

2. Judge Rymell intentionally refused to set a hearing on Defendant's Motion to Dismiss July 21, 2015 Defendant timely filed Motion to Dismiss per the Defamation Mitigation Act and Citizen Participation Act including a FIAT to set a hearing. Defendant instantly called the court and asked for a hearing date. Defendant was told to call later. Defendant kept calling the court about a hearing date as the motion had to be heard by a certain date.

September 2, 2015 Defendant sent an email (Exhibit 2) again requesting the hearing date. Defendant kept calling the court. The court coordinator stated the Judge hadn't read anything yet so the date could not be set.

September 4, 2015 Defendant filed Motion to Recuse because Judge Rymell is biased to the point she refused to set a hearing date. Defendant also emailed the court.

Defendant contacted the 8th Judicial District and was told Judge Rymell hadn't responded to the Motion to Recuse. Finally September 30, 2015 Defendant received notice that Judge Rymell would not recuse herself. If not for the bias, Judge Rymell should recuse herself as she is obviously too busy to set a hearing or to timely respond to the Motion to Recuse. Defendant feels Judge Rymell is dragging things out so Defendant's Motion to Dismiss will be denied as it would not be heard in a timely manner. That is the only way Defendant could lose that motion.

In this case Plaintiffs admitted in court documents they never contacted Defendant after June 2010. They never tried to mitigate the defamation. As per the recently passed defamation mitigation act Plaintiffs must first mitigate or the case must be dismissed. Plaintiffs did not try to mitigate before they filed this case. This case should have been dismissed months ago. The only way Defendant could lose the Motion to Dismiss is if it

is not heard in a timely manner. Defendant believes this is what Judge Rymell plans to do because she is biased.

3. Judge Rymell has no jurisdiction over this case and should be disqualified

Plaintiff's attorney Randy Turner stated to Defendant in 352nd Court before a hearing on May 4, 2011 "I've known this Judge for many years. He'll sign anything I put in front of him." Judge Brigham did exactly that. Judge Brigham signed orders without even reading them as his judgment was diminished.

Randy Turner intentionally filed the case in 352nd Court because he knew he could get Judge Sudderth to request visiting Judge Brigham for one important hearing and the trial. Judge Sudderth was "gaming the system"¹ to help her friend Turner. Randy Turner bragged about this corrupt relationship in court to Defendant. Defendant stated this in court transcript before Defendant knew Judge Brigham would be the judge for the trial.

Defendant believes that Randy Turner intentionally filed this case in his friend Judge Rymell's court to get the same kind of court favors that he received from Judge Sudderth. Randy Turner is trying to "game the system" by filing this case in his friend Judge Rymell's court. The current case is identical to the 352nd case. The complaint is basically copy paste of the original complaint. Why then is it filed in a different court? Most likely because Judge Sudderth is no longer in 352nd court and Judge Rymell will do what Turner asks.

While County Court 2 hears defamation cases the court does not hear anything where the matter in controversy exceeds \$200,000. This case is identical to the last case. Even though Plaintiffs stated at trial they had no evidence of any financial damage or causation by Defendant and Defendant is penniless, Judge Brigham gave an

¹ Texas Judges use Visiting Judges to "Game the System"
http://www.legalreform-now.org/menu2_4.htm

unimaginable \$6,176,000 judgment which is exactly what Turner asked for in court. This court does not have jurisdiction of a judgment over \$200,000.

This is a defamation and supposed breach of contract case. To show how frivolous this identical case is the Court of Appeals reversed the breach of contract claim. Plaintiffs did not appeal. The current complaint is identical including the reversed breach of contract claim. Oddly enough the contract would have been with Bat World Sanctuary yet Bat World Sanctuary is not a party in the current case. Plaintiff Lollar cannot legally bring that claim herself.

Plaintiffs lied and stated Defendant signed a contract in Mineral Wells, Palo Pinto County, Texas in 2010. Therefore proper jurisdiction would be Palo Pinto County and not Tarrant County. Plaintiff then moved to Parker County. The alleged contract stated jurisdiction would be Tarrant County but that claim was reversed and Plaintiffs did not appeal. Clearly Tarrant County is not proper jurisdiction for this case. Judge Rymell should have recused herself from this case for jurisdiction alone not to mention statute of limitations have long been run on all the claims.

This is a frivolous, meritless defamation and breach of contract case. The only way Plaintiff can win is with a friendly corrupt Judge like 352nd. Defendant NEVER defamed plaintiffs. Defendant and Plaintiff's own exhibits prove everything was the truth. Defendant didn't even write most of the items in the orders. They were written by Plaintiff herself or government agencies. Plaintiff's attorney Randy Turner knows the only way he can win this case is with his friend Judge Rymell. That is why he basically filed the exact same complaint as he did in 2010. He didn't bother to spend five minutes changing the text as it doesn't matter. Turner could have spit on a piece of blank paper,

filed that in the last case and still won. Based on statute of limitations alone not to mention the Appeals Court reversal this is clearly a meritless case.

The complaint states Defendant replaced all of the posts she was ordered to remove by District Court. Even though Defendant could do that as the order was reversed Defendant did not do that. Plaintiff did not include one bit of evidence with their complaint. Plaintiff failed to state a claim.

The complaint includes the forgery of an email of the head of the United States Department of Agriculture. Defendant filed FOIA requests and specifically requested any and all emails made within a year of the date of the alleged email. Defendant sent the USDA that alleged email asking if it was real. USDA attorney stated they have no such document. Turner included the forged email because he knows his friend Judge Rymell won't care that it's forged.

The main alleged defamatory item in this case is an email written by Dr Laurie Gage of the USDA sent to Dr Robert Gibbens stating that Plaintiff Lollar caused bats "pain, suffering and death." Lollar "violated the Animal Welfare Act." Plaintiffs claim a public email written by a government agency in 2011 is somehow Defendant's defamation. Defendant did not write the email. The email is four years old clearly outside of the statute of limitations not to mention jurisdiction as the USDA is in Colorado. Everything in the email is the truth. Defendant was present when Plaintiff caused bats pain, suffering and death. Defendant videotaped Plaintiff at Plaintiff's request therefore it is privileged video. The video is what it is. This case is based on an email written by someone other than Defendant.

Plaintiff claims Dr Laurie Gage's email is Defendant Cummins' defamation. This is the crux of this case. In their claim Plaintiff and their attorney commit perjury multiple

times. In Plaintiff's item five (Exhibit 3), Plaintiff states Dr Gage is a "big cat specialist." Dr Gage is an experienced bat veterinarian in the USDA who has written about bat veterinary issues in published articles.

Plaintiffs commit perjury and state Defendant sent Dr Gage a video with captions. Defendant has never communicated with Dr Gage ever. Defendant sent the original raw video to the USDA complaint department.

Plaintiff then continue to commit perjury and state that Dr Gage's email is therefore false and defamatory because Dr Gage saw the video with captions. Plaintiff then states Defendant posted the email online "knowing it was false and defamatory." This is the crux of the ridiculous defamation claim of Plaintiff. If they felt the email was defamatory, they should have sued Dr Gage years ago yet they did not because the email is the truth.

This case is clearly an extreme abuse of the judicial system for some twisted pleasure of Plaintiff and her "very close friend" attorney Turner. Turner an alleged "animal rights" attorney wants to protect Lollar who committed animal cruelty by getting the original video and the USDA email removed from the Internet. Turner knows the only way he can get them removed is with an order by a Judge who will sign any order he writes without even reading it. Judge Brigham signed a six page temporary injunction order without reading it in front of Defendant. Defendant didn't write, didn't see and didn't control most of the websites in the injunction yet the Judge signed it.

To show just how corrupt Turner is he continued to use the void order to get Defendant's current blogs and pages removed from Google Blogspot and Google search engine results after the order was reversed.

Defendant understands that Judges should recuse themselves when there is a conflict of interest or bias. The clear reality is that it doesn't always happen especially when the Judge wants to do a court favor to one party or their attorney. Judge Brigham refused to recuse himself when he clearly had a very close relationship with Turner to be willing to do his corrupt and illegal bidding. Turner even mailed the final court order to the Judge's personal residence. Judge Brigham never even had jurisdiction as he didn't sign and file an oath of office, did not reapply to be a visiting judge every two years, did not take any mandatory continuing education and he admitted his faculties were failing on public record. Judge Brigham's wife admitted in public writing that Judge Brigham doesn't know what's happening, doesn't realize time is passing and he "already looks like he's been embalmed" in one family photo. Clearly Randy Turner took advantage of the poor judgment of an elderly judge years passed the mandatory retirement age of 75. Turner hopes to do the same with this case.

ARGUMENTS AND AUTHORITIES

The due process clauses of both the Texas and the United States Constitutions guarantees a party an impartial and disinterested tribunal in civil cases. *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242, 100 S.Ct. 1610, 1613 (1980); *Metzger v. Sebek*, 892 S.W.2d 20, 37 (Tex. App. Houston [1st Dist.] 1994, writ denied).

In this case, the personal interest and bias of the judge of the court will deprive Defendant of a fair trial in violation of the due process clauses of both the Texas and the United States Constitutions and in violation of Texas Rule of Civil Procedure 18b because the judge's impartiality might reasonably be questioned. Tex. R. Civ. P. 18b(2)(a); *Dunn v. County of Dallas*, 794 S.W.2d 560, 562 (Tex. App. Dallas 1990, no

writ). In this case, it is reasonable to question the impartiality of Judge Jennifer Rymell because of the facts stated herein.

Defendant is indigent and cannot afford to pay a notary to notarize this document. Plaintiffs have accepted unnotarized documents in this case already i.e. Cummins Waiver of Service.

Defendant will be filing the identical motion for telephonic hearing and order.

CONCLUSION

Judge Jennifer Rymell is extremely biased and prejudiced against Defendant. Judge Rymell's Court also does not have jurisdiction over this case. She should be removed from overseeing this case.

PRAYER

WHEREFORE, the Defendant prays that the Judge of this Court immediately request the Presiding Judge of this administrative district to set a hearing to recuse, disqualify Judge Jennifer Rymell from presiding in this case. Defendant requests that this case be immediately dismissed or be sent to a court which has jurisdiction which would be Palo Pinto County.

Respectfully submitted,

Mary Cummins, Defendant Pro se
645 W 9th St, #110-140
Los Angeles, CA 90015-1640
September 4, 2015
Phone 310-877-4770
Email: mmmaryinla@aol.com

By:



Mary Cummins, Defendant Pro Se

MARY CUMMINS DECLARATION

I, MARY CUMMINS, declare under penalty of perjury under the laws of the States of California and Texas that the foregoing is true and correct, and that I could and would testify thereto as herein if called upon to do so, based upon my personal knowledge of the facts set forth herein.

1. I have been declared indigent in the states of Texas and California for court purposes.
2. No proceeding has taken place before this Judge.
3. No proceeding has been set for hearing before this Judge.
4. This Motion to Recuse is timely.
5. I will be deprived of a fair trial if Judge Jennifer Rymell oversees this case.
6. I am also filing a motion for telephonic appearance.
7. I am physically disabled besides a pro se out of state Defendant.
8. I cannot physically get to Texas. I also cannot afford to go to Texas.
9. May 4, 2011 Randy Turner told me "I've known this judge for years. He'll sign anything I put in front of him."
10. Judge William Brigham did sign every order placed in front of him.
11. The three orders Judge Brigham signed were void.
12. Everything stated in this motion was written by me and it's the truth.
13. The attached exhibits are exact copies of the originals.

Signed November 8, 2015 in the City of Los Angeles, California.



Mary Cummins

CERTIFICATE OF CONFERENCE

I sent an email to Daniel Sullivan Randy Turner's employee asking if he opposed this motion. I received no reply. As Turner has opposed all motions, I assume he will also oppose this one.

CERTIFICATE OF SERVICE

I, Mary Cummins, hereby certify that a TRUE COPY of the above **PLAINTIFF'S MOTION TO RESCUE JUDGE JENNIFER RYMELL** was served on the Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at

Randy Turner
Bailey & Galyen
1300 Summit #650
Fort Worth, TX 76021
rturner@galyen.com
this 8th day of November 2015



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Facebook navigation bar with search bar containing 'Chuck Noteboom', Home, Find Friends, and other icons.



Chuck Noteboom

Buttons for 'Add Friend', 'Message', and a video call icon.

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● Chat  



Mary Cummins <mmmarycummins@gmail.com>

2015-002259-2 Motion to Dismiss - Hearing date

1 message

Mary Cummins <mmmarycummins@gmail.com>

Wed, Sep 2, 2015 at 1:21 PM

To: dkuhn@tarrantcounty.com

I filed my motion to dismiss July 21, 2015 along with the proposed order. I was told I would receive a hearing date. I have not yet received a date. Has the hearing been set yet? Plaintiff still has not complied with the defamation mitigation act. Their complaint is also against the citizen participation act. I have never defamed or breached a contract with Plaintiff.

As I stated previously I'm an out of state indigent pro se disabled defendant. I will be proceeding in this case and any necessary appeals as an indigent party. I have already been proven to be indigent. I will not be paying for any court transcripts or filing fees. I cannot afford to fly to Texas for any proceeding. I also am disabled from a back injury and couldn't physically fly there if I could afford it. This is why I filed a motion for telephonic appearance. Thanks.

I will never agree to a visiting judge. This email is legal notice that I will file an instant motion to recuse any visiting judge. I was involved in another identical case with this Plaintiff 352-248169-10. They used a senile retired visiting judge for a hearing and my trial which I lost. In appeal the appeals court ruled he abused his discretion and the orders the Judge didn't write or even read were void. I won some claims on appeal.



Mary Cummins

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5. Defendant sent a "Big Cat Specialist" at the United States Department of Agriculture named "Laurie Gage" the altered video with the defamatory captions. After viewing the altered video Gage issued an email with the following statements that were based on the defamatory captions Defendant had added to the video:

- a) The bat "experienced pain and suffering."
- b) "I have reviewed the U-Tube footage and looked at the complaint about the bat that was mishandled by Ms. Amanda Lollar of the Bat World Sanctuary,"
- c) "This is indeed a violation of the AWA (Animal Welfare Act),"
- d) "Ms. Lollar should have sought veterinary assistance for the bat with the dystocia,"
- e) "It would be one thing if she were only assisting a birth, but the moment Ms. Lollar realized this was a dystocia requiring an episiotomy, she should have taken the bat to her attending vet or a local veterinarian,"
- f) "This mother bat clearly experienced pain and suffering at Ms. Lollar's hand, so much so it that it appeared to lose consciousness during the procedure,"
- g) "No anesthesia was given to the bat and no pain management was offered,"
- h) "I believe the mother bat could have survived if it had been properly anesthetized and the pup delivered using proper surgical techniques,"
- i) "It is possible the pup could also have survived if this case had been properly managed by a veterinarian."

Defendant then maliciously published the above statements on the internet, knowing they were based on her false and defamatory captions and were, therefore, false and defamatory.