

From: Bat World Sanctuary [mailto:sanctuary@batworld.org]
Sent: Tuesday, August 23, 2011 12:40 PM
To: Open Records
Subject: Information request

Dear Laura Russel,

Please see the attached files. I would like to know if either I or my organization is still under investigation as per a letter from you to Ms. Cummins which was written in May of this year. If we are still under investigation, can you please direct me to a department that can help me answer questions as to why?

Thank you for your time.

Amanda Lollar

Amanda Lollar
Founder and President
Bat World Sanctuary, Inc.
www.batworld.org

A non-profit, all volunteer conservation
organization providing rescue for bats worldwide.
Please join us on Facebook and Twitter!
PLEASE GO GREEN, print only if necessary

Subject: RE: Information request
From: Open Records (Open.Records@tpwd.state.tx.us)
To: sanctuary@batworld.org;
Cc: Open.Records@tpwd.state.tx.us;
Date: Tue, 23 Aug 2011 14:22:52

Dear Ms. Lollar,

According to one of our game wardens, there is no current active investigation. Please let me know if you have any other questions, and have a good day.

Laura Russell
Attorney
Texas Parks and Wildlife Department
T: (512) 389-8335
F: (512) 389-4482

From: Laura Russell <Laura.Russell@tpwd.state.tx.us>
To: Bat World Sanctuary <sanctuary@batworld.org>
Cc: Open Records <Open.Records@tpwd.state.tx.us>
Sent: Thursday, August 25, 2011 2:25 PM
Subject: FW: Investigation of Bat World Sanctuary

Dear Ms. Lollar,

Please see the email below from Asst. Chief Vaca regarding your request. Let me know if you have any questions, and have a good day.

Laura Russell
Attorney
Texas Parks and Wildlife Department
T: (512) 389-8335
F: (512) 389-4482

From: Scott Vaca
Sent: Thursday, August 25, 2011 9:52 AM
To: Mitch Lockwood; Laura Russell; Megan Russell
Cc: Butch Shoop
Subject: RE: Investigation of Bat World Sanctuary

All:

LE did an inspection. No violations were found, so no warnings or citations were issued.

Scott Vaca
Assistant Chief of Wildlife Enforcement

Texas Parks & Wildlife Department
4200 Smith School Road
Austin, TX 78744
Office: 512-389-4626
Fax: 512-389-8400

Texas Game Wardens Serving Texans Since 1895 - Law Enforcement Off the Pavement

From: "Juarez, Bernadette R - APHIS" <Bernadette.R.Juarez@aphis.usda.gov>
To: "sanctuary@batworld.org" <sanctuary@batworld.org>
Cc: "Gibbens, Robert - APHIS" <Robert.M.Gibbens@aphis.usda.gov>; "Shea, Kevin A - APHIS" <Kevin.A.Shea@aphis.usda.gov>; "Huttenlocker, Robert J - APHIS" <Robert.J.Huttenlocker@aphis.usda.gov>
Sent: Monday, October 3, 2011 6:00 PM
Subject: Pending FOIA Request for Bat World Investigation

Ms. Lollar:

I write on behalf of the Animal and Plant Health Inspection Service (APHIS), and in response to your inquiry about the status of our investigation involving your facility known as Bat World.

Please know that we have just concluded our fact finding investigation involving Bat World and, based on the evidence in our possession, did not identify any violations under the Animal Welfare Act in connection with the issues that we examined. We plan to provide APHIS' Freedom of Information Act (FOIA) Office with a copy of our final fact finding investigative report on October 4. I understand that you have a pending FOIA request in which you seek a copy of this report, and I am committed to ensuring that you receive a copy of the report as soon as possible. I will confer with APHIS' FOIA Office tomorrow and send you a second email message to let you know when and how you should expect to receive your copy of the report.

Please let me know if you have any further questions.

Bernadette Juarez
Deputy Director, APHIS, Investigative and Enforcement Services

(b)(6), (b)(7)(C)

From: Gibbens, Robert - APHIS
Sent: Friday, September 30, 2011 9:25 AM
To: (b)(6), (b)(7)(C) - APHIS
Cc: Nickerson, Eric S - APHIS; Fordahl, Timothy R - APHIS (b)(6)(b)(7)(C)
Subject: (b)(6), (b)(7)(C)
Re: TX11418-AC; Bat World Sanctuary

Yes - no violation. Thanks.

From: (b)(6), (b)(7)(C)
Sent: Friday, September 30, 2011 07:02 AM
To: Gibbens, Robert - APHIS
Cc: Nickerson, Eric S - APHIS; Fordahl, Timothy R - APHIS
Subject: TX11418-AC; Bat World Sanctuary

Hi Dr. Gibbens,

By now you should have received the program copy of subject case prepared as a No Violation report by (b)(6), (b)(7)(C) documented the matter as 'no violation' based on the evidence compiled regarding this matter and his earlier discussion with you re same.

Please advise if you are still in agreement with closing this matter as no violation, and if so, I'll see about doing so and getting the original submitted to IES HQ.

Thanks,

(b)(6), (b)(7)(C)

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
INVESTIGATIVE AND ENFORCEMENT SERVICES

REPORT OF INVESTIGATION

Case Number: TX11418-AC

Subject(s): Bat World Sanctuary
(Contact Information) 217 N. Oak Avenue
Mineral Wells, TX 76067
(940) 325-3404

Investigator: (b)(6), (b)(7)(C)
(Contact Information) IES Sr. Investigator
2150 Centre Ave., Bldg. B (b)(6), (b)(7)(C)
Ft. Collins, CO 80526
Cell: (b)(6), (b)(7)(C)

Date of Report: September 16, 2011

- Substantiated allegation(s)**
- No violation(s)**
- Insufficient evidence**
- Fact finding**
- Contains Confidential Business Information**

FOR OFFICIAL USE ONLY

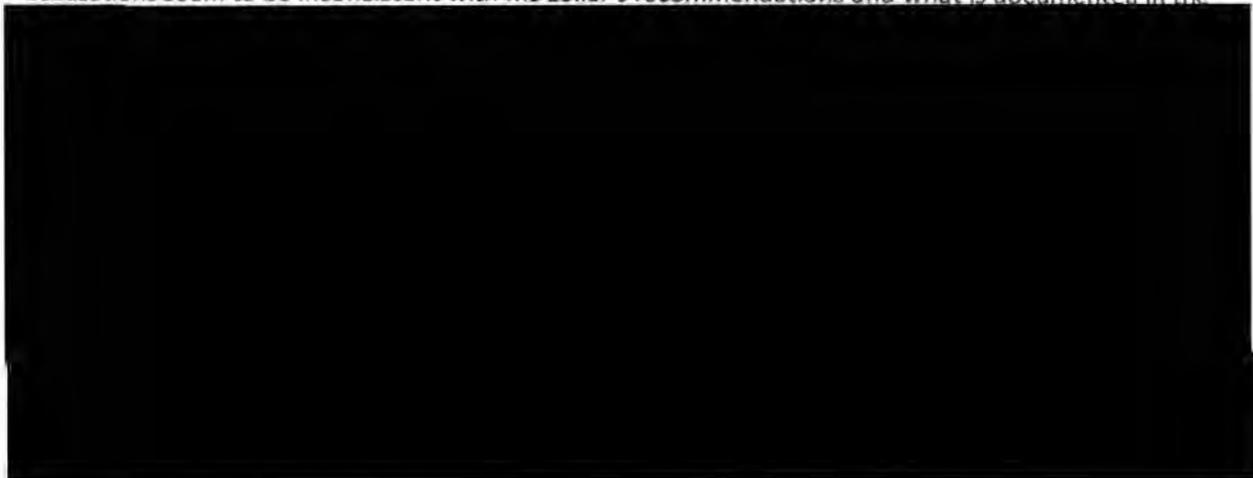
This document and its contents are not to be distributed outside your agency, or duplicated, without prior consent from USDA APHIS Investigative and Enforcement Services.

Reviewer(s) _____

Complaint results:

I visited Bat World Sanctuary on May 9, 2011 to address multiple complaints from one individual against Amanda Lollar and Bat World Sanctuary. Most of those complaints centered around emergency medical care provided to the animals. The complaints referred over and over again to inappropriate veterinary procedures performed by Ms Lollar and referenced in Ms Lollar's current book on bat care. In reviewing the literature published in the book and speaking with Ms Lollar I see no cause for concern. All veterinary procedures seem appropriate and within current standards of veterinary care. Bat World Sanctuary's consulting veterinarian provided a letter stating that he has personally trained Ms Lollar on these emergency procedures and has contributed to and reviewed the information in the book. He is confident in her ability to handle these emergencies and in her ability to identify cases where he should be involved, such as surgeries involving open body cavities, spays, neuters and rabies vaccinations.

Furthermore, in speaking with Ms Lollar and reviewing sections of the book, the complainant's accusations seem to be inconsistent with Ms Lollar's recommendations and what is documented in the



I have visited Bat World Sanctuary multiple times over the past three years. The facility has always been clean and well organized. I have never encountered a strong ammonia smell which is very common in many bat enclosures. The resident bats have always appeared healthy. The rehab bats and babies are housed in a separate quarantine area and this area has always been clean and the bats appeared to be receiving more than adequate care. I spoke with the local Texas Parks and Wildlife Law Enforcement Agent in the area. He concurred with my assessment. The place is clean and well organized and the bats look happy and healthy.

There is absolutely no evidence confirming any of the accusations made by the complainant. On the contrary, Ms Lollar appears to be providing exceptional care as required under the Animal Welfare Act.

CAUSE NO. 352-248169-10

BAT WORLD SANCTUARY and
AMANDA LOLLAR,
Plaintiffs

v.

MARY CUMMINS,
Defendant

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

PLAINTIFFS' SECOND AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Bat World Sanctuary and Amanda Lollar, Plaintiffs, file this second amended petition against Mary Cummins, Defendant, and for cause of action respectfully show the following:

DISCOVERY LEVEL

1. Discovery in this cause shall be conducted at Level 3 pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

PARTIES

2. Plaintiff, Bat World Sanctuary, is a nonprofit corporation organized under the laws of the State of Texas as Bat World Sanctuary, Inc.

3. Plaintiff, Amanda Lollar is an individual residing in Palo Pinto County, Texas. The last three digits of her driver's license number are 000 and the last three digits of her social security number are 481.

4. Defendant, Mary Cummins, is an individual residing in the State of California and has appeared and answered herein. No service of process is necessary.

JURISDICTION

5. This court has *in personam* jurisdiction over Defendant because:

a) The Texas long-arm statute authorizes the exercise of jurisdiction because Defendant entered into a contract with Plaintiff, a Texas resident, and one or both parties were to perform the contract in whole or in part in Texas (*TEX. CIV. PRAC. & REM. CODE ANN. § 17.042* (Vernon 2008)); *and*

b) The exercise of jurisdiction over Defendant is consistent with federal and state constitutional due-process guarantees. Specifically, Defendant has established minimum contacts with the Texas, and the assertion of jurisdiction complies with traditional notions of fair play and substantial justice.

FACTS OF THE CASE

6. Bat World Sanctuary is an internationally renowned non-profit organization dedicated to the rescue and rehabilitation of bats. Amanda Lollar is its founder and president. Along with rescuing and rehabilitating bats Bat World Sanctuary has education programs for children, maintains a sanctuary for wild bats, and operates continuing education internships and workshops for animal care professionals and rehabilitators.

7. Defendant, Mary Cummins, was accepted as an intern into Bat World Sanctuary's internship program. On June 20, 2010 Defendant and Bat World Sanctuary

entered into a written contract in which Bat World Sanctuary agreed to train Defendant in the care, treatment and medical management of insectivorous bats. Under the terms of the contract, Defendant agreed that the data, techniques, results, and anecdotal information provided to her during her internship were the property of Bat World Sanctuary and that she would not distribute, share, or publish this information without obtaining prior written permission from Bat World Sanctuary. A copy of the contract is attached hereto as Exhibit A.

8. While Defendant was on the Bat World Sanctuary's premises she videotaped and photographed Bat World's techniques, results, data and anecdotal information, often without the knowledge of Bat World Sanctuary. After leaving the program Defendant began posting these videotapes and photographs on the internet without Bat World Sanctuary's permission, thereby breaching her contract with Bat World Sanctuary. Defendant refuses to remove these videotapes and photographs from the internet where they remain as of the date of the filing of this suit.

9. Defendant has also posted on the internet and YouTube false statements of fact concerning Bat World Sanctuary and Amanda Lollar. These statements are defamatory and injure Amanda Lollar's reputation, thereby exposing her to public hatred, contempt or ridicule, or financial injury. The statements also injure Amanda Lollar in her profession. Defendant's defamation of Amanda Lollar is proximately causing Amanda Lollar to suffer actual damages.

10. Defendant has made wild accusations containing false and defamatory statements about Amanda Lollar and Bat World Sanctuary to numerous governmental agencies and law enforcement authorities, including:

- a. United States Department of Agriculture;
- b. United States Drug Enforcement Administration;
- d. Texas Department of Parks and Wildlife;
- e. Texas Department of Health;
- f. Internal Revenue Service;
- g. Palo Pinto District Attorney;
- h. City of Mineral Wells;
- i. Texas Attorney General;
- j. Texas Veterinary Board

Every single government agency and law enforcement authority that has investigated Defendant's complaints about Amanda Lollar and Bat World Sanctuary has concluded that the allegations were baseless and totally without merit. All complaints by Defendant have been dismissed by the investigating agencies. However, Defendant continues to publish on the internet that Amanda Lollar and Bat World are "under investigation," "have been investigated," or that "complaints were filed against them".

11. After this lawsuit was filed Defendant continued to publish false and defamatory statements about Amanda Lollar on the internet, including a statement claiming that, during Defendant's deposition, Amanda Lollar "admitted" giving rabies vaccinations to humans. Amanda Lollar has never given a vaccination of any kind to any person and never "admitted" doing so. Defendant's false statement was nothing less than an accusation that Amanda Lollar committed the crime of practicing medicine without a license. Therefore, Amanda Lollar brings this suit to recover damages for injury to her reputation caused by Defendant's libel *per se*.

12. Notwithstanding the temporary injunction in which the Court ordered Defendant to remove all defamatory statements from the internet, Defendant has continued to repeatedly and widely publish outrageous, false, and defamatory statements about Amanda Lollar and Bat World on the internet and has encouraged others to do the

same. As a result, defamatory statements about Amanda Lollar and Bat World are all over the internet at dozens of sites.

13. Defendant has a long history of using the internet to defame, cyberstalk, bully, and harass others. This is the fourth lawsuit in which she has been sued for defamation. Defendant uses “robots” to search the websites of others and to insure that her defamatory statements will appear high in Google and other search engine results when her victims’ names are searched. She also uses the internet to post personal information about her victims such as their account numbers and social security numbers. Defendant encourages others to post on the internet defamatory statements authored by her in order to spread the defamation as widely as possible on the internet and in an attempt to avoid being held in contempt of court for violating an injunction. Defendant has made it her mission to destroy the good name and reputation of Amanda Lollar and Bat World Sanctuary.

BREACH OF CONTRACT

14. Defendant’s conduct as describe above constitutes breach of contract for which Plaintiffs bring this suit. The breach of contract was a producing cause of actual damages to Plaintiffs.

ATTORNEY’S FEES

15. This is a suit on a contract and Bat World Sanctuary brings this suit to recover reasonable and necessary attorney’s fees under Section 38.001(8) of the Texas Civil Practice and Remedies Code.

DEFAMATION

16. Defendant's conduct as described herein constitutes common law defamation and libel under Section 73.001 of the Texas Civil Practice and Remedies Code. The defamation and libel were a proximate cause of actual damages to Plaintiffs.

EXEMPLARY DAMAGES

17. Defendant committed the defamation and libel described above with malice. Therefore, Amanda Lollar brings this action to recover exemplary damages under Section 41.003 of the Texas Civil Practice and Remedies Code.

REQUEST FOR TEMPORARY INJUNCTION

18. The acts and conduct of Defendant have caused and will continue to cause irreparable harm unless Defendant is restrained and enjoined from allowing the videotapes, photographs, and false statements described above to remain on the internet and YouTube. Plaintiffs have no adequate remedy at law and are likely to succeed on the merits of this suit.

19. Plaintiffs request the Court to issue an order temporarily enjoining the Defendant from allowing the videotapes, photographs, and false statements described above to remain on the internet during the pendency of this suit and ordering Defendant to remove the videotapes, photographs, and false statements from the internet and YouTube.

REQUEST FOR PERMANENT INJUNCTION

20. Upon final trial of the merits of this cause, Plaintiffs request that this Court enter an order permanently enjoining Defendant from allowing the videotapes, photographs, and false statements described above to remain on the internet and ordering Defendant to remove the videotapes, photographs, and false statements from the internet and YouTube.

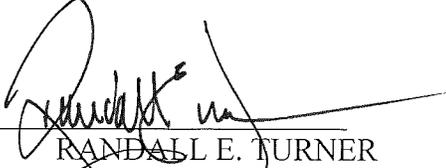
PRAYER

21. Plaintiffs pray that this Honorable Court grant their request for a temporary injunction and permanent injunction and enter judgment against the defendant for actual damages and exemplary damages within the jurisdictional limit of this court along with reasonable attorney's fees, court costs, and grant such other relief at law and equity to which Plaintiffs may be justly entitled.

Respectfully submitted,

TURNER & MCKENZIE, PC
1800 Norwood, Suite 100
Hurst, Texas 76054
Telephone: (817) 282-3878
Fax: (817) 268-1563
Email: randy@turnermckenzie.com

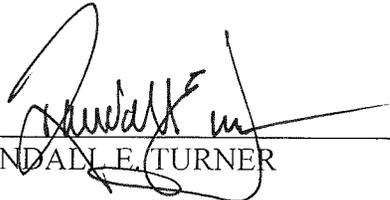
By: _____


RANDALL E. TURNER
State Bar No. 20328310
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on this date a true and correct copy of the foregoing instrument has been hand delivered to all parties of record according to Texas Rules of Civil Procedure this **4th** day of **October**, 2011.

Via Facsimile: 817.877.5667
Neal Callaway
1200 Summit Ave, Suite 720
Fort Worth, Texas 76102



RANDALL E. TURNER

BAT WORLD SANCTUARY
AND AMANDA LOLLAR

Plaintiffs,

v.

MARY CUMMINS

Defendant.

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT MARY CUMMINS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW NEAL S. CALLAWAY and files this his Motion To Withdraw As Counsel For Defendant Mary Cummins and would show the Court as follows:

I.

Neal S. Callaway ("Callaway"), the undersigned, represents Defendant Mary Cummins ("Defendant").

II.

As the basis for this Motion to Withdraw, Callaway would show that good cause exists for allowing him to withdraw as counsel for Defendant. Callaway is unable to effectively represent Defendant due to conflict between Callaway and Defendant. On September 22, 2011, Callaway received notice by email from Randall Turner ("Turner"), counsel for Plaintiffs, demanding that that Callaway's client and Defendant remove a statement from her AnimalAdvocates website. See email attached hereto as Exhibit "A". The statement of Defendant on her website accused Turner of touching and massaging her hand while Turner was

deposing Defendant on August 25, 2011. Callaway was present at the deposition representing Defendant. Callaway did not witness any such conduct by Turner and most certainly would have objected if such had occurred. Moreover, after the deposition, Callaway's client and Defendant said nothing to Callaway about this alleged incident.

Defendant now claims that Callaway was asleep in the deposition when this alleged conduct by Turner occurred. Callaway did not fall asleep at any time during the deposition.

Furthermore, on September 22, 2011, Defendant contacted the Tarrant County Bar Association and made various wild claims and allegations against Callaway who was referred by the TCBA to Defendant. Defendant made it abundantly clear to the TCBA that she does not believe Callaway is competent to represent her.

As a result of this bizarre accusation by Defendant against Turner and Defendant's other claims about Callaway, Callaway cannot adequately represent the Defendant's in this case because Callaway is a witness to the fact that Defendant's claims are false. And Defendant does not believe that Callaway is competent to represent her. Therefore, Callaway has a conflict in continuing to represent Defendant.

III.

This case presently is set for trial the week of January 9, 2012. There is a hearing on discovery matters set for October 6, 2011 at 10:30 a.m.

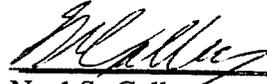
IV.

A copy of this Motion has been delivered by certified mail, regular mail and email to client. The client has been notified in writing of her right to object to the Motion. At this time, the client does not consent to the Motion, therefore a hearing is necessary. The client and

Defendant's last known address is 645 W. 9th St. #110-140, Los Angeles, CA 90015.

WHEREFORE, NEAL S. CALLAWAY respectfully requests that this Court grant his Motion to Withdraw As Counsel For Defendant Mary Cummins and such other and further relief to which he may show himself entitled.

Respectfully submitted,



Neal S. Callaway

Bar Car No. 03657020

LAW OFFICES OF NEAL S. CALLAWAY

1200 Summit Ave., Suite 720

Fort Worth TX 76102

817/332-2076; Fax 817/877-5661

CONSENTED TO BY:

Mary Cummins

CERTIFICATE OF CONFERENCE

A conference by email was held on September 26, 2011 with Randall Turner (Plaintiffs' attorney) on the merits of the motion, and he does not oppose the Motion.


Neal S. Callaway

CERTIFICATE OF SERVICE

This is to certify that on the 27th day of September, a copy of the foregoing was served by regular mail to the following counsel of record:

Randall E. Turner
LAW OFFICE OF TURNER & MCKENZIE
1800 N. Norwood Drive, Suite 100
Hurst, Texas 76054

and by certified mail, no. 7006 0810 0004 1143 9422, return receipt requested, regular mail and email (mmmarvinla@aol.com) to:

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


Neal S. Callaway

Hi, Neal Sign Out All new att.net Mail Help

Mail AT

Search Search Web



Mail Contacts Calendar Notepad What's New? Mobile Mail Options
Check Mail New Mail Search Try the new att.net Mail

Netflix Try us for Free Previous Next Back to Messages Mark as Unread Print
Delete Reply Forward Spam Move...

- Folders [Add]
Inbox (37)
Drafts (29)
Sent
Spam [Empty]
Trash [Empty]
My Photos
My Attachments

Mary Cummins
From: "Randy Turner" <randy@turnermckenzie.com>
To: callawaylaw@sbcglobal.net
Cc: "Kelly" <kelly@turnermckenzie.com>
Thursday, September 22, 2011 4:13 PM

Neal, your client posted the statements below on the internet. As you, the court reporter, and everyone else at the deposition knows, these statements are false. The deposition was also videotaped. Please tell your client to immediately remove these statements. If they are not removed by 9:00 a.m. tomorrow morning I will personally sue her for defamation. The lawsuit will start in Texas but, if necessary, it will be pursued in California. Needless to say, you will be my first witness.

Thank you for your immediate attention to this matter.

Chat & Mobile Text [Hide]
I am Available
0 Online Contacts [Add]
No contacts online right now.
Start a New Chat
2 Mobile Contacts [Add]
Jim Hill 940-452-0144
Todd Kelly 817-371-85...
Not Listed? New Text
Settings

Randall E. Turner
Turner & McKenzie, PC
Attorneys at Law
1800 Norwood, Suite 100
Hurst, Texas 76054
Tel.: 817-282-3868
Fax: 817-268-1563
www.turnermckenzie.com

September 22, 2011: As I'd posted previously during the depo Turner basically accused me of holding a bat barehanded and lying about it. I told him the brown hand in the photo was not mine as I am white. I then asked him to look at the photo then look at my hand. He then grabbed my hand and started touching it practically massaging it. It's a tattoo. You only need to look at it, not touch it. Very creepy. I was informed last night by a lawyer that lawyers are not allowed to touch you in a depo. It's considered an assault. More inappropriate behavior. I'm sure this must be a violation of the Tarrant County Bar Association.

1800 Norwood, Suite 100
Hurst, Texas 76054
Tel.: 817-282-3868
Fax: 817-268-1563
www.turnermckenzie.com

September 22, 2011: As I'd posted previously during the depo Turner basically accused me of holding a bat barehanded and lying about it. I told him the brown hand in the photo was not mine as I am white. I then asked him to look at the photo then look at my hand. He then grabbed my hand and started touching it practically massaging it. It's a tattoo. You only need to look at it, not touch it. Very creepy. I was informed last night by a lawyer that lawyers are not allowed to touch you in a depo. It's considered an assault. More inappropriate behavior. I'm sure this must be a violation of the Tarrant County Bar Association.

Delete Reply Forward Spam Move...
Previous Next Back to Messages Select Message Encoding Full Headers

Check Mail New Mail Search

"A"

NEAL S. CALLAWAY
ATTORNEY AT LAW

Mailing Address:
1200 SUMMIT AVENUE-SUITE 720
FORT WORTH TX 76102

Telephone 817/332-2076
Facsimile 817/877-5661
email: callawaylaw@sbcglobal.net

September 27, 2011

CERTIFIED MAIL, RRR. 70060810000411439422,
REGULAR MAIL AND EMAIL mmmaryinla@aol.com

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

RE: *Bat World Sanctuary and Amanda Lollar v. Mary Cummins*, Cause
No. 352-248169-10 in the 352nd Judicial District Court, Tarrant County,
Texas.

Dear Ms. Cummins:

Enclosed please find my Motion To Withdraw As Counsel For Defendant Mary Cummins.

The grounds for my Motion are set out in the Motion. If you consent to the Motion, you may sign on page 3 and return same to me. **Please be advised that you have the right to object to the Motion.**

This matter is set for hearing on October 6, 2011 at 10:30 a.m. in the 352nd Judicial District Court. You have the right to be present at that hearing.

Sincerely,


Neal S. Callaway

tj

cc: Court Coordinator
352nd Judicial District Court
Eighth Floor
401 West Belknap
Fort Worth TX 76196-0223