, Judge. Affirmed.

Mary Cummins, in pro.per., for Defendant and Appellant.

Stillman & Associates and Philip H. Stillman for Plaintiff and Respondent Konstantin Khionidi, as Trustee, etc.

No appearances for Plaintiffs and Respondents Bat World Sanctuary and Amanda Lollar.

Document received by the CA Supreme Court.

Mary Cummins appeals the denial of her motion to vacate the renewal of a judgment against her and the denial of her motion to reconsider that denial. We affirm the orders.

FACTUAL AND PROCEDURAL BACKGROUND

In 2012, Bat World Sanctuary and Amanda Lollar applied for a sister state judgment in California based on a judgment they had obtained in Texas. On November 9, 2012, the court entered judgment in California in favor of Lollar in the amount of \$ 6 million, plus interest and filing fees.

In 2017, Lollar assigned the judgment to Konstantin Khionidi, as trustee of the Cobbs Trust. On September 1, 2022, Khionidi applied for the renewal of the judgment. The trial court renewed the judgment on September 19, 2022.

Cummins filed a motion to vacate the renewal on the grounds that Khionidi does not exist; the assignment and renewal of judgment were not filed legally, properly or timely; and the amount of the judgment was incorrect.

The trial court denied the motion. Regarding Khionidi's existence and standing to sue, the court stated, "The issue of the creditor's standing has already been conclusively and finally resolved in the creditor's favor in an adversary bankruptcy proceeding. That ruling has collateral estoppel effect here and is binding on Ms. Cummins." The court ruled the application for renewal of the judgment was timely, as it was filed within 10 years of the date the sister-state judgment was entered; and it was properly served. Last, the court held the interest was correctly calculated.

Cummins's motion for reconsideration was denied on January 31, 2023. Cummins appeals.

DISCUSSION

Many of Cummins’s arguments are not confined to the point raised in the heading, which is a violation of court rules. (Cal. Rules of Court, rule 8.204(a)(1)(B).) “And many of the same arguments are repeated throughout the brief under various headings. Although we address the issues raised in the headings, we do not consider all of the loose and disparate arguments that are not clearly set out in a heading and supported by reasoned legal argument. [Citation.] Moreover, once we have discussed and disposed of an issue it will not necessarily be considered again in connection with other claims.” (*Provost v. Regents of University of California* (2011) 201 Cal.App.4th 1289, 1294–1295.)

I. ***Allegations of Unfair Proceedings***

Cummins presents allegations against the trial court that she believes prove she did not receive a “fair trial.” “‘The Due Process Clause entitles a person to an impartial and disinterested tribunal.’” (*In re M.V.* (2025) 109 Cal.App.5th 486, 516 (*M.V.*)). “On appeal, we assess whether any judicial misconduct or bias was so prejudicial that it deprived defendant of ‘a fair, as opposed to a perfect, trial.’” (*People v. Guerra* (2006) 37 Cal.4th 1067, 1112, overruled on another ground in *People v. Rundle* (2008) 43 Cal.4th 76, 151.) “‘The appellate court’s role is not to examine whether the trial judge’s behavior left something to be desired, or whether some comments would have been better left unsaid, but to determine whether the judge’s behavior was so prejudicial it denied the party a fair, as opposed to a perfect, trial.’” (*M.V.*, at p. 517.) “‘[T]he burden of proof is on appellant as the party claiming bias to establish facts

supporting her position.’ ” [Citation.] We review allegations of bias on the basis of the entire record and with the presumption the trial court acted in good faith. [Citations.] We presume the honesty and integrity of those serving as judges.” (*Id.* at pp. 517–518.) Based on our review of the record,¹ we conclude Cummins has failed to establish she was deprived of her constitutional right to a fair and impartial tribunal.

Most of Cummins’s allegations concern the motion for reconsideration of the denial of her motion to vacate the renewal. Cummins contends the trial court erroneously denied her request for a court reporter at this hearing. Cummins alleges the court intentionally deprived her of a court reporter and lied both orally and in its written order when it said Cummins had not filed the appropriate fee waiver. Cummins claims the trial court was biased against her as a female pro se litigant, and the court said and did whatever it wanted in the mistaken belief that it would not be held accountable. The record, however, shows only the erroneous denial of a court reporter, and without more, we may

¹ It appears Cummins recorded the hearing on the motion for reconsideration without the permission of the trial court, in violation of California Rules of Court, rule 1.150(d). We have augmented the record on appeal to include this recording. We do not sanction recording of trial court proceedings without advance approval by the court. However, under the extremely specific circumstances presented here, in which (1) the absence of a reporter’s transcript is due to judicial error and not attributable to the appellant, and (2) on appeal both parties rely on appellant’s record of the hearing, we consider the recording of the hearing on equitable grounds and only for the limited purpose of reviewing Cummins’s claim she was denied a fair hearing on the motion for reconsideration.

not attribute bias and improper motive to an incorrect ruling. (*M.V.*, *supra*, 109 Cal.App.5th at pp. 517–518; *Rosenfield v. Vosper* (1948) 86 Cal.App.2d 687, 694 [“in the absence of a showing to the contrary we must assume that the trial judge performed his duty without bias or prejudice”].)

Cummins alleges, as evidence of an unfair proceeding, that the court rudely cut off her oral argument on the motion for reconsideration and refused to permit her to submit a text copy of her oral argument. Neither the court’s words nor its tone were rude, and the court did not err by limiting oral argument and declining further written argument. Cummins’s motion for reconsideration was insufficient as a matter of law because it did not include an affidavit setting forth the new or different facts, circumstances, or law she claimed warranted reconsideration of the court’s prior ruling. (Code Civ. Proc.,² § 1008, subd. (a) [“[t]he party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown”].) It was not an abuse of discretion to limit argument on a defective motion. “A trial court has the inherent authority and responsibility to fairly and efficiently administer the judicial proceedings before it. [Citations.] This authority includes the power to supervise proceedings for the orderly conduct of the court’s business and to guard against inept procedures and unnecessary indulgences that tend to delay the conduct of its proceedings. [Citation.] In this vein, the court has the power to expedite proceedings which, in the court’s view, are dragging on too long without significantly

² All statutory references are to the Code of Civil Procedure.

aiding the trier of fact.” (*California Crane School, Inc. v. National Com. for Certification of Crane Operators* (2014) 226 Cal.App.4th 12, 22, footnote omitted.) We review for abuse of discretion a court’s exercise of its authority to control proceedings (*People ex rel. Reisig v. Acuna* (2017) 9 Cal.App.5th 1, 23–24), and find no abuse of discretion in the court’s limitation of oral argument and refusal to accept Cummins’s written argument at the hearing.

Cummins alleges that in addition to the incorrect statement in the court’s order regarding the fee waiver for the court reporter, the order denying reconsideration included additional errors, but she fails to provide any argument as to how these purported errors prejudiced her or demonstrated the proceeding was unfair. “We need not address points in appellate briefs that are unsupported by adequate factual or legal analysis.” (*Placer County Local Agency Formation Com. v. Nevada County Local Agency Formation Com.* (2006) 135 Cal.App.4th 793, 814.)

Cummins’s remaining allegations, entitled “Record on Appeal, Order Strike Transcript,” pertain to events after the filing of the notice of appeal and are largely outside the scope of this appeal. We note Cummins alleges the court destroyed an order, but the order is included in the clerk’s transcript. She also claims she was prevented from appealing properly because she did not have a reporter’s transcript, but we have not declined to consider any of her arguments on the ground that a reporter’s transcript was not provided.

II. *Khionidi's Legal Standing*

Cummins asserts that Khionidi “is not a real person, does not exist,” and therefore has no standing to sue or litigate. (§ 367.) In past court proceedings Cummins has unsuccessfully alleged Khionidi has no standing because he does not exist. (*In re Cummins-Cobb* (Bankr. C.D.Cal. Feb. 10, 2020, No. 2:17-bk-24993-RK) 2020 Bankr. LEXIS 358, pp. *39–*41; *Cummins-Cobb v. Khionidi* (*In re Cummins-Cobb*) (C.D.Cal. Dec. 28, 2021, No. 2:21-cv-04671-AB) 2021 U.S. Dist. LEXIS 247738, p. *2.) The trial court correctly concluded that the issue of Khionidi’s standing has already been conclusively and finally resolved in Khionidi’s favor in an adversary bankruptcy proceeding.

Even if Cummins were not collaterally estopped from litigating this claim, her briefing on this topic is insufficient to present an issue for review. Any reference in an appellate brief to a matter in the record must be supported by a citation to the volume and page number of the record where that matter may be found. (Cal. Rules of Court, rule 8.204(a)(1)(C).) Cummins makes dozens of factual statements in this portion of her opening brief that are not supported by references to the record; and when she does cite to the record on appeal, most of her citations are to her briefing in the trial court rather than to admissible evidence. “‘[I]t is axiomatic that statements made in briefs are not evidence’ [citation] and that reviewing courts ‘do not consider’ unsupported ‘factual assertions’ in appellate briefs ‘that find no basis in the record.’” (*Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664, 697 (*Turrieta*).) “To demonstrate error, appellant must present meaningful legal analysis supported by citations to authority and citations to facts in the record that support the claim of error.” (*In re S.C.* (2006) 138 Cal.App.4th 396, 408.)

III. *Alleged Procedural Deficiencies in the Renewal of Judgment*

Cummins argues the renewal was not filed legally or properly for six reasons. The first, that Khionidi does not exist, has been addressed above; we address the remaining claims.

A. Respondent's Counsel

Cummins asserts respondent's counsel did not substitute in as counsel in the case and therefore is not the attorney for Lollar, the original owner of the judgment, and he cannot represent Khionidi because Khionidi does not exist. Stillman made a general appearance as Khionidi's counsel when he filed the application for renewal of the judgment. Cummins does not provide any legal authority for her contention that this was insufficient to establish Stillman as counsel of record on the renewal application proceedings. "[A]n appellant is required to not only cite to valid legal authority, but also explain how it applies in his case." (*Hodjat v. State Farm Mutual Automobile Ins. Co.* (2012) 211 Cal.App.4th 1, 10.) Cummins has forfeited this issue. (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852.)

B. Renewal Application

The application for renewal of the judgment lists a date of May 6, 2013, as the date the judgment was recorded in Los Angeles. Cummins's entire argument, "Defendant never received a mandated copy of this recording whatever it was," is insufficient to present an issue for review. "[T]o demonstrate error, an appellant must supply the reviewing court with some cogent argument supported by legal analysis and citation to the

record.” (*City of Santa Maria v. Adam* (2012) 211 Cal.App.4th 266, 286–287 (*Santa Maria*).)

C. Service of Renewal of Judgment

Cummins makes multiple claims concerning deficient service and errors in the proof of service of the renewal of judgment. Not only are most of these assertions not supported by citations to admissible evidence supporting them, but in none of these arguments does Cummins provide legal argument supported by pertinent authority demonstrating that any of these alleged errors invalidates the renewal. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

D. Texas Judgment

In this argument, Cummins makes multiple factual and legal claims that are not supported by citations to the record or legal authority, and she also argues a writ of execution apparently obtained in Texas in 2021 is void. No cognizable legal argument is presented by these assertions. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

E. Unclean Hands

Cummins’s argument concerning unclean hands is devoid of citations to admissible evidence. The sole citation to the record is to her motion to vacate the renewal of judgment filed in the trial court. Neither a written motion nor statements in a motion constitute evidence. (*People v. Rios* (2011) 193 Cal.App.4th 584, 592, fn. 4; *Gilman v. Dalby* (2021) 61 Cal.App.5th 923, 940.) Reviewing courts do not consider unsupported factual assertions in appellate briefs that find no basis in the record. (*Turrieta, supra*, 16 Cal.5th at p. 697.) Cummins has not met her burden of

establishing error. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

IV. *Timeliness of Renewal Filing*

Cummins argues the renewal application was untimely pursuant to section 683.020 because it was not filed within 10 years of the date of entry of the judgment. Her argument is based on the date that the original judgment was entered in Texas, not the date of entry of the sister state judgment in California. The judgment that was renewed by the trial court, however, was the sister state judgment entered on November 9, 2012. The application for renewal of that judgment was filed less than 10 years later on September 1, 2022, and the renewal was entered on September 19, 2022. Cummins has not offered any authority to support her contention that the original Texas judgment entry date, as opposed to the date the sister state judgment was entered in California, is the relevant date for the renewal application, and she therefore has not demonstrated error in the ruling finding the renewal timely filed. (*Santa Maria, supra*, 211 Cal.App.4th at pp. 286–287.)

V. *Interest on the Judgment*

Cummins claims post-judgment interest must be calculated at 5 percent because that is the rate specified in the original Texas judgment. Section 1710.25, subdivision (b) provides that once a sister state judgment is entered, “[f]rom the time of entry, interest shall accrue on the judgment so entered at the rate of interest applicable to a judgment entered in this state.” The interest rate for post-judgment interest in California is 10 percent. (§ 685.010, subd. (a).) The trial court did not err

when it ruled the post-judgment interest had been properly calculated.

DISPOSITION

The orders are affirmed. Respondent shall recover his costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

STRATTON, P. J.

We concur:

WILEY, J.

VIRAMONTES, J.

Document received by the CA Supreme Court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 24

BS140207

BAT WORLD SANCTUARY ET AL VS MARY CUMMINS

January 31, 2023

8:30 AM

Judge: Honorable Kristin S. Escalante

Judicial Assistant: A. Garcia

Courtroom Assistant: M. Quinteros

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Via LACourtConnect Philip H Stillman

For Defendant(s): Mary Cummins

NATURE OF PROCEEDINGS: Hearing on Motion for Reconsideration Defendant's Motion to Vacate or Modify Renewal of Judgment;

The matter is called for hearing.

The Court has read the moving papers in support of and in opposition to the above-captioned motion and announces her tentative ruling in open Court..

The matter is argued.

After argument, the Court's tentative becomes the final ruling of the Court as indicated below:

The Motion for Reconsideration Defendant's Motion to Vacate or Modify Renewal of Judgment; reservation no.: 361779870315 filed by Mary Cummins on 12/14/2022 is Denied.

Defendant has provided no grounds for reconsideration under Code of Civil Procedure section 1008. Contrary to Defendant's representation, she appeared at the hearing on November 22, 2022.

Plaintiff has not filed a request for a waiver of court reporter fees, and therefore the request for a court reporter is denied.

Defendant's request for sanctions is DENIED as procedurally improper.

The judicial assistant is ordered to give notice.

CAUSE NO. 352-248169-10

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

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.

Document received by the CA Supreme Court.

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.

Document received by the CA Supreme Court.

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/tfv4x>

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/mmmmaryinla>:

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.

Document received by the CA Supreme Court.

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

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Transcript January 31, 2023 hearing 8:06 minutes audio recording
Judge Kristin S. Escalante Department 24 Stanley Mosk Courthouse

PS=Philip Stillman attorney for Plaintiff, via video

J=Judge Kristin S. Escalante

M=Mary Cummins Defendant pro se, in the court room

PS: Good morning, your honor. Philip Stillman, the non-moving party.

J: Ms Cummins?

M: Yes, your honor.

J: Alright, so, the tentative is to deny the motion for reconsideration, grounds for considering under CCP section 1008 and, um, that is the tentative ruling. I will give Ms Cummins just a brief moment to address the court.

M: Thank you, your honor.

J: I understand your arguments but they've been made and rejected already.

M: Actually they haven't, your honor. I just want to make three points today. I'm raising a different issue in a different court in a different jurisdiction than the bankruptcy case. I'm raising California Code of Civil Procedure 367 which requires that every action must be prosecuted in the name of a real party of interest....(to) Guess whose passport was posted on the ...

(I read my printed oral argument until last sentence above. At 2:58 minutes into the audio of the hearing the Judge stopped me)

Judge: I'm going to have to ask you to wrap it up. I've already ruled on this exact motion. You may disagree with my, my ruling, however, my order, dated 11/28/2022, these are the same arguments you made in your previous motion. I ruled on the motion now I have to look to see whether there's grounds for reconsideration of that motion in the statute and I just don't find that there's any grounds so I, you know, considered these exact arguments the last time around and have ruled on that so this is a repeat of the prior motion so I'm just going to go ahead and stick with my tentative ruling

M: Okay, well, your honor I would like to have my, um, a written copy of my testimony today entered into the record as exhibit 1. 3:38

J: You don't have, you haven't not filed a request for a waiver of court reporter fees. You did put in a request for court reporter, that was denied, I don't think we have...

M: I never received any notice

Assit: It was put in

J: But do we have a request for a waiver of court reporter fees?

Assit: Yes.

J: So you don't, I mean, I will see if you have a waiver of course, court reporter fees. You don't necessarily have a right to make a long statement on the record for your motion for reconsideration, as the first order of business is to see if there are proper grounds to reconsider prior orders. I will see if...

Assit: Here is a request for court reporter waiver.

J: Ya, there's no waiver of court reporter fees so the request for the court reporter is denied, so we don't have

M: I never received notice or any indication

J: You never put in a waiver. (A waiver was submitted to the court and is part of the court record) So at this point there's no grounds for reconsideration so I'm going to deny the motion. I will ask the judicial assistant to give notice. The arguments you just made are all made in your papers so

M: Okay, your honor, I'd like to submit as exhibit 1 my testimony today.

J: You're not gonna be, I'm not gonna accept any additional augmentation of the record

M: Okay, I only spoke for two minutes and my total statement...

J: I'm not going to accept any further argument at this point so um I'm going to ask the judicial assistant to please give notice of the court's ruling. Alright, thank you.

M: Is that it? (end of hearing)

J: That's it.

5:18

Philip Stillman: One last ...I made a request for reasonable amount of sanctions pursuant to 1008 for failing to comply with 1008. I gave Ms Cummins notice on the day she filed this motion for reconsideration that 1008 governed an award, that it provided for sanctions. Her motion didn't include new facts or law...\$1,785, which reflects 2.5 hours of my time, and as you know the section 1008 specifically provides that a violation of 1008 provides the contempt and for sanctions set forth in rule 127.8. So I made that request by declaration. This is the fifth time that Ms Cummins has raised the same issues in various courts and I therefore ask the court in this case ...

J: So the request for sanctions is denied as procedurally improper. You have to follow the procedures under 128.7 to get sanctions so I'm going to deny the request for sanctions. That will be part of the order. I'm going to ask you to please give notice of the court's ruling.

PS: Is that without prejudice to refile...?

J: I'm not gonna address that. I'm hoping that you're not going to waste the court's time with a person who has fee waived by bringing a motion for monetary sanctions but I'm not saying more than that but anyway, thank you

PS: Thank you

J: Bye

M: Is that it, your honor? (end of hearing)

J: That's it. Thank you.

M: Thank you. 7:22

PS: Your honor, I don't think you posted a tentative in this case.

J: I didn't post a tentative so order will be available shortly. Okay, thank you, bye.