

FILED

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

2011 DEC -2 PM 2: 03
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____



6 UNITED STATES DISTRICT COURT
7
8 CENTRAL DISTRICT OF CALIFORNIA

9 MARY CUMMINS
10 Plaintiff

11 v.

12
13 AMANDA LOLLAR aka BAT
14 WORLD SANCTUARY an individual
15 person, BAT WORLD SANCTUARY
16 an unknown business entity, JOHN
17 DOES 1-10
18 Defendants

) Case No. CV11 08081 DMG (MANx)

) REPLY OF PLAINTIFF CUMMINS
) IN SUPPORT OF PLAINTIFF'S
) OPPOSITION TO DEFENDANTS'
) MOTION TO DISMISS OR
) ALTERNATIVELY, TRANSFER
) VENUE

) Date: December 12, 2011
) Time: 9:30 a.m.
) Courtroom 7

18 Plaintiff Mary Cummins, (hereinafter "Plaintiff") alleges as follows:

20 **INTRODUCTION**

21 For the reasons set forth below, this Court is the proper venue in this action.
22 Accordingly, Plaintiff respectfully requests that the Court deny Defendants' Motion to
23 Dismiss for Improper Venue or in the alternative, Motion to Transfer Venue.

24 1. The evidence clearly establishes that this Court is the proper jurisdiction and
25 venue through the Doctrine of Diversity of Citizenship. In an attempt to avoid
26 jurisdiction and venue, Defendants argue that ALL Defendants are located in Texas.
27 They forget that Plaintiff is also suing John Does 1-10. Plaintiff firmly believes that the
28

1 John Does are located in states other than California or Texas. Plaintiff is not 100%
2 positive of the true identities and will need to subpoena the Internet user names in
3 order to be certain. An Internet user could list their name as "Jesus H. Christ" with a
4 location such as "Pluto" and one would not know if that were their true identity or not.
5 One user "wingedsonar" lists her name as Sarah Kennedy located somewhere in New
6 York. Another user "evidtech9" lists her name as Sharon Warner located in Harrisburg,
7 Pennsylvania. There is no way to know if these are their true names or not without a
8 subpoena to Yahoo. Plus, there may be more than one Sarah Kennedy in New York.
9 Plaintiff needs to know which Sarah Kennedy made the Internet postings.

10 2. This Court is the proper venue Pursuant to 28 U.S.C. § 1391(a)(2) a judicial
11 district in which a substantial part of the events or omissions giving rise to the claim
12 occurred. Plaintiff was damaged in this District. Plaintiff is a licensed **California** real
13 estate appraiser and licensed **California** wildlife rehabilitator. Plaintiff conducts
14 business in this District only. Plaintiff's personal and business reputation was damaged
15 where she works in this district in **California**. Plaintiff is not licensed in Texas and
16 does not conduct business in Texas.

17 3. Defendants argue that this case in the alternative should be transferred to the
18 District Court of Tarrant County, Texas because there is currently pending a previously
19 filed action between Plaintiff and two of the defendants, Lollar v. Cummins, Case No.
20 352-248169-10. The parties, allegations and damages are completely and absolutely
21 different and unrelated.

22 a. The Plaintiffs in Amanda Lollar, Bat World Sanctuary v. Mary Cummins
23 lawsuit are Amanda Lollar an individual and Bat World Sanctuary a non-incorporated
24 organization. The Defendant is Mary Cummins. The Plaintiff in Cummins v. Lollar et
25 al lawsuit is Mary Cummins. The Defendants are Amanda Lollar aka Bat World
26 Sanctuary an individual, Bat World Sanctuary an unknown business entity and John
27 Does 1-10. The parties are **NOT** the same. The suit against Cummins in Texas was
28

1 filed September 2010 before Bat World Sanctuary incorporated in December 2010.

2 The current suit against Bat World Sanctuary is as an unknown business entity.

3 Cummins was defamed by the non-incorporated organization and the newly

4 incorporated organization besides the individual Amanda Lollar and other unknown

5 John Does.

6 b. The main claim in Lollar v. Cummins is supposed breach of contract, sharing
7 proprietary/copyrighted data and then supposed defamation. The main claims in

8 Cummins v. Amanda Lollar, Bat World Sanctuary, John Does 1-10 are defamation,

9 defamation per se, interference with business relations, interference with prospective
10 economic advantage and infliction of emotional distress. The claims are not the same.

11 Plaintiff Cummins reported Defendant Amanda Lollar for animal cruelty and neglect.

12 In retaliation Cummins was falsely accused of and sued for breach of contract and

13 defamation. Cummins never defamed Lollar or Bat World Sanctuary. The defamation

14 in both cases are completely and absolutely unrelated. Defendant Lollar posted that

15 Plaintiff Cummins is a "convicted criminal." Plaintiff Cummins merely reported

16 Defendant Lollar for animal cruelty and neglect.

17 4. Plaintiff tried to reply to Defendants' opposition in a timely manner but

18 Defendant failed to properly notify Plaintiff that they filed an opposition. Defendant's

19 attorney later admitted that the mailing had been returned yet he refuses to show

20 Plaintiff a copy of the returned mail. Plaintiff again did not notify Defendant that they

21 filed their December 1, 2011 reply. Fortunately Plaintiff just happened to check Pacer

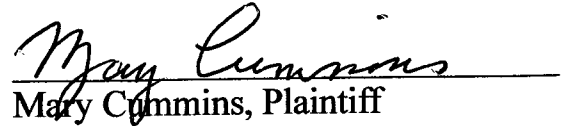
22 December 2, 2011 and filed this response that same day.

23
24 **CONCLUSION**

25 The evidence that Defendants are subject to personal jurisdiction and venue in
26 this Court is overwhelming. Through their conduct Defendants have established the

1 minimum contacts necessary for this Court to exercise personal jurisdiction over them.
2 Accordingly, Defendant's motion to dismiss or transfer should be denied.
3
4
5

6 Respectfully submitted,

7 
8 Mary Cummins, Plaintiff

9 Dated: December 2, 2011

10 645 W. 9th St. #110-140

11 Los Angeles, CA 90015

12 In Pro Per

13 Telephone: (310) 877-4770
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1 PROOF OF SERVICE BY MAIL
2 (FRCivP 5 (b)) or
3 (CCP 1013a, 2015.5) or
4 (FRAP 25 (d))

5 I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles,
6 California 90015-1640. I am over the age of eighteen years.

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

8 **REPLY OF PLAINTIFF CUMMINS IN SUPPORT OF PLAINTIFF'S**
9 **OPPOSITION TO DEFENDANTS' MOTION TO DISMISS OR**
10 **ALTERNATIVELY, TRANSFER VENUE**

11 on the following by placing a true copy thereof enclosed in a sealed envelope
12 addressed as follows for collection and mailing at 645 W. 9th St. #110-140, Los
13 Angeles, CA 90015-1640.

14 **Stephen M. MacPhail**
15 **Bragg & Kuluva**
16 **555 S. Flower St., #600**
17 **Los Angeles, CA 90071**

18 I also faxed a copy to Stephen M. MacPhail at (213) 612-5712.

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

21 Executed this day, December 2, 2011, at Los Angeles, California

22 Respectfully submitted,

23 
24 Mary Cummins, Plaintiff

25 Dated: December 2, 2011

26 645 W. 9th St. #110-140

27 Los Angeles, CA 90015

28 In Pro Per

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2 Plaintiff
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8 UNITED STATES DISTRICT COURT
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10 CENTRAL DISTRICT OF CALIFORNIA

11 MARY CUMMINS
12 *Plaintiff*

13 v.

14 AMANDA LOLLAR aka BAT
15 WORLD SANCTUARY an individual
16 person, BAT WORLD SANCTUARY
17 an unknown business entity, JOHN
18 DOES 1-10
19 *Defendants*

) Case No. CV11 08081 DMG (MANx)

) **[PROPOSED] ORDER RE:**
) **DEFENDANTS' MOTION TO**
) **DISMISS FOR IMPROPER VENUE.**
) **OR ALTERNATIVE, TO**
) **TRANSFER VENUE**

) Date: December 12, 2011
) Time: 9:30 a.m.
) Courtroom: 7

20 The Motion to Dismiss for Improper Venue, or Alternative, to Transfer Venue (the
21 "Motion") of Defendants Amanda Lollar and Bat World Sanctuary came on regularly
22 for hearing before Judge Dolly M. Gee in Department 7 of the above-entitled court on
23 December 12, 2011, at 9:30 a.m.

24 Stephen M. MacPhail, of the firm of Bragg & Kuluva, appeared for Defendants
25 Amanda Lollar and Bat World Sanctuary. Mary Cummins, in pro per, appeared for
26 herself. After consideration of the moving and opposition papers filed, arguments
27 having been heard, and good cause appearing therefor, ///

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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 645 W. 9th St. #110-140, Los Angeles, California 90015-1640. I am over the age of eighteen years.

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

[PROPOSED] ORDER RE: DEFENDANTS' MOTION TO DISMISS FOR IMPROPER VENUE, OR ALTERNATIVE, TO TRANSFER VENUE

on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at 645 W. 9th St. #110-140, Los Angeles, CA 90015-1640.

Stephen M. MacPhail
Bragg & Kuluva
555 S. Flower St., #600
Los Angeles, CA 90071

I also faxed a copy to Stephen M. MacPhail at (213) 612-5712.

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

Executed this day, December 2, 2011, at Los Angeles, California

Respectfully submitted,



Mary Cummins, Plaintiff

Dated: December 2, 2011

645 W. 9th St. #110-140

Los Angeles, CA 90015

In Pro Per

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