

Cause No. 2015-002259-2

<p>AMANDA LOLLAR,  Plaintiff,  vs.  MARY CUMMINS,  Defendant Pro se</p>		<p>IN THE COUNTY COURT OF LAW  NUMBER 2  TARRANT COUNTY, TEXAS</p>
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**UNOPPOSED AMENDED BRIEF IN SUPPORT OF DEFENDANT’S AMENDED MOTION TO DISMISS PLAINTIFF’S PETITION PURSUANT TO THE TEXAS CITIZENS PARTICIPATION ACT, DEFAMATION MITIGATION ACT**

TO THE HONORABLE JENNIFER RYMELL  
COUNTY COURT AT LAW NO. 2 JUDGE:

Defendant Mary Cummins (“Cummins”) submits this brief in support of her Unopposed Amended Motion to Dismiss Plaintiff’s Petition and respectfully shows as follows:

**I. INTRODUCTION**

The First Amendment protects a citizen’s right to free speech and right to petition the government, including a citizen’s reporting of a crime. In response to Cummins’ exercise of her constitutionally protected rights, Plaintiff Amanda Lollar (“Lollar”) filed this lawsuit against Cummins. In 2011, the Texas legislature, joining several others, concluded that this type of lawsuit, filed in response to a defendant’s exercise of her constitutionally protected rights, should be subject to early dismissal unless supported with clear and

specific evidence. Plaintiff's Petition, however, consists of wholly unsupported allegations falling woefully short of the clear and specific evidence necessary to avoid dismissal. Instead, the Petition is merely an attempt to abuse the judicial system to harass Cummins into silence on issues of grave public concern. Plaintiff also failed to mitigate the alleged defamation, failed to state a claim, any claims would be outside the statute of limitations, this Court does not have jurisdiction to hear this case and Plaintiff committed perjury, forgery and fraud. Accordingly, the Petition must be dismissed.

## **II. FACTUAL BACKGROUND**

Cummins is an author, public speaker, member of the digital media (Exhibit 1, Curriculum Vitae). Cummins has gone through the police academy, Humane Academy to become a Humane Officer to investigate animal cruelty. Cummins is on the Humane Society of the United States Animal Rescue Team which does cockfighting, dogfighting and hoarder raids with police. Cummins is a legal animal expert for PETA in the "Opossum Drop" lawsuit. Cummins gives presentations about animal cruelty to the Animal Defense League at law schools and for the California Attorney General "We Love Wildlife!" Campaign. Cummins is also a long time certified and licensed wildlife rehabilitator and animal rescuer.

Cummins has also been a licensed, certified real estate agent, broker, appraiser and expert witness in legal cases (Exhibit 2) for over 32 years. Cummins has volunteered for over 40 years with government agencies, schools and churches to help the community (Exhibit 3). Cummins has received many awards and acknowledgements for her work.

Cummins has been an activist for animals and freedom of speech issues for over 20 years (Exhibit 4). Cummins also fights against real estate and securities fraud. Within

1 the last 20 years Cummins reported people for animal cruelty, securities fraud and real  
2 estate fraud. During those years Cummins was sued three times for defamation in  
3 retaliation for reporting companies and people to authorities. Cummins won the first two  
4 defamation cases representing herself. The first case was Ashton Technology vs Mary  
5 Cummins (Exhibit 5). Cummins reported Ashton Technology and their CEO for  
6 securities fraud. The FBI and Department of Justice arrested 55 people in that case with  
7 the help of Cummins. Most were sent to prison. The second case was Kathy Knight-  
8 McConnell vs Mary Cummins (Exhibit 6). Cummins reported a company paid stock  
9 promoter for securities fraud. The SEC reprimanded the promoter who was then sued  
10 for securities fraud. Cummins has a very long history of reporting people to authorities  
11 for violations to protect the public, people and animals from harm.  
12

13 In 2010 Cummins was offered a free internship by Lollar of Bat World Sanctuary  
14 ("BWS"). Cummins was told that Lollar is a "world renown bat expert in the proper care  
15 of bats." Cummins read the curriculum vitae of Lollar (Exhibit 7) which shows many  
16 articles and a research paper have been written "about" Lollar. She'd been on well  
17 known television shows such as "David Letterman." As per Lollar's book and website  
18 she was supposedly a well known author and "scientific rehabilitator" who had the "only  
19 captive breeding colony" of bats. Lollar stated that she had the "largest bat sanctuary in  
20 the world" which is not true. Lollar also releases national press releases and has  
21 requested and had media interview her and visit her sanctuary. Lollar and her attorney  
22 Turner have done press conferences related to Lollar's care of bats. Lollar is therefore a  
23 public figure.  
24  
25

Cummins went to the internship in Texas June 2010. Instead of being trained in bat care Cummins witnessed animal cruelty, animal neglect, violations of the Animal Welfare Act, Texas Health Dept, Texas Parks & Wildlife Dept, Building and Safety and other violations.

While Cummins was at BWS Cummins took many photos and videos of Lollar and BWS. Cummins had written and oral permission to take the photos per “General rules and Expectations during your internship” (Exhibit 8). Item 14 clearly states “Take as many pictures as you like of both procedures and bats.”

In one video here (Exhibit 9<sup>1</sup> no means to attach video in file) Lollar tries to perform an episiotomy on a bat even though Lollar has not gone past the eighth grade and is not a veterinarian. The bats die.

Cummins left early, returned home and reported Lollar to authorities. It is mandatory to report a crime if you have witnessed a crime. In her reports to the United States Department of Agriculture (USDA), Fish & Wildlife Services, Texas Parks & Wildlife Department (TPWD), Mineral Wells Building and Safety, Texas Health Dept, Mineral Wells Health Dept, Texas Veterinary Board, Cummins gave the authorities the photos and videos she took at BWS besides 100% honest and factual written statements (Exhibit 10a to 10l<sup>2</sup>). Plaintiff admits that Cummins posted items about BWS and Lollar after she left Texas and was in California where Defendant lives (Pla Rep Mot Dis, Page 2, Par 2 Doc ID, 8, 9, 10, 11).

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<sup>1</sup> Video of Amanda Lollar trying to perform surgery  
<https://www.youtube.com/watch?v=t8n509HcfHY>

<sup>2</sup> 100% truthful reports to authorities about Amanda Lollar, Bat World Sanctuary  
[http://animaladvocates.us/amanda\\_lollar\\_animal\\_cruelty\\_at\\_bat\\_world\\_sanctuary](http://animaladvocates.us/amanda_lollar_animal_cruelty_at_bat_world_sanctuary)

1 Based on the photos, videos and reports, Lollar and BWS were investigated.  
2 Violations were found. This is only one report from USDA stating Lollar caused bats  
3 “pain, suffering, death, violated the Animal Welfare Act” (Exhibit 11). They were also  
4 reprimanded by the Texas Health Dept, Texas Parks & Wildlife Dept and other agencies  
5 (Exhibits 12a-12e). Cummins obtained these emails through a FOIA request. Cummins  
6 received the email after the June 2012 trial in case 352-248169-10.  
7

8 During this same time Cummins made a few Freedom of Information Act and State  
9 Information Act requests to government agencies about Lollar and BWS. Cummins  
10 received over 1,000 pages of complaints against Lollar and BWS going back 20 years  
11 as of 2010. Most of the complaints were about rabid bats, rabies warnings, a rabid bat  
12 biting a toddler on the cheek, guano on the streets, the horrible smell of BWS, demands  
13 to exclude her bats from her building and many building and safety reports for violations  
14 (Exhibit 13a-13d<sup>3</sup> The links go to two web pages and includes all underlying linked  
15 evidence, files, photos, pdfs, movies...Words which are underlined are hyperlinks to  
16 documents). As per Lollar in trial (Trial transcript<sup>4</sup> pg 710/195, lines 19-25, 711/196 lines  
17 1-9) Lollar’s neighbor Sharlet Evans, Margaret Colton member of City Council and  
18 Carolyn Hogg of the Historical Society had all been complaining about Lollar for many  
19 years.  
20

21 The main “wild sanctuary” building at 115 NE 1st St did not have a certificate of  
22 occupancy. There were many violations Cummins saw while she was in the building.  
23 Because of these unsafe conditions Cummins fell on the premises and herniated,  
24

25 <sup>3</sup> 20 years of complaints against Amanda Lollar, Bat World Sanctuary  
<http://www.animaladvocates.us/batWorldLawsuit/2.htm>  
<http://www.animaladvocates.us/batWorldLawsuit>

<sup>4</sup> Trial Transcript [http://animaladvocates.us/mary\\_cummins\\_trial\\_transcript.pdf](http://animaladvocates.us/mary_cummins_trial_transcript.pdf)

ruptured a disc in her back. Part of that disc has broken off. Cummins is currently awaiting surgery.

Cummins posted her fair and privileged photos, videos, and fair and privileged reports online. One does not lose privilege by posting privileged public documents online. Cummins also posted the results of the public fair and privileged Information Act requests. These included complaints made by the City of Mineral Wells, Bat Conservation International, other members of the public, bat experts, Texas Health Inspector, TPWD, USDA....and many more. All of these documents and more are part of the previous 352-248169-10 lawsuit. All of these documents are public and fair and privileged. Plaintiff stated that Exhibit 19 were fair reports and didn't request them to be removed. Those items were not deemed to be defamation by Plaintiff or the Courts.

Lollar, BWS admitted they never contacted Cummins again after she left the internship. The issue was not mitigated (Trial transcript pg 201/716).

Q. (BY MS. CUMMINS) I'm looking at -- this is the first that I have heard that the items in yellow are what you want me to remove. Did you ever see that I had posted and sent an e-mail to your attorney to forward to you stating that if there is anything on my web pages that's not true, I will delete it or edit it?

Q. Did you ever send me a communication asking me to remove certain things?

A. (BY MS. LOLLAR) I have never sent any communication to you whatsoever after you left our internship.

Instead they sued her for defamation and breach of contract September 2010 case 352-248169-10. This current case is copy/paste of the original 2010 lawsuit. It even includes claims which were reversed in the Appeals Court.

1 Plaintiffs won that case in 352nd District court. It was appealed to the Second Court  
2 of Appeals of Texas (Exhibit 14<sup>5</sup>) and was reversed and affirmed in part. Appellant's  
3 Opening Brief (Exhibit 15)<sup>6</sup>, Appellees Reply Brief<sup>7</sup>, Appellant's Reply Brief (Exhibit 16)<sup>8</sup>,  
4 Amicus Brief (Exhibit 17)<sup>9</sup> on behalf of Defendant Public Citizen by Paul Alan Levy who  
5 has over 40 years of experience as a freedom of speech lawyer, Amicus Brief (Exhibit  
6 18)<sup>10</sup> on behalf of Defendant by animal rights attorney David Casselman of The  
7 Cambodia Wildlife Sanctuary and Elephants in Crisis, Appeals Court Opinion<sup>11</sup>. All  
8 documents linked and in footnotes are incorporated in this brief. Plaintiff viewed all of  
9 these links and documents online. This is an internet defamation case. For that reason  
10 it's important to view the links online. They link to a webpage which has many links to  
11 the underlying documents.  
12

13 The breach of contract claim was reversed.

14 "This court has considered the record on appeal in this case and holds that there  
15 was error in part of the trial court's judgment. It is ordered that the judgment of the trial  
16 court is affirmed in part and reversed in part. We affirm that portion of the trial court's  
17 judgment awarding actual and exemplary damages to Appellee Amanda Lollar. We also  
18 affirm that portion of the trial court's judgment ordering Appellant Mary Cummins to  
19 remove from the Internet the web pages and defamatory statements specified in the  
20 judgment. We reverse that part of the trial court's judgment permanently enjoining  
21 Appellant Mary Cummins from making similar statements in the future. We also reverse  
22 that portion of the trial court's judgment awarding damages to Appellee Bat World  
23

20 <sup>5</sup> Cummins v Lollar Appeals Court

<http://www.search.txcourts.gov/Case.aspx?cn=02-12-00285-CV&coa=coa02>

21 <sup>6</sup> Appellant's Appeal Brief [http://www.marycummins.com/mary\\_cummins\\_appeal.pdf](http://www.marycummins.com/mary_cummins_appeal.pdf)

22 <sup>7</sup> Appellees' Reply Brief [http://www.marycummins.com/appellee\\_reply\\_brief.pdf](http://www.marycummins.com/appellee_reply_brief.pdf)

23 <sup>8</sup> Appellant's Reply Brief <http://www.marycummins.com/marycumminsreplybrief.pdf>

24 <sup>9</sup> Public Citizen Amicus Brief

[http://www.animaladvocates.us/cummins\\_amicus\\_brief.pdf](http://www.animaladvocates.us/cummins_amicus_brief.pdf)

25 <sup>10</sup> David Casselman Amicus Brief

[http://www.animaladvocates.us/mary\\_cummins\\_v\\_bat\\_world\\_sanctuary\\_amicus\\_lette  
r.pdf](http://www.animaladvocates.us/mary_cummins_v_bat_world_sanctuary_amicus_letter.pdf)

<sup>11</sup> Appeals Court Opinion

[http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=34bb645a-7096-  
4f9c-9cbf-a38ebd8b82ef&coa=coa02&DT=Opinion&MediaID=6a9e0c21-7681-4bd2-9331-  
ba9e76be484c](http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=34bb645a-7096-4f9c-9cbf-a38ebd8b82ef&coa=coa02&DT=Opinion&MediaID=6a9e0c21-7681-4bd2-9331-ba9e76be484c)

Sanctuary for breach of contract and attorney's fees and render judgment that Appellee Bat World Sanctuary take nothing on its claims for breach of contract and for attorney's fees."

The Appeals Court ruled that Plaintiffs did not have to show elements of defamation because they were supposedly not limited public figures, Defendant was not media and the issues of bats, rabies were not of public concern. The court ruled that Defendant defamed with malice even though one must prove defamation in order to prove malice. Every word stated by Defendant was and is the absolute truth backed up by physical evidence from government reports, photos and videos. The amicus briefs by very well known freedom of speech and animal rights experts concur with Defendant.

Oddly enough Defendant was never given a list of the allegedly defamatory statements until two months after the trial in the form of the court order August 27, 2012. Even then the judgment, order merely stated that Defendant was to remove 47 written items, three files and a video. The court order was written by Plaintiff's attorney Randy Turner and then delivered to the Judge's personal residence. Even then the Appeals Court ruled the court order was not a list of defamatory items. This means Defendant was never notified about what Plaintiff feels is defamatory. It also means that the District Court never ruled that any specific item was defamatory. The words "defamation" or "malice" are not in the court order. The order states "all other relief not in the order is denied." The Appeals Court can only rule on the District court order. That order did not state that any item was defamatory or made with malice. Therefore the Appeals Court could never rule or state there was defamation or malice.

In the 352-248169-10 case Defendant was given Plaintiff's Exhibit 17 which was an unverified copy of a webpage, blogs possibly written partly by Defendant, Exhibit 18

1 which were posts made by known and unknown others on websites Defendant did not  
2 control and Exhibit 19 which were fair and privileged reports to authorities. Originally  
3 Plaintiffs stated all of it was defamation. Then they said only 17 and 18. After argument  
4 and closing statements Plaintiff stated that 19 were fair reports to authorities (Trial  
5 transcript p 808 19-25)

6  
7 “Finally, Your Honor, I misspoke earlier. We are not asking that Exhibit -- that that the  
8 statements in Exhibit 19 be ordered to be taken down off the Internet. Those were  
9 reports to government agencies.”

10 Then they said only what was highlighted in yellow was defamatory (Trial transcript, p  
11 199)

12 Q. (BY MR. TURNER) Now, in addition, you have filed this lawsuit asking for monetary  
13 damages, you and Bat World. In addition to that, are you asking the Court to order  
14 Ms. Cummins to take down from the Internet those things which we have outlined in  
15 yellow in exhibits, I think, 17, 18, and 19 which we say are defamatory?

16 A. (BY MS. LOLLAR) Yes.

17 Defendant was never told that Plaintiff Lollar believed the items in yellow were  
18 defamatory until the absolute end of the trial. Defendant was never allowed a chance to  
19 prove that all the statements were not defamatory.

20 On top of this Plaintiff admitted Plaintiff never asked Defendant to edit or delete any  
21 statements. The issue was not mitigated (Trial transcript pg 201/716).

22 Q. (BY MS. CUMMINS) I'm looking at -- this is the first that I have heard that the items  
23 in yellow are what you want me to remove. Did you ever see that I had posted and sent  
24 an e-mail to your attorney to forward to you stating that if there is anything on my web  
25 pages that's not true, I will delete it or edit it?

Q. Did you ever send me a communication asking me to remove certain things?

A. (BY MS. LOLLAR) I have never sent any communication to you whatsoever after you  
left our internship.

Then they said not everything in yellow was defamatory. Some pages are mixed up.  
Some things highlighted in yellow are not defamatory, (Trial transcript p 223, 224)

Q. (BY MS. CUMMINS) So you're saying your Exhibit 17 everything that's highlighted in yellow is not necessarily what you feel is defamatory and you want removed with a permanent injunction?

Q. I'm looking at this URL table of contents and I see my Google page for my personal profile. And I go to it, and I see this comment (highlighted in yellow), They were teaching us how to optimize our videos for search on YouTube and Google. Learned some things I never knew before. Using them. How does that statement of mine defame you? (Trial transcript pg 224)

Q. (BY MS. CUMMINS) How does that defame you?

A. (BY MS. LOLLAR) It doesn't defame me.

Plaintiff admits there are errors, mistakes in the exhibits. What is in yellow is not necessarily defamatory (Trial transcript pg 226/741).

“Q. (BY MS. CUMMINS) Did you highlight that in yellow?

A. (BY MS. LOLLAR) Yes. I believe this was -- this actually was a -- this was not meant as a defamatory comment. This was one that was -- this was actually supposed to be in reference to the YouTube video you had uploaded, so this page is a mistake. It was supposed to go on the folder that we had compiled on your Internet expertise.”

Plaintiff's attorney Randy Turner was fully aware that a permanent injunction is unconstitutional prior restraint, (Trial transcript p 200/715).

Q. (BY MR. TURNER) Now, do you understand that -- or it's your understanding that under the law the Court cannot order her to not put things up in the future, you understand that?

A. (BY MS. LOLLAR) I understand that.

Q. That's called a prior restraint and we have talked about that?

A. Yes.

After closing arguments (trial transcript pg 66/810) Judge William Brigham ruled for a “permanent injunction” on items in Plaintiff's 17 and 18.

(Judge William Brigham) “A permanent injunction on items Plaintiffs' 17 and 18.”

Plaintiff's attorney Randy Turner knew that a permanent injunction was unconstitutional and void yet Turner said nothing. Plaintiff's attorney then wrote the final court order, judgment which contained a “permanent injunction” and sent it to the Judge's personal residence. Judge signed the void unconstitutional order. That order

1 only had 47 statements and some files. That means those were the only items identified  
2 as allegedly defamatory by Plaintiff. The Judge agreed to order everything in Exhibit 17  
3 and 18 removed. If Plaintiff had the opportunity to force Defendant to remove everything  
4 in 17 and 18 and didn't, it's because nothing else was allegedly defamatory. The final  
5 order only included some items in Exhibit 17 and nothing from Exhibit 18. Exhibit 18  
6 was items written and posted by other known and unknown people. It included the  
7 Indybay articles written by others.  
8

9 In Appeal Defendant proved that none of the items in the final order were  
10 defamatory. The Appeals court argued on behalf of Plaintiff and stated "everything" said  
11 by Defendant about Plaintiff was allegedly defamatory. That was never stated in the trial  
12 court or the court order. The court order doesn't even include the word "defamatory" or  
13 "defamation."  
14

15 Since the trial new information came to light. Expert veterinarian Dr Laurie Gage  
16 stated Plaintiff Lollar caused bats "pain, suffering and death," "violated the Animal  
17 Welfare Act."  
18

19 Defendant was never told what they felt was defamatory in the 352<sup>nd</sup> district case.  
20 The court, judge never ruled which statements were defamatory. The defamatory  
21 statements had to be identified.  
22

23 The court order was void as it contained unconstitutional prior restraint. Judge  
24 William Brigham also had no jurisdiction as he did not sign and file an oath of office, had  
25 not taken any mandatory continuing education, did not reapply to serve as a visiting  
judge every two years, was only assigned to the case for five days and he was over

mandatory retirement age of 75 as he was 84 (Exhibit 19)<sup>12</sup>. Cummins is free to repost the items legally. Plaintiff stated Cummins reposted the items in the court order. Cummins has NOT reposted the items in the court order. All the blogs and accounts which contained those items were removed when Plaintiff threatened to sue the various hosts and websites. The only thing that remained was a web page online. When Defendant removed the items from that page, they were replaced with “\*\*\*\*”<sup>13</sup>. That webpage cannot be found through a search engine. Plaintiff and Plaintiff’s lawyer threatened to sue Google if they did not remove Defendant’s sites and other people’s sites from their search engine results. Plaintiff even demanded that a press release (Exhibit 20)<sup>14</sup> be removed because it contained a link to the appeal which listed the 47 statements.

Immediately after the Appellate ruling Lollar filed this cut/paste identical suit for the same exact causes in this court even the breach of contract claim which was reversed. Plaintiff claims Defendant reposted items in a now void court order. The court order was voided. Defendant did not repost the items.

Lollar has never asked Cummins to remove any items until long AFTER this case was filed. Lollar has never told Cummins which items they feel are defamatory until long AFTER this case was filed. Defendant requested proof that the items were false and defamatory. Lollar has never shown any proof that any items are false and defamatory.

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<sup>12</sup> Motion Strike Order [http://marycummins.com/motion\\_strike\\_order.pdf](http://marycummins.com/motion_strike_order.pdf)

<sup>13</sup> Items in court order removed. Link was <http://www.animaladvocates.us/batworldlawsuit/> now is <http://www.animaladvocates.us/batWorldLawsuit/2.htm>

<sup>14</sup> Press Release <http://www.prweb.com/releases/2012/6/prweb9611186.htm>

1 July 15, 2015 Plaintiff's attorney faxed Defendant a letter stating "You are requested  
2 to retract the statements and video described in Exhibit 1 attached" (Exhibit 21). Plaintiff  
3 merely attached a text file of some sentences they feel are defamatory. They did not  
4 attach any evidence, exhibits or video. They did include links to websites not owned or  
5 controlled by Defendant, i.e. indybay.org. Defendant did not even write, post what is in  
6 those links. They included the link <http://www.animaladvocates.us/batworldlawsuit>  
7 Defendant removed the items in the court order in that page and never replaced them.  
8 April 24, 2013 is the last entry on that page which is well out of the statute of limitations  
9 for defamation in Texas of one year. There is nothing defamatory in there.

11 August 3, 2015 Defendant sent an email to Daniel Sullivan of Bailey & Galyen  
12 (Exhibit 22). Email stated "As per the Defamation Mitigation Act please provide me with  
13 proof that the items you requested to be edited or deleted are false. I believe all of the  
14 items are the truth. I will need physical evidence for every single item. After I receive  
15 this I will reply."

16 Plaintiff did not send any proof that any item was defamatory. Defendant in a  
17 previous case requested school and GED records in discovery and Plaintiffs never  
18 provided them. Plaintiff has still not provided them.

19 August 27, 2015 Plaintiff's attorney faxed Defendant "Disclosure of Evidence of  
20 Falsity" (Exhibit 23). Plaintiff committed perjury in this filing. There is no video with  
21 captions online of Lollar trying to perform an episiotomy. There is a raw video with a  
22 copy of the USDA analysis of the video. Most of the hyperlinks in the exhibit don't exist.

23 Plaintiff and Plaintiff's attorney have yet again committed perjury in their filing. Plaintiff  
24 stated in "Disclosure of Evidence of Falsity" item 2 "In June of 2012 a trial that was held  
25

in the 352<sup>nd</sup> District Court of Tarrant County, Texas,” “The falsity of the defamatory statements in Exhibit 1 was proven at the trial by the testimony of Amanda Lollar, Larry Crittenden, Eric Shupps, Janet Messner, DVM, Tad Jarrett, DVA, and Sarah Kennedy. These witnesses testified that the statements in Exhibit 1 were false and that Defendant published them.” “The falsity of the defamatory statements was further affirmed by the Second District Court of Appeals of Texas,” “Not only did that court hold that the defamatory statements were false, but the court also held that they were made by Defendant ‘with malice’.”

Defendant emailed Sullivan September 16, 2015 (Exhibit 25) asking for proof that any of the items are false. No proof was ever received. Defendant replied to Disclosure Evidence of Falsity (Exhibit 26).

None of the items in Exhibit 1 existed before April 2014. They were all made after the trial. As they were not part of the District Court trial they were also not part of the Appeals Court review. New evidence of Plaintiff’s cruelty to animals has come to light. The District and Appeals court did not state that these items posted two years in the future were defamatory. The witnesses named never saw these items in the District Court. No one ever claimed any item as false. No proof of falsity was ever made in the District court. Most of the witnesses didn’t even testify about falsity. Witness Eric Shupps was brought in as an “expert witness” yet claimed numerous times he was not a witness and had no experience as a witness.

Plaintiff’s attorney stated that the transcript of the trial testimony along with exhibits is incorporated by reference into their “Disclosure of Evidence of Falsity” as if fully copied

1 and set forth at length herein. Defendant relies upon those same documents in this brief  
2 and any and all linked and attached exhibits.

3 Plaintiff kept sending the void court order to Google if their name was merely  
4 mentioned or a legal file was posted. Google would then delete the entire blog which  
5 was 99% unrelated wildlife articles. Defendant moved some articles to WordPress as  
6 the founders are proponents of Freedom of Speech<sup>15</sup> who refuse to cave to illegal third  
7 party court orders. The court order was against Defendant, not Google, WordPress or  
8 anyone else. Google should not have removed the blogs. Plaintiff and Plaintiff's attorney  
9 threatened to file frivolous lawsuits against Google in order to scare them into deleting  
10 the items.  
11

12 September 16, 2015 Defendant replied to Plaintiff's "Disclosure Evidence of Falsity"  
13 (Exhibit 26). All items in Plaintiff's Exhibit 1 were made from July 2014 to July 2015.  
14 None of these items existed before the District court trial. No expert or judge had seen  
15 these items or made a ruling on them. None of the elements of defamation were proven  
16 in the trial court. Defamation was also not proven in the Appeals Court. The Appeals  
17 Court ruled that "defamation does not have to be proven." It is "assumed." Again, none  
18 of the items in question in this case existed before the June 2012 trial. More evidence of  
19 Plaintiff's cruelty to animals has come to light.  
20

21 Lollar used this court order to get Google search engine results to not list Cummins'  
22 websites, blogs and even paid press releases with PRWEB.com Plaintiff's attorney  
23 Turner tried to use this case to threaten to sue others to get them to remove items  
24

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25 <sup>15</sup> WordPress Freedom of Speech <https://en.wordpress.com/freedom-of-speech/>

posted by people other than Cummins. In one case ACLU-NC responded stating they would not remove the item (Exhibit 27<sup>16</sup>).

Lollar and her attorney are abusing the judicial system to harass, stifle freedom of speech, squelch reports to authorities and to frighten others so they will not comment about them negatively or report them to authorities. This is absolute proof that Lollar is merely trying to squelch the freedom of speech and public participation of Cummins about issues of public concern.

In 1999 Mineral Wells Index newspaper ran an article (Exhibit 28<sup>17</sup>) when one of Lollar's rabid bats bit a toddler on the cheek and the City of Mineral Wells, Texas told Lollar to "get the bats out of town," Lollar hired another animal rights attorney Donald Feare to threaten bad press and litigation against the city if they did not find the complaint "groundless" (Exhibit 29<sup>18</sup>). Lollar and her lawyers have been using legal threats, threats of bad press and general harassment to quiet freedom of speech and the right to report people to authorities for over 15 years. This case is but another example of Plaintiff's attorney Turner using his law license as a club to bully others into silence them.

The facts of this case show quite the contrary. Plaintiff Lollar has been harassing, defaming, and libeling Cummins for the past five years. Lollar has made over 400 blogs

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<sup>16</sup> ACLU letter to Randy Turner

[https://www.aclunc.org/sites/default/files/asset\\_upload\\_file985\\_9987.pdf](https://www.aclunc.org/sites/default/files/asset_upload_file985_9987.pdf)

<sup>17</sup> 1999 Mineral Wells Index newspaper article rabies

<http://3.bp.blogspot.com/->

[bLzIj68VBB4/UYA3QX3qVvI/AAAAAAAAADtI/G1RZXdVly5c/s1600/toddler\\_bitten\\_rabid\\_bat.jpg](http://3.bp.blogspot.com/-bLzIj68VBB4/UYA3QX3qVvI/AAAAAAAAADtI/G1RZXdVly5c/s1600/toddler_bitten_rabid_bat.jpg)

<sup>18</sup> Attorney Donald Feare threatening letter to City

[http://www.animaladvocates.us/batWorldLawsuit/Bat World Sanctuary Threatens To Sue City Of Mineral Wells.pdf](http://www.animaladvocates.us/batWorldLawsuit/Bat_World_Sanctuary_Threatens_To_Sue_City_Of_Mineral_Wells.pdf)

1 devoted only to Cummins. Here are a few of the tamest blogs (Exhibit 30<sup>19</sup>). The others  
2 are beyond obscene talking about bestiality, pornography, breasts, asses....

3 Plaintiff's attorney Randy Turner has been harassing, defaming, and libeling  
4 Cummins for years as well. Turner has a 20+ page ihatemary page in his business  
5 website where he talks about the size of Cummins' breasts when she was 11... (Exhibit  
6 31<sup>20</sup>, 32) and accuses Cummins of heinous crimes. Turner also talks about  
7 communications with Judges about me. Turner updates this page almost every night for  
8 over an hour each night as per logs (Exhibit 33). The same person updates  
9 randyturner.com, mary-cummins.co, marycumminsmarycummins.com which is now  
10 marycumminsmarycummins.wordpress.com, marycumminss.com, and  
11 marycumminsexposed.com. Defendant has sent multiple cease and desist, falsity  
12 statements to Plaintiff and her attorney (Exhibit 34)

14 If this case is not dismissed, Defendant will file a cross complaint for defamation,  
15 harassment and stalking against Plaintiff and her attorney Randy Turner.

### 16 **III. ALLEGED DEFAMATORY STATEMENTS**

17 The alleged defamatory statements in Plaintiff's Exhibit 1 are not complete. The  
18 Exhibit is only copy/paste of some text. The actual Internet pages are not included. In  
19 the Internet pages each statement is hyperlinked to underlying evidence proving each  
20 statement. For instance Defendant admits Defendant stated that Plaintiff is

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22 <sup>19</sup> Only one page of one blog out of over 400 Amanda Lollar has created about  
23 Cummins  
24 [http://web.archive.org/web/20150722193822/http://marycumminssrealestatemarycummins.blogspot.com/2014\\_09\\_01\\_archive.html](http://web.archive.org/web/20150722193822/http://marycumminssrealestatemarycummins.blogspot.com/2014_09_01_archive.html)

25 <sup>20</sup> Randy Turner's ihatemary page in his business website certified by web  
archive  
<http://web.archive.org/web/20141206181833/http://www.randyturner.com/index.php/randys-cyber-stalker>

“uneducated.” In that statement is link to underlying proof. The proof is two depositions of Plaintiff, video<sup>21</sup> from the depositions and statements made publicly by Plaintiff (Exhibit 35). Plaintiff did not include this in their exhibit which is extremely misleading. In every instance Defendant posted evidence which any viewer can see to come to their own opinion.

As example of one claim in the first deposition Plaintiff stated she did not have a high school diploma, did not have a master’s degree, did not have a PhD and did not go beyond the 10<sup>th</sup> grade. In the next deposition Plaintiff stated she did not go beyond the 9<sup>th</sup> grade. Later Plaintiff herself posted she did not go beyond the 8<sup>th</sup> grade. Plaintiff did not go beyond the 8<sup>th</sup> grade if that. Someone who did not go to or finish high school is considered to be uneducated.

Plaintiff stated Plaintiff got a GED at the age of 15. Defendant has requested proof of this many times in discovery yet Plaintiff has never supplied the evidence. The Texas GED website online was searched. Plaintiff did not get a GED. People are not even allowed to take the test until they are 18. Defendant believes Plaintiff is uneducated.

Plaintiff stated that some statements were adjudicated to be defamatory in the district and trial court. They list the statements from the August 27, 2012 court order. In appeal Defendant proved that every single one of those statements and files were not defamatory (Defendant’s Opening Appellate Brief, pg 27 – 53, Exhibit 15).

The alleged defamatory statements in Plaintiff’s Exhibit 1 are basically a few statements which are repeated. Defendant will now show that all of those items are not false. These basic statements are as follows:

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<sup>21</sup> Video of Amanda Lollar stating she is uneducated  
<https://www.youtube.com/watch?v=PeSyQSd4WWs>

1 (1) "Plaintiff is uneducated" Attached as Exhibit 15<sup>22</sup> are the documents Defendant  
2 posted online which prove this. Plaintiff did not go past the 8<sup>th</sup> grade, did not go to high  
3 school, college or graduate school. "Uneducated" definition is "not being educated to a  
4 good standard." Plaintiff admits Plaintiff is uneducated on video<sup>23</sup>.

5 (2) "Some of Plaintiff's bats have rabies." Linked to that statement is a research article  
6 on rabies at Bat World Sanctuary i.e. "Dead and Dying Brazilian Free-Tailed Bats  
7 (Tadarida brasiliensis) from Texas: Rabies and Pesticide Exposure Donald R. Clark Jr.,  
8 Amanda Lollar and Deborah F. Cowman, *The Southwestern Naturalist*, Vol. 41, No. 3  
9 (Sep., 1996), pp. 275-278" (Exhibit 36)<sup>24</sup>."

10  
11 Plaintiff supplied the dead and dying bats to researchers. 74% of those bats had  
12 rabies. That statement was linked to the article above. Plaintiff told Defendant that some  
13 of her bats had rabies. Plaintiff stated the same in her manual, book, website.  
14 Defendant witnessed bats with symptoms of rabies. Plaintiff showed Defendant a bat  
15 exhibiting symptoms of rabies which Defendant videotaped<sup>25</sup>.

16 (3) "USDA stated that Plaintiff caused bats "pain, suffering, death, violated the Animal  
17 Welfare Act," committed animal cruelty, abuse, neglect." Dr Laurie Gage of the USDA  
18 stated exactly this in email<sup>26</sup> (Exhibit 11). The definition of "animal cruelty" is  
19

20 <sup>22</sup> Plaintiff is uneducated

21 [http://www.marycummins.com/amanda\\_lollar\\_bat\\_world\\_sanctuary\\_no\\_education.pdf](http://www.marycummins.com/amanda_lollar_bat_world_sanctuary_no_education.pdf)

22 <sup>23</sup> Plaintiff admits uneducated <https://www.youtube.com/watch?v=PeSyQSd4WWs>

23 <sup>24</sup> Bats have rabies

24 <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiYo67-lunKAhVIzGMKHehfDvIQFggcMAA&url=http%3A%2F%2Fwww.jstor.org%2Fstable%2F30055124&usg=AFQjcNEbPcTgPIIm5GbfIVywyyp58dw8M1Qw&sig2=6VrqqOnJojQlgB0jXXP12Q>

25 <sup>25</sup> Video of Amanda Lollar pointing out symptoms of rabies in a bat  
<https://www.youtube.com/watch?v=cZL7fioluwM>

<sup>26</sup> Dr Laurie Gage email, proof Plaintiff lost USDA permit

[http://www.marycummins.com/amanda\\_lollar\\_bat\\_world\\_sanctuary\\_usda\\_cancelled.pdf](http://www.marycummins.com/amanda_lollar_bat_world_sanctuary_usda_cancelled.pdf)

“Cruelty to animals, also called animal abuse or animal neglect, is the human infliction of suffering or harm upon any non-human animal, for purposes other than self-defense or survival.” Animal neglect is not providing proper animal care or veterinary services.

(4) “Plaintiff lost Plaintiff’s USDA permit.” Plaintiff’s USDA permit was cancelled by the USDA footnote 23 (Exhibit 37).

(5) “Plaintiff posted hate speech against Defendant.” Plaintiff did post hate speech against Defendant in Plaintiff’s Facebook page devoted to Defendant titled “Stomp the Roach.” Facebook removed it stating it was “hate speech” (Exhibit 38).

(6) “Plaintiff committed crimes against Defendant, police reports were made.” Defendant got a restraining order on Plaintiff (Exhibit 39). Plaintiff assumed Defendant’s identity to try to break into Defendant’s bank account. A police report was made (Exhibit 40).

(7) “Plaintiff is sick of complaints about her and is leaving town.” Plaintiff stated this in a letter to the City of Mineral Wells<sup>27</sup> (Exhibit 41).

(8) “Plaintiff has harassed, defamed, threatened Defendant, tried to break into Defendant’s bank account.” Plaintiff has done all of these things. See police report above and restraining order.

(9) “Plaintiff lied to the court.” Plaintiff has repeatedly committed perjury. Plaintiff lied about Plaintiff’s education, exhibits, affidavit... Plaintiff forged the email of the head of the Federal Agency USDA (Exhibit 42).

(10) Plaintiff posted revolting, obscene photos of Defendant. Plaintiff has done this.

Previous exhibits.

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<sup>27</sup> Plaintiff admits sick of complaints, leaving town

[http://www.animaladvocates.us/batWorldLawsuit/sanctuary\\_gutted.pdf](http://www.animaladvocates.us/batWorldLawsuit/sanctuary_gutted.pdf)

1 (11) "Defendant believes Plaintiff is mentally ill." Defendant absolutely believes this. Los  
2 Angeles Police Department detectives stated the same after reading Plaintiff's many  
3 revolting, threatening blogs about Defendant.

4 (12) "Plaintiff's Bat Castle is a failure." Plaintiff herself stated that bats refuse to go into  
5 and stay in the Bat Castle, therefore it's a failure. Plaintiff now uses it for storage.

6 (13) "Plaintiff has a criminal record." A restraining order was filed against Plaintiff in  
7 previous exhibit. That is on Plaintiff's criminal record.

8 (14) "Plaintiff has plagiarized." Barbara Schmidt and Plaintiff Lollar wrote a book  
9 together. Plaintiff copied that book word for word, gave it a new title and credits herself  
10 as the sole author. Plaintiff stated Plaintiff wrote every word in the book in deposition.

11 Defendant. Defendant links to this page which proves it was cut/paste plagiarism  
12 January 16, 2012 (Exhibit)<sup>28</sup>. Defendant posts the same page by both authors to prove  
13 they are the same but with different authors and titles only. The table of contents and  
14 page numbering even match perfectly. Others have stated the same (Exhibit 43).<sup>29</sup>

15 (15) "Plaintiff takes a salary and charges BWS rent while stating 100% of donations go  
16 to bats only." Plaintiff received \$13,676 salary from BWS per 990's (Exhibit 44)<sup>30</sup>.

17 Plaintiff admits charging BWS \$1,500/mo rent in deposition. Therefore 100% of the  
18 donations don't only go to bats.  
19  
20  
21  
22

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23 <sup>28</sup> Proof of plagiarism <http://www.animaladvocates.us/batWorldLawsuit/2.htm>

24 <sup>29</sup> Proof of plagiarism [http://www.amazon.com/gp/customer-reviews/R1IB7YNHYX184X/ref=cm\\_cr\\_pr\\_viewpnt?ie=UTF8&ASIN=096382483X#R1IB7YNHYX184X](http://www.amazon.com/gp/customer-reviews/R1IB7YNHYX184X/ref=cm_cr_pr_viewpnt?ie=UTF8&ASIN=096382483X#R1IB7YNHYX184X)

25 <sup>30</sup> Plaintiff takes salary, charges rent  
<https://amandalollarbatworldsanctuary.wordpress.com/2014/10/20/amanda-lollar-bat-world-sanctuary-rabid-bats-rabies/>

(16) "Plaintiff has BWS pay her legal fees." BWS per 990's paid legal fees (Exhibit 44).

The court ruled that BWS was not entitled to recover legal fees. That means those legal fees paid by BWS were for Plaintiff's own fees.

(17) "Many people have complained about Plaintiff." Defendant received over 1,000 documents in FOIA and state info act requests. These documents were complaints by government agencies and members of the public. Plaintiff stated in trial that her neighbor, city council member and member of the historical society have complained about her for years. Plaintiff told Defendant the same thing in person. Defendant posted the actual complaints by the government agencies and public online (Previous Exhibit).<sup>31</sup>

(18) "Plaintiff has violated the restraining order." Plaintiff violated the restraining order over 100 times as Plaintiff kept contacting Defendant sending nasty emails. Defendant was forced to file more police reports.

(19) "Plaintiff recommended freezing bats to death." Plaintiff stated in Plaintiff's 1994 manual that one should freeze bats to death not realizing it's illegal animal cruelty. Plaintiff admitted this in trial. Evidence was provided to the court showing Plaintiff recommended freezing bats to death. This statement was linked to a true and correct copy of Plaintiff Amanda Lollar's first edition 1994 non-copyrighted manual. The manual is one of the items in the court order so it was removed. The manual clearly stated "This manual may be duplicated in part or in whole." This manual (Exhibit 45) states pg 47, 48 "Euthanasia," "Most bats will enter torpor, a natural deep sleep, when placed in the refrigerator. After several hours, the bat should be in a deep sleep, and can be placed

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<sup>31</sup> Complaints against BWS <http://www.animaladvocates.us/batworldlawsuit/>  
<http://www.animaladvocates.us/batWorldLawsuit/2.htm>

1 into the freezer. Because many bats can survive freezing temperatures, it will need to  
2 remain in the freezer for at least a week before disposal.” As per the American  
3 Veterinary Medication Association Guidelines on Euthanasia this is inhumane animal  
4 cruelty which is illegal<sup>32</sup>. This was shown and proven in Defendant’s 352<sup>nd</sup> Appeal.  
5 (20) “Plaintiff posted a death threat against Defendant.” Plaintiff did post death threats  
6 against Defendant, “Appellee constantly posts online about me being killed with “a  
7 knitting needle behind the eye,” and “If Karma is paying attention, it needs to strike Ms  
8 Cummins with a mighty blow so that she’s no longer here or a vegetable and harmless.”  
9 Defendant included the quotes and evidence in public legal filings posted online.<sup>33</sup>  
10 (Exhibit 46).  
11

12 (21) “Plaintiff wants my gynecological records.” Plaintiff Lollar and her California and  
13 Texas lawyers requested ALL medical records of Defendant in case 2:11-cv-08081.  
14 Defendant filed motion to quash to limit the request to non-gynecological records.  
15 Plaintiff insisted on all records including gynecological and breast records. Defendant’s  
16 doctors gave ALL medical records to Plaintiff via subpoena. Defendant hadn’t gone to  
17 the gynecologist within the discovery period so there were no records.  
18

19 (22) “Plaintiff forged documents.” Plaintiff was caught in another lawsuit forging another  
20 contract, i.e. Bat World Sanctuary vs Talking Talons Youth Leadership. Plaintiff forged  
21  
22

---

23 <sup>32</sup> AVMA Freezing Bats is Animal Cruelty, illegal  
24 <https://www.avma.org/KB/Policies/Documents/euthanasia.pdf>

25 <sup>33</sup> Death threats against Defendant  
<https://amandalollarbatworldsanctuary.wordpress.com/2014/09/20/mary-cummins-files-motion-for-sanctions-against-amanda-lollar-bat-world-sanctuary-dean-rocco/>

the contract in this case filed in New Mexico CV 2008-11394. Defendant posted the complaint (Exhibit 47)<sup>34</sup> and all the legal filings available online June 9, 2011.<sup>35</sup>

(22) “Plaintiff reprimanded by TPWD, USDA, Texas Health Dept, Mineral Wells Health Dept, BCI and more.” Plaintiff has been reprimanded by all those agencies. Defendant received the reports in FOIA and State Information Act Requests and posted them online, TPWD complaint<sup>36</sup>, Health Dept complaint<sup>37</sup>, City of Mineral Wells complaint<sup>38</sup>, City of Mineral Wells building and safety complaints<sup>39</sup>, City of Mineral Wells Health Dept complaint<sup>40</sup> (Exhibits 12a-12e). “The City has received complaints regarding the foul smell coming from 115 N.E. 1st Ave. for years, especially in the hot summer months. The odor is so strong, that if you just walk by the building briefly, your clothing will smell like bat excrement, urine,” Complaints from 11 members of the public,<sup>41</sup> Complaints made by Defendant (Previous Exhibit).<sup>42</sup>

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<sup>34</sup> Talking Talons Forgery Complaint  
[http://www.animaladvocates.us/batWorldLawsuit/Bat World Sanctuary vs Talking Talons Response.pdf](http://www.animaladvocates.us/batWorldLawsuit/Bat_World_Sanctuary_vs_Talking_Talons_Response.pdf)

<sup>35</sup> Talking Talons Forgery <http://www.animaladvocates.us/batWorldLawsuit/2.htm>

<sup>36</sup> Amanda Lollar reprimanded by TPWD  
<https://amandalollarbatworldsanctuary.wordpress.com/2015/03/10/amanda-lollar-bat-world-sanctuary-reprimanded-many-many-times-by-tpwd/>

<sup>37</sup> Texas Health Dept complaint  
[http://www.animaladvocates.us/batWorldLawsuit/texas health dept to bat world sanctuary.pdf](http://www.animaladvocates.us/batWorldLawsuit/texas_health_dept_to_bat_world_sanctuary.pdf)

<sup>38</sup> Bat World smells  
[http://www.animaladvocates.us/batWorldLawsuit/bat world sanctuary smells bad.pdf](http://www.animaladvocates.us/batWorldLawsuit/bat_world_sanctuary_smells_bad.pdf)

<sup>39</sup> Mineral Wells, Texas Building Safety complaints  
[http://www.animaladvocates.us/batWorldLawsuit/bat world sanctuary building complaints.pdf](http://www.animaladvocates.us/batWorldLawsuit/bat_world_sanctuary_building_complaints.pdf)

<sup>40</sup> City of Mineral Wells Health Dept complaint  
[http://www.animaladvocates.us/batWorldLawsuit/Mineral Wells Complains About Bat World Sanctuary.pdf](http://www.animaladvocates.us/batWorldLawsuit/Mineral_Wells_Complains_About_Bat_World_Sanctuary.pdf)

<sup>41</sup> Complaints from public <http://www.animaladvocates.us/batWorldLawsuit/2.htm>

<sup>42</sup> Complaints made by Defendant  
[http://www.animaladvocates.us/amanda\\_lollar\\_animal\\_cruelty\\_at\\_bat\\_world\\_sanctuary/](http://www.animaladvocates.us/amanda_lollar_animal_cruelty_at_bat_world_sanctuary/)

1 (23) "Plaintiff was holding a bat with most likely rabies." Plaintiff allowed Defendant to  
2 take a video of Plaintiff holding a rabid bat while Plaintiff pointed out the symptoms of  
3 rabies (Exhibit 48)<sup>43</sup>.

4 (24) "Plaintiff committed donor fraud." Plaintiff stated 100% of all donations go directly to  
5 bats. Everyone is a volunteer. That is not true. Donations go toward salaries, legal fees  
6 and other non-bat related items (Previous Exhibit). Defendant witnessed Plaintiff use  
7 BWS credit card to buy personal food at Walmart.  
8

9 (25) "Plaintiff debarked her dogs, does not give them proper care." Plaintiff admitted she  
10 debarked her dogs in trial (Trial transcript pg 183/698),

11 Q. (BY MS. CUMMINS) "Did you debark your dogs?"

12 A. (BY MS. CUMMINS) Two of them have been debarked"

13 Defendant never witnessed Plaintiff walk her dogs ever. Plaintiff provided veterinary  
14 records in discovery. Plaintiff did not give her dogs the care the veterinarian  
15 recommended per Plaintiff's own veterinary records. Defendant proved this in opening  
16 appellate brief pg 28-53, alleged defamatory items 1-47.

17 (26) "Plaintiff offers to pay employee \$5.50/hr when min wage is \$7.50." Plaintiff placed  
18 an ad in Facebook Mineral Wells offering a job for \$5.50/hr (Exhibit 49)<sup>44</sup>. Minimum  
19 wage is \$7.50.  
20  
21  
22  
23

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24 <sup>43</sup> Amanda Lollar holding a bat most likely with rabies  
<https://www.youtube.com/watch?v=cZL7fioluwM>

25 <sup>44</sup> Amanda Lollar offers less than minimum wage  
<https://amandalollarbatworldsanctuary.wordpress.com/2015/05/23/amanda-lollar-violates-the-law-and-offers-slave-labor-wages-to-people/>

(27) "Plaintiff paid a man to assault me." Plaintiff paid Robert Young \$750 to serve Defendant. Young trespassed onto private property and illegally videotaped Defendant. Young hit Defendant with the documents. Defendant filed a police report (Exhibit 50).

All the statements Defendant made about Plaintiff are the truth. They are not false. Evidence of the truth of the statements was provided online. Plaintiff knows all of these items are true. Plaintiff is merely embarrassed by her own poor behavior. Plaintiff wants to rid the Internet of evidence of her own poor behavior. Plaintiff files this suit to stifle the truth about Plaintiff.

In fact in this case it is Defendant who has been defamed by Plaintiff Lollar and her attorney Randy Turner. Lollar has bought many domains with the name of Defendant included in the domain. Below are a few of the harassing, defamatory blogs made by Plaintiff and her attorney Randy Turner. There are hundreds more. Many were taken down by the host as "hate speech," "threats of violence" and a copy was not saved.

In these blogs and websites Amanda Lollar and Randy Turner call Mary Cummins "fatty fatty fatso, bald, toothless, into porn, an animal abuser, murderer..." Lollar and Turner post about the size of Cummins' breasts at the age of 11, her ass, crotch, Cummins sued the church, embezzled from her grandmother, sued her grandmother, is a convicted criminal, killed her neighbor, skank, fat head, is wanted by the law, going to jail, too ugly to prostitute, has herpes, gonorrhoea, syphilis, is mentally ill, a dip shit idiot, fugly nigger nosed dirty mexican," and much, much more (Exhibit 30).

Here is just one version of Randy Turner's hate page against Defendant. It is a 12 pg single spaced document with links to many files located in his business website (Exhibits 31, 32).

1 <http://web.archive.org/web/20150404113143/http://www.randyturner.com/index.php/ran>

2 [dys-cyber-stalker](http://web.archive.org/web/20150404113143/http://www.randyturner.com/index.php/ran) Turner talks about Defendant's breasts, crotch, ass. Turner admits in  
3 his page Defendant has no job or money, has a negative net worth and lives in a tiny  
4 shack. A more current version is 37 pages single typed

5 <http://web.archive.org/web/20150918204640/http://www.randyturner.com/randys-cyber->  
6 [stalker](http://web.archive.org/web/20150918204640/http://www.randyturner.com/randys-cyber-) 99% of what Turner wrote and posted is false and defamatory besides extremely  
7 bizarre. Turner has also posted Defendant's social security number in public legal  
8 filings. Turner also posted a copy of Defendant's passport. Turner and Lollar have  
9 repeatedly violated protective orders.  
10

11 Below are websites, blogs made by Plaintiff Lollar about Defendant. They used to be  
12 hosted in batworld.org sub domains but Plaintiff now hosts them on WordPress. Plaintiff  
13 admitted in deposition that Plaintiff made the websites and blogs. Plaintiff Lollar also  
14 uses username "Rachel Thompson" besides others to post blogs, comments and send  
15 nasty email to Defendant. Defendant sent cease and desist to Plaintiff but Plaintiff kept  
16 emailing Defendant. Defendant legally tracked Plaintiff's ip, isp via emails received by  
17 Defendant from Plaintiff over the last few years to prove they are one and the same  
18 person. The ip, isp, computer, software of Amanda Lollar matches perfectly that of user  
19 "Rachel Thompson" (Exhibit 51).  
20

21 [marycumminsbranchcumminians.blogspot.com](http://marycumminsbranchcumminians.blogspot.com)

22 <https://www.facebook.com/stomptheroach> removed by Facebook as "hate speech"

23 <https://www.facebook.com/standuptocyberstalkers> parts removed by Facebook as "hate  
24 speech"

25 [marycummins-cyberstalker.blogspot.com](http://marycummins-cyberstalker.blogspot.com)

[marycummins-reprimand.blogspot.com](http://marycummins-reprimand.blogspot.com)

[marycummins-liar.blogspot.com](http://marycummins-liar.blogspot.com)

[marycummins-lawsuits.blogspot.com](http://marycummins-lawsuits.blogspot.com)

[marycumminsgooglebomb.blogspot.com/](http://marycumminsgooglebomb.blogspot.com/)

marycummins-animal-abuser.blogspot.com  
delusional-mary-cummins.blogspot.com  
marycummins-quite-contrary.blogspot.com  
marycummins-sociopath.blogspot.com  
doesmarycumminscommitanimalcruelty.blogspot.com/  
tweedledumdum-marycummins.blogspot.com/  
indybay-corruption.blogspot.com  
marycummins-randyturner.blogspot.com  
marycummins-amandalollar-obsession.blogspot.com  
ismarycumminsacyberstalker.blogspot.com/  
mary-cummins-rabie-baby.blogspot.com  
mary-cummins-animal-advocates-cruelty.blogspot.com  
marycummins-loseslawsuit-judgebrigham.blogspot.com  
marycummins-stalkshusbands.blogspot.com  
mary-cummins-involved-in-porn.blogspot.com/  
marycummins-fired.blogspot.com  
marycummins-sociopath.blogspot.com  
marycummins-cyberstalker.blogspot.com  
marycumminspsychopath.blogspot.com/  
mary-cummins-daddy.blogspot.com  
marycumminss.wordpress.com  
truthaboutmary.wordpress.com  
batworld.org\*(many pages and subdomains)  
amandalollar.com  
amandalollar.net  
[www.randyturnervsmarycummins.com/](http://www.randyturnervsmarycummins.com/)  
[www.randyturnerwinsforbatworld.com](http://www.randyturnerwinsforbatworld.com)  
[www.marycumminsloseslawsuit.com](http://www.marycumminsloseslawsuit.com)  
marycumminslosttorandyturnerattorney.com  
randyturnerwinsforbatworld.com  
batworldstalkermarycummins.com  
marycumminsgooglebomb.com  
[amandalollar.com](http://amandalollar.com)  
[marycumminsloseslawsuit.com](http://marycumminsloseslawsuit.com)  
[mary-cummins.co](http://mary-cummins.co)  
[batworldstalkermarycummins.com](http://batworldstalkermarycummins.com)  
[amandalollar.net](http://amandalollar.net)  
www.randyturnervsmarycummins.com/  
www.randyturnerwinsforbatworld.com  
www.marycumminsloseslawsuit.com  
marycumminslosttorandyturnerattorney.com  
marycummins-cyberstalker.blogspot.com  
marycummins-sociopath.blogspot.com  
marycummins.blogspot.com  
doesmarycumminscommitanimalcruelty.blogspot.com

1 marycumminss.wordpress.com  
2 marycummins-animal-abuser.blogspot.com  
3 marycummins-babyphoto.blogspot.com  
4 marycummins-lawsuits.blogspot.com/  
5 marycummins-embezzle.blogspot.com  
6 marycummins-sociopath.blogspot.com/  
7 bat-world-wins-against-mary-cummins.blogspot.com/  
8 batworldsanctuary-inc.blogspot.com  
9 bat-world-sanctuary.blogspot.com/  
10 mary-cummins-loses-to-bat-world.blogspot.com/  
11 doesmarycumminscommitanimalcruelty.blogspot.com  
12 [marycummins-thankyou.blogspot.com](http://marycummins-thankyou.blogspot.com)  
13 <http://marycummins-randyturner.blogspot.com/>  
14 marycummins-terrorizes-neighbor.blogspot.com  
15 marycummins-amandalollar-obsession.blogspot.com  
16 www.marycummins-exposed.com  
17 <https://batworld.org/batworld-stalker-mary-cummins/>,  
18 www.mary-cummins.co,  
19 <https://www.youtube.com/user/BWSvMC>  
20 <http://animaladvocatewildliferehabilitation.blogspot.com/>  
21 mary-cummins-daddy.blogspot.com  
22 marycummins-liar.blogspot.com  
23 marycummins-branchcumminians.blogspot.com/  
24 marycummins-quite-contrary.blogspot.com  
25 marycummins-beauty-lol.blogspot.com/  
mary-cummins-biography-resume.blogspot.com  
marycummins-stalkshusbands.blogspot.com/  
marycummins-animal-abuser.blogspot.com/  
revoke-marycummins-permit.blogspot.com  
marycummins-crass-act.blogspot.com/  
marycummins-lawsuits.blogspot.com  
aboutmarycummins.blogspot.com

Below are a few pages from the blogs in question via the web archive.

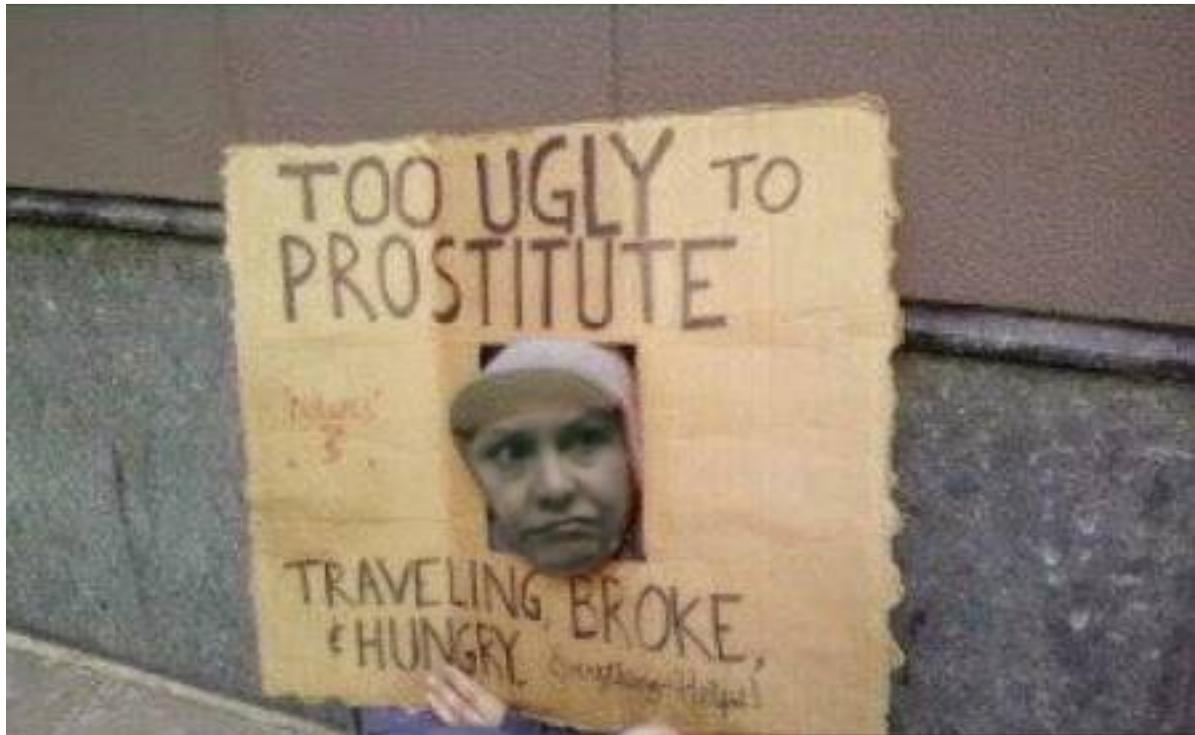
<http://web.archive.org/web/20150101094628/http://aboutmarycummins.blogspot.com/>

Besides defaming Defendant and making bizarre claims, Plaintiff posts revolting  
photoshopped images of Defendant in these blogs and websites. Here are but a few.

From [http://aboutmarycummins.blogspot.com/2014\\_09\\_01\\_archive.html](http://aboutmarycummins.blogspot.com/2014_09_01_archive.html)



From [http://aboutmarycummins.blogspot.com/2014\\_10\\_01\\_archive.html](http://aboutmarycummins.blogspot.com/2014_10_01_archive.html)



From [http://aboutmarycummins.blogspot.com/2014\\_10\\_01\\_archive.html](http://aboutmarycummins.blogspot.com/2014_10_01_archive.html)



## Pedophile???

From [http://aboutmarycummins.blogspot.com/2014\\_10\\_01\\_archive.html](http://aboutmarycummins.blogspot.com/2014_10_01_archive.html)



From [http://aboutmarycummins.blogspot.com/2014\\_09\\_01\\_archive.html](http://aboutmarycummins.blogspot.com/2014_09_01_archive.html)



**BRIEF IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S PETITION  
PURSUANT TO THE TEXAS CITIZENS PARTICIPATION ACT, DEFAMATION MITIGATION ACT**

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From <https://mary-cummins.co/tag/fat/>



There are many more revolting images and statements in the actual websites and blogs. Lollar attacks Dr Laurie Gage of the USDA, [Dr Jennifer Conrad of the Paw Project](#), well known attorneys [Paul Alan Levy of Public Citizen](#) who wrote an amicus brief for Defendant, [David Casselman](#) who wrote an amicus brief for Defendant and [Walter Moore](#). Lollar also attacks other animal rescuers. Lollar [started a petition to try to force USDA to take animals and permits away from Lisa's Creatures](#) who is a great exhibitor. Lollar has/had a "Wall of Shame", "Good, Bat, Ugly" and "Action Alert" pages in her website since at least 1998. Lollar attacks many people including Bat

1 Conservation International, bat expert Susan Barnard of Basically Bats, Barbara  
2 Schmidt an old partner of Lollar from BCI, Texas A & M University, Jimmy Kimmel,  
3 Conan O'Brien...Lollar also instructs fans of BWS to attack these individuals and groups  
4 just like she is attacking Defendant.

5 This YouTube channel made by Lollar has had over 300 videos of Cummins in  
6 deposition or being illegally videotaped by others (Exhibit 52). 200+ videos were taken  
7 down as abusive terms of service violations. 100 still remain. Some of the deposition  
8 videos were taken by hidden camera. None of the deposition videos made by Plaintiff  
9 were taken by professionals. In the videos Cummins states personal, confidential,  
10 financial and other information which is now posted over the entire Internet.  
11

12 <https://www.youtube.com/user/BWSvMC>

13 Cummins has only posted two videos from the deposition. One is Plaintiff Lollar  
14 stating she has no education. <https://www.youtube.com/watch?v=PeSyQsd4WWs> The  
15 other is Randy Turner staring inappropriately and falling asleep in his client's deposition  
16 only one minute into the session. <https://www.youtube.com/watch?v=LFs55io1zRQ> The  
17 video of Turner was posted as Turner refused to believe he fell asleep or did anything  
18 inappropriate. Turner threatened to sue Defendant for defamation for stating he fell  
19 asleep which is why Defendant posted the video.  
20

21 Defendant has sent numerous specific cease and desist emails to Randy Turner and  
22 Amanda Lollar proving the statements are false (Previous Exhibit). Turner and Lollar  
23 refuse to edit or delete anything they posted.

#### 24 **IV. FAILURE TO STATE A CLAIM**

In Plaintiff's Complaint there is no evidence of defamation or breach of contract. There is not one attachment or exhibit to support a claim of defamation or breach of contract. There was no contract attached to the complaint.

In Plaintiff's Reply to Defendant's Motion to Dismiss there are some exhibits. Many of the exhibits don't exist, are edited, forgery, fraud, were made by people other than Defendant or were removed long ago and no longer exist.

**V. COURT LACKS PERSONAL JURISDICTION, SUBJECT MATTER JURISDICTION, IMPROPER VENUE, FORUM**

Plaintiff's complaint is for defamation and breach of contract. This complaint is a copy/paste of the original case 352-248169-10. This complaint was filed within days of the Appeals Court opinion. As previously proven the Second Court of Appeals ruled that there was no breach of contract. Plaintiffs did not appeal. The time to appeal has run so there can be no appeal.

Plaintiff includes the false breach of contract claim in order to have the forum be Tarrant County, Texas as per the contract. Plaintiff believes that is why the breach of contract claim which was reversed was included in the original 2010 complaint. Plaintiffs have stated repeatedly that Defendant wrote and posted the alleged defamatory items after Defendant left Texas and returned to her home in California (Pla Aff Lollar Pg 1)

"Almost immediately after returning to California from her internship Mary Cummins began posting false statements as well as copyrighted photos and proprietary information on the internet."

The correct forum for this case would therefore be Federal District Court due to diversity of parties or California.

1 Plaintiff's attorney Randy Turner wants the forum to be Tarrant County, Texas as he  
2 and his wife Patti Gearhart-Turner have been lawyers in this area for over 30 years.  
3 They are personal friends with many Judges and Justices on the same committees and  
4 boards. Randy Turner bragged to Defendant in court before the May 2011 injunction  
5 hearing "I've known this judge for years. He'll sign anything I put in front of him." Judge  
6 William Brigham did exactly that. Defendant witnessed Judge Brigham flip to the last  
7 page of the six page single spaced order and just sign it. Judge Brigham did not even  
8 read it. That order contained websites Defendant had never seen and didn't control.  
9 Some were even in different languages which Plaintiff and Defendant don't read, write  
10 or speak. This court lacks jurisdiction for this case.

## 12 **VI. STATUTE OF LIMITATIONS FOR DEFAMATION IS ONE YEAR**

13 Statute of limitation for defamation on the Internet in Texas is one year, Tex. Civ.  
14 Prac. & Rem. Code sec. 16.002. Not only did Defendant not write any of the items in  
15 Indybay.org, Indymedia.org, 2011 USDA email, 1999 Mineral Wells Index article,  
16 Plaintiff's 1994 manual, Mineral Wells Health Dept complaints...but they were made and  
17 posted on the Internet long before the one year limitation. The statute has run for any  
18 item posted on the Internet before April 15, 2014 which is a year before this complaint  
19 was filed. The complaint was filed April 15, 2015 six days after the Appeal Opinion was  
20 filed. An item posted after April 15, 2014 that is identical to an item posted before that  
21 date is also outside the statute of limitations. The time tolls from when the item was first  
22 posted. Many items in Plaintiff's exhibit 1 were cut/paste from earlier posts made by  
23 Defendant and others. That makes every alleged item outside of the statute of  
24 limitations.  
25

Plaintiff in the 352-248169-10 case filed a motion May 2012 to add more statements to the injunction. Judge Bonnie Sudderth denied that motion. In that same hearing Judge Sudderth stated she would not have forced Defendant to remove items posted by third parties on sites controlled solely by third parties. Exhibit 18 in the trial case were items written and posted by known and unknown people, robots other than Defendant. Plaintiffs should have sued those people but didn't. Instead they sued Defendant and used the court order to remove other people's websites.

Exhibit 19 was Defendant's fair and privileged reports to authorities. Plaintiff admitted in trial court that Exhibit 19 is not defamatory. Exhibit 17 which was never authenticated as to the author were the alleged defamatory items. 95% of Exhibit 17 was the results of FOIA, state info act requests and Defendant's reports to government agencies. Those items were written by government officials and members of the public other than Defendant. They are all privileged and could never be Defendant's defamation.

None of the items in Plaintiff's new Exhibit 1 are defamatory. If the items were defamatory, the statute of limitations has already run.

## **VII. PLAINTIFF COMMITTED PERJURY, HARASSMENT, FRAUD, FORGERY ABUSE**

Plaintiff's Complaint, Reply to Motion to Dismiss, Plaintiff's Affidavit, Exhibits are false and some are forged. Plaintiff Lollar forged the email of the head of the Federal Agency USDA. Lollar also forged the exhibits adding recent comments with Defendant's name in order for the item to be within the statute of limitations. Plaintiff and their attorney Turner have again committed perjury and fraud upon the court. The complaint should therefore be dismissed with prejudice. Plaintiff and Plaintiff's attorney Randy

1 Turner charged with the crimes of perjury, forgery and fraud. Turner needs to be  
2 disbarred immediately.

3 **Perjury in Complaint**

4 Below are false statements made in the original complaint.

5 Defendant never signed a contract with Plaintiff. Appeals Court ruled there was no  
6 breach of contract.

7 Defendant did not commit a tort in Texas. Plaintiffs repeatedly have stated that  
8 Defendant allegedly defamed Plaintiff while Defendant was in California.

9 BWS does not have a USDA exhibit permit. Their permit was cancelled. They are  
10 not allowed to give programs, internships or workshops with bats.

11 Plaintiff Lollar is not a true bat expert. Lollar has not gone past the 8<sup>th</sup> grade and is  
12 not a veterinarian.

13 Defendant never signed a contract with Plaintiff Lollar. Appeals court ruled there is  
14 was no breach of contract claim.

15 Defendant is not a “cyberstalker,” has never been charged or convicted of  
16 cyberstalking. Plaintiff Lollar and her attorney Turner have been stalking, cyberstalking  
17 Defendant for years.

18 Defendant has not launched defamation campaigns against anyone.

19 Plaintiff did not apply a strong topical anesthetic to the bat. Plaintiff only applied ky  
20 jelly.

21 Plaintiff Lollar stated in trial that Lollar trained the veterinarian and not vice versa.

22 The mother bat did not survive.

Dr Laurie Gage USDA head veterinarian stated in email that Lollar did not provide proper care, caused pain, suffering, death and violated the Animal Welfare Act.

Plaintiff's statement about what Defendant felt is not just hearsay but a lie. Defendant left the internship after witnessing animal cruelty, animal neglect, violations of the health code and many other violations.

When Defendant returned to California Defendant reported Plaintiff to authorities for health code violations, Fish & Wildlife violations, USDA violations and more. Defendant did not "invent horrible lies" about Plaintiff.

Plaintiff did lose her USDA permit, was reprimanded by various agencies, did impersonate Defendant's mother, committed forgery, tried to break into Defendant's bank account (Previous Exhibits).

Defendant posted the entire video of the episiotomy. Plaintiff received a copy in discovery. There was nothing edited out. Plaintiff never applied anesthetic.

Plaintiff lied about BWS financial situation stating they were on the verge of bankruptcy after Defendant left BWS June 2010. Plaintiff made more money than ever before after Defendant left BWS. They made twice as much the next year. Plaintiff's own bank records received in discovery prove this. So do their IRS 990 forms. This is perjury and falsification of evidence. BWS was never close to bankruptcy after Defendant left. Below is copy of BWS 990 which proves this for years 2010 to 2013.

**Section B. Total Support**

Calendar year (or fiscal yr beginning in) ▶	(a) 2010	(b) 2011	(c) 2012	(d) 2013
<b>9</b> Amounts from line 6 . . . . .	145,194.	173,289.	339,512.	413,234.
<b>10a</b> Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources . . . . .	26.	35.	4,945.	57.
<b>b</b> Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975 . .				
<b>c</b> Add lines 10a and 10b . . . . .	26.	35.	4,945.	57.
<b>11</b> Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on . . . . .				
<b>12</b> Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI.) . . . . .	128.	21,893.		18,000.
<b>13 Total support.</b> (Add lines 9, 10c, 11 and 12.) . . . . .	145,348.	195,217.	344,457.	431,291.

No one disproved any statements made by Defendant in trial.

Defendant did not repost the same edited video within an hour after the appeal opinion was released. There is no episiotomy video with those same captions posted by Defendant on the Internet. Defendant posted the raw episiotomy video along with the email from Dr Laurie Gage of the USDA on the internet two days after the opinion was released as there was no court order stating she could not.

Defendant has not made over 400 blogs about Plaintiff's attorney. There are only two blogs. The purpose of the blogs was to post Turner's poor behavior with the goal of that behavior stopping.

Defendant does not "spend countless hours raising defamation as high as possible on search engine results." Defendant has not done this.

Everything posted by Defendant is the truth and not defamation or defamation with malice.

The episiotomy video is what it is, the absolute truth. Plaintiff only wants it removed as Plaintiff is embarrassed by her own cruel behavior.

There are no photos which Plaintiff have stated are defamatory. In trial Plaintiff admitted no photo was defamatory (Trial transcript pg 692/177),

Q. (BY MS. CUMMINS) What is this a picture of?

A. (BY MS. LOLLAR) It is a picture of a red bat pup hanging inside one of our bat huts.

Q. How is this defamatory?

A. It's not defamatory.

Q. Does this share proprietary data?

A. Not that I can see, no.

Q. How is this photo defamatory?

A. The photo is not defamatory.

If the Court were to order Defendant to not post the video and statements again in the future even just during the case, that would be prior restraint. Plaintiff continues to violate the law and commit cruelty. Plaintiff brags that she continues to operate on bats even though she is not a veterinarian.

### **Perjury in Reply to Motion Dismiss**

BWS is not the only sanctuary that is both GFAS and ASA accredited. Oasis Sanctuary, Project Perry, Jungle Friends Primate Sanctuary, WOLF, WildCat Ridge Sanctuary and many others have both accreditations.

Amanda Lollar is not the sole author of seven books. Most were co-authored by people with advanced degrees such as Barbara Schmidt of BCI.

1 Lollar's manual is not the definitive medical reference book for bats. The definitive  
2 medical reference is a four volume book series by [Susan Barnard of Basically Bats](#).  
3 Those books are 2,400 pages with approximately 160 medical articles about bats  
4 written by at least 100 licensed veterinarians who specialize in bats. Lollar has not gone  
5 past the 8<sup>th</sup> grade and is not a veterinarian let alone an expert.

6 Defendant Cummins never stated her true occupation was "causing havoc on the  
7 web."  
8

9 Defendant never posted copyrighted photos or proprietary information in violation of  
10 any contract. In trial Plaintiff admitted that nothing was copyrighted or proprietary.

11 There was no contract which stated the photos or information could not be shared.

12 There was no contract.

13 Defendant never posted false statements about Plaintiff.

14 Defendant was never asked to remove false statements and proprietary material  
15 from the Internet.

16 Defendant never posted a video with false captions. All the captions reflected what  
17 was happening in the video.

18 Two veterinarians gave testimony in the trial one by video. Both veterinarians stated  
19 they learned everything about bats from Lollar. When Lollar was asked how she learned  
20 about bats Lollar stated she learned through "trial and error" and the "school of life."  
21

22 Lollar has not gone past the 8<sup>th</sup> grade and is not a veterinarian. For this reason those  
23 two veterinarians are not bat experts. They are cat and dog veterinarians. Dr Jarrett  
24 didn't even realize that it's illegal and cruel to freeze a bat to death.

25 There were no experts from around the world at the trial.

Judge William Brigham did not state the captions on the video were defamatory.

The court order stated that Defendant was to remove the items from the internet and never return them. That is prior restraint which is unconstitutional making the order void.

There was no evidence ever shown of malice.

The Court never ruled that the statements in the order were defamatory. The order doesn't even have the word "defamatory" in it.

Defendant never violated the August 27, 2012 court order. Defendant never posted the video with the same captions or any of the items in the order.

The District Court's final order meant the temporary injunction was void. Defendant was allowed to post all photos and videos except the episiotomy video. In the temporary injunction Plaintiff argued that the photos and videos defame Plaintiff, share copyrighted and proprietary data. Trial court did not rule or state that the images, video were defamatory, copyrighted or proprietary.

The Appeals Court order ruled that the District Court's final order was void. Defendant could therefore post the episiotomy video and two pdf files on the Internet. These items were not defamatory. Since the District Court trial new evidence was found which support Defendant's claim that Lollar committed "animal cruelty." The main veterinarian for the USDA stated this in writing in 2011. Defendant finally got a copy of that document and others after the trial which prove the allegations.

Exhibit E contains statements which are not defamatory.

Defendant posted the video of the episiotomy on the Internet. There was no order stating it could not be posted. Defendant added the email from the main veterinarian of

1 the USDA who stated that Lollar caused “bats pain, suffering and death, violated the  
2 Animal Welfare Act.”

3 Defendant did not send the video with captions to the USDA. They received the plain  
4 video. The statements made by Dr Laurie Gage are not defamatory. Dr Gage is a bat  
5 specialist.

6 There is no video which Defendant posted on the Internet of the episiotomy video  
7 with captions.

8 The facts sought to be litigated in this case were not fully and fairly litigated in the  
9 prior action. Defendant was never told what Plaintiffs thought was defamatory in the first  
10 case. New evidence has come to light since the first case. Defendant has received  
11 many more complaints about Plaintiff from government agencies. The USDA email  
12 while written in 2011 was received after the trial.

13 Defendant’s Motion to Dismiss is not frivolous. Plaintiff did not try to mitigate the  
14 defamation. Plaintiff merely wants to squelch Defendant’s freedom of speech and right  
15 to report Plaintiff to authorities.

16 Defendant contests Plaintiff’s estimate of 35 hours to prepare a ten page document  
17 which is full of false statements and claims.

18 **Exhibits 1-29 are false, forged, perjury**

19 As per Plaintiff Lollar’s affidavit Plaintiff made the exhibits 1-29. The affidavit states  
20 they were downloaded from the Internet and are true and correct copies of the  
21 evidence. This is false. Plaintiff forged many of the documents adding non-existent  
22 comments allegedly by a “Mary Cummins” and posted in July 2015. Plaintiff did this  
23 because the original articles made by anonymous unknown people were outside of the  
24  
25

statute of limitations of one year. The articles and comments were made and posted by people other than Defendant from 2011 to about 2013 outside of the statute of limitations. Plaintiff never sued Indybay or any of the authors of the items in the trial court in Exhibit 18.

Plaintiff forged the contract in the 352<sup>nd</sup> case. Plaintiff was also caught forging a contract in another case i.e. Bat World Sanctuary vs Talking Talons. Plaintiff also forged the alleged email from Dr Gibbens of the USDA (Exhibit 42). Defendant sent FOIA requests to get a copy of the email if it existed. USDA stated they had no such document. In the meantime Plaintiff has posted this email online a few times. The email keeps changing names, dates, time, subject title... In one version of the forgery the date is June, 4, 2013 at exactly 12:00 PM, subject is FW: Bat World Sanctuary Follow Up. In another it's Thu, 12 Dec 2013 13:05:59 -0600 (CST), subject is FW: Dr. Laurie Gage In yet another the date is November 2013. Even the text of the email changes. Below are but two of the forgeries.

1 From: Dr\*\*\*\*, DVM, APHIS \*\*\*\*\*@aphis.usda.gov>  
2 To: \*\*\*\*\*  
3 Sent: Thu, 12 Dec 2013 13:05:59 -0600 (CST)  
4 Subject: RE: Dr. Laurie Gage

5 "Please note that the referenced email from Dr. Gage is not, and has not been in the official  
6 file of Bat World Sanctuary. Ms. Cummins specifically requested it. As you mention in your  
7 email, our Agency looked into the complaint against Bat World Sanctuary (made by Mary  
8 Cummins). The Agency did not find evidence of AWA (Animal Welfare Act) violations and  
9 considers the matter closed. This determination was based, in part, on the Agency's  
10 (including Dr. Gage's) evaluation of the referenced video. The individual (Mary Cummins)  
11 then published select comments from the email on the Internet. In answer to your inquiry,  
12 Dr. Gage's title is Big Cat and Marine Mammal Specialist. She does not work with bats."

13 ----- Original Message -----

14 From: "Gibbens, Robert - APHIS" <Robert.M.Gibbens@aphis.usda.gov>  
15 To: \*\*\*\*\*  
16 Sent: Tuesday, June 4, 2013 12:00 PM  
17 Subject: FW: Bat World Sanctuary Follow Up

18 Dear Ms. \*\*\*\*\*,

19 Please note that the referenced email from Dr. Gage is not, and has not been in the official file of Bat  
20 World Sanctuary. Ms. Cummins specifically requested it. As you mention in your email, our Agency  
21 looked into the complaint against Bat World Sanctuary. The Agency did not find any evidence of AWA  
22 violations and considers the matter closed. This determination was based, in part, on the Agency's  
23 (including Dr. Gage's) evaluation of the referenced video. The individual (Mary Cummins) then  
24 published select comments from the email on the Internet. In answer to your inquiry, Dr. Gage's title is  
25 Big Cat and Marine mammal Specialist. She does not work with bats.

Thank you for your interest in the welfare of animals.

Sincerely,

Robert M. Gibbens, DVM  
Director, Western Region  
USDA, APHIS, Animal Care  
2150 Centre Avenue, Bldg. B  
Ft. Collins, CO 80525  
Phone: 970-494-7478  
Fax: 970-472-9558

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All items posted in indybay.org are anonymous. The site keeps logs to flag, block  
spammers. Plaintiff could have subpoena'd the website to get the identity of the posters

in the 2010 case but never did. Any “name” added to a post or comment is anonymous. For instance someone could make comments and sign them “Jesus Christ.” Jesus did not actually make that comment. You don’t need to register to get a user name to post. There is no way for anyone to remove a comment after they’ve made it. If one were to make a comment then click “preview,” you would see a comment which looks like the forged comment. Defendant believes this is how Plaintiff made the forgeries. The comments don’t exist on the actual article.

None of the exhibits have headers or footers to show where and when the items were downloaded or printed from the internet. The sides of the Indybay posts are totally missing. Plaintiff forged a fake comment with a recent date in order to state they were within the statute of limitations. All the fake comments were made at almost the same fake time.

If you look at the pdf of the forged indybay comments you can see they are made up of different pieces edited together. Open the exhibits in a pdf viewer, editor. Then hover your mouse over the fake comment and the article and they are separate objects. They don’t even line up properly. The vertical lines are not even. The blue boxes which contain the article or comment title don’t line up on the left or right. The original article is not in proportion. In some exhibits such as 4, the image is stretched horizontally. It appears Lollar was trying to get the vertical lines to line up by stretching the image horizontally. Plaintiff Lollar added, typed the supposed url at the top of each exhibit. It’s a different font than the body. The pdf is made up of two jpg images posted on one page then printed to pdf. The pdfs were made with Microsoft Office Publisher 2007 and

1 Adobe Photoshop Elements 2.0. Microsoft Office Publisher is used to create newsletters  
2 and such. Photoshop is an image editing program. Defendant doesn't own or use either  
3 of these programs. These programs are expensive to buy. If this were a webpage  
4 printed as a pdf, the links would be active. None of the links in the forgeries is active.  
5 The name of the author of the pdfs is "A" which Plaintiff "Amanda Lollar" includes in  
6 other pdfs. Defendant has attached the actual exhibits downloaded from the same url. If  
7 you compare them side by side you see a huge difference. Below is but one page as a  
8 jpg. Forged exhibit on the left. Authentic exhibit on the right.

10 If you look at Exhibit 6 the bottom of the article does not match the bottom of the  
11 actual article. The actual bottom of Exhibit 6 is,

13 "Cummins stated she is contesting the Judge's order, requesting a new trial and  
14 appealing the decision. Cummins is currently suing Amanda Lollar and Bat World  
Sanctuary in Federal court in California for libel and defamation.

15 Mary Cummins of Animal Advocates rescues ill, injured and orphaned native wildlife for  
16 release back to the wild.

17 <http://www.AnimalAdvocates.us>

18 <http://www.animaladvocates.us>"

19 Plaintiff's exhibit 6 on the bottom states

20 "June 2011 and there are again 30,000 bats in the "wild sanctuary." Lollar never closed  
21 off the building as she promised the City. She is now asking for donations to care for the  
22 many babies and injured bats that she's picking up from the "wild sanctuary." Meanwhile  
complaints about the foul odor and guano on the streets continue to pour into the City. It  
is clear that she never intends to exclude bats from the building.

23 About rabies: Not all bats have rabies. The best way not to get rabies from a bat is to  
24 never touch a bat with your bare hands. If you see an ill, injured or orphaned bat,  
25 contact a wildlife rehabilitator or animal control. If you must pick it up, always wear  
gloves."

That actually came from a different article on Indybay which is linked below.

[https://www.indybay.org/newsitems/2011/06/15/18681982.php?show\\_comments=1](https://www.indybay.org/newsitems/2011/06/15/18681982.php?show_comments=1)

Lollar copied the bottom of a different article and posted it as the bottom of this article. Notice the text makes no sense where the paragraphs meet. There is even a link at the bottom of the article which actually links to an article made in 2012 when this article was made in 2011. Every exhibit from indybay is a forgery. Defendant will now prove the forgery for each exhibit. Defendants exhibits will be "Def\_Exhibit\_(Number)" to match each of Plaintiff's exhibits.

The other exhibits made by Plaintiff have no headers, footers, have no dates, were made by others, are outside of the statute of limitations, are not defamatory or are also manipulated.

#### Exhibit 1

Exhibit 1 was not written, posted by Defendant. The date is May 18, 2013 outside of the one year statute of limitations for defamation in Texas for this case. This exhibit is a forgery. This is link from the exhibit.

<https://www.indybay.org/newsitems/2013/05/18/18737060.php>

The real item is much longer. The real item has no comment made by "Mary Cummins" or anyone July 4, 2015 1:29 pm. The page is cut/paste of forged items. There are no headers or footers which prove it's forged. (Def Exhibit 1).

#### Exhibit 2

1 Exhibit 2 was not written, posted by Defendant. The date is April 24, 2013 outside of the  
2 one year statute of limitations for defamation in Texas for this case. This exhibit has  
3 been forged. <https://www.indybay.org/newsitems/2013/04/24/18735756.php>  
4

5 The actual page at this site contains the USDA email stating Lollar caused bats “pain,  
6 suffering and death.” There is no comment by any poster by the name “Mary Cummins”  
7 or made July 2015. There are no headers or footers which prove it’s forged.

8 The top part of the article has also been forged. The text under the image in the real  
9 article is

10  
11 “From the communication, "I have reviewed the U-Tube footage and looked at the  
12 complaint about the bat that was mishandled by Ms. Amanda Lollar of the Bat World  
13 Sanctuary. This is indeed a violation of the AWA (Animal Welfare Act). Ms. Lollar should  
14 have sought veterinary assistance for the bat with the dystocia. It would be one thing if  
15 she were only assisting a birth, but the moment Ms. Lollar realized this was a dystocia  
16 requiring an episiotomy, she should have taken the bat to her attending vet or a local  
17 veterinarian. Apologizing in the video to the bat does not solve the problem. This mother  
18 bat clearly experienced pain and suffering at Ms. Lollar's hand, so much so t hat it  
19 appeared to lose consciousness during the procedure No anesthesia was given to the  
20 bat and no pain management was offered. I believe the mother bat could have survived  
21 if it had been properly anesthetized and the pup delivered using proper surgical  
22 techniques. It is possible the pup could also have survived if this case had been  
23 properly managed by a veterinarian." This was signed by Dr. Laurie Gage USDA  
24 veterinarian.”  
25

Then the USDA email is under that. The forged exhibit only has the last part of the text of the article (Def Exhibit 2).

#### Exhibit 3

Exhibit 3 was not written, posted by Defendant. The date is May 30, 2013 outside of the one year statute of limitations for defamation in Texas for this case. There is no comment by any poster by the name of “Mary Cummins” or made July 4, 2015 at 1:02 pm. There are no headers or footers which prove it’s forged (Def Exhibit 3)

<https://www.indybay.org/newsitems/2013/05/30/18737657.php>

#### Exhibit 4

Exhibit 4 was not written, posted by Defendant. This date is March 10 2013 outside of statute of limitations. This document is a forgery. It only shows a small portion of the real exhibit. There is no comment by a “Mary Cummins” on anyone on July 4, 2015.

[https://www.indybay.org/newsitems/2013/03/10/18733386.php?show\\_comments=1](https://www.indybay.org/newsitems/2013/03/10/18733386.php?show_comments=1)

This forgery is very sloppy. The first paragraph of the article matches the real one. The photo has then been stretched horizontally to supposedly make the article line up.

There is a comment under the photo. Then the rest of the article continues! This shows someone posted an image over the article instead of under the article (Def Exhibit 4).

#### Exhibit 5

Exhibit 5 was not written, posted by Defendant. This date is February 21, 2013 outside of statute of limitations. This document is a forgery. It only shows part of the real exhibit.

There is no comment by a “Mary Cummins” or anyone on July 4, 2015 2:14 pm. There

1 are no headers or footers.

2 <https://www.indybay.org/newsitems/2013/02/21/18732538.php>

3  
4 The first paragraph of the exhibit matches the actual article. The last paragraph does  
5 not match the article. Many paragraphs are missing from the article (Def Exhibit 5).

6 Exhibit 6

7 Exhibit 6 was not written, posted by Defendant. This date is June 15, 2012 outside of  
8 statute of limitations. This document is a forgery. It only shows part of the real exhibit.

9  
10 There is no comment by a “Mary Cummins” or anyone July 4, 2015 2:28 pm. There  
11 hasn’t been a comment on these articles in years (Def Exhibit 6).

12 <https://www.indybay.org/newsitems/2012/06/15/18715506.php>

13 Exhibit 7

14 Exhibit 7 was not written, posted by Defendant. This date is June 15, 2011 outside of  
15 the statute of limitations. This item is a forgery. There is no comment by “Mary  
16 Cummins” or anyone on July 4, 2015 2:38 pm. All these forged comments were  
17 allegedly made the same day about the same time except one which stated July 9.

18  
19 Only the first three paragraphs of the real article are shown. Not only is there no  
20 comment there from 2015 or “Mary Cummins,” the title of the comment is nowhere on  
21 the internet. You have to use Yahoo.com to search for these articles as Plaintiff’s  
22 attorney forced Google to remove all the articles from Google search engine results.

23  
24 <http://www.indybay.org/newsitems/2011/06/15/18681982.php> (Def Exhibit 7).

25 Exhibit 8

Exhibit 8 was not written, posted by Defendant. This date is May 28, 2011 outside of statute of limitations. This item is a forgery. There is no comment by “Mary Cummins” or anyone on July 4, 2015 at 2:46 pm. This item is about Plaintiff’s attorney Randy Turner. Only the top six paragraphs of the article are in the exhibit.

[https://www.indybay.org/newsitems/2011/05/28/18680622.php?show\\_comments=1#18686416](https://www.indybay.org/newsitems/2011/05/28/18680622.php?show_comments=1#18686416) (Def Exhibit 8).

#### Exhibit 9

Exhibit 9 was not written, posted by Defendant. This day is May 1, 2011 outside of statute of limitations. This item is a forgery. There is no comment by “Mary Cummins” or anyone on July 4, 2015 2:57 pm. (Def Exhibit 9)

<https://www.indybay.org/newsitems/2011/05/01/18678593.php>

#### Exhibit 10

Exhibit 10 was not written, posted by Defendant. This day is August 1, 2011 outside of the statute of limitations. This article is about Plaintiff’s attorney Randy Turner and deals with a case which occurred before Defendant ever met Plaintiff. There is no comment by “Mary Cummins” or anyone July 4, 2015 3:06 pm (Def Exhibit 10).

<https://www.indybay.org/newsitems/2011/08/01/18686670.php>

#### Exhibit 11

Exhibit 11 is not a true and correct copy of a certain blog. There are no headers and footers. It’s been spliced together and edited. It is a file made by Plaintiff and printed

1 from the desktop. It isn't a download from the internet.

2 <http://amandalollarbatworldsanctuary.wordpress.com>

3  
4 Exhibit 12

5 Exhibit 12 is not a true and correct copy of a certain blog. There are no headers and  
6 footers. It's been spliced together and edited. It is a file made by Plaintiff and printed  
7 from the desktop. <http://marycummins.typepad.com/> (Def Exhibit 12).

8  
9 Exhibit 13

10 Exhibit 13 is not a true and correct copy of a YouTube account. There are no headers  
11 and footers. It's been spliced together and edited. There is no video in this link which is  
12 in Exhibit 13 <https://youtu.be/-JwGbqeicol> There is a video located here  
13 <https://www.youtube.com/watch?v=-JwGbqeicol> posted on October 14, 2012. That  
14 video and text is outside of the statute of limitations (Def Exhibit 13a)

15  
16 There is no video located at <https://youtu.be/cZL7fioluwM> There is a video located here  
17 <https://www.youtube.com/watch?v=cZL7fioluwM> posted October 14, 2012. That video  
18 and text is outside of the statute of limitations. There is no date on any other comment.

19 What is stated is the absolute truth backed up by video evidence (Def Exhibit 13b).

20  
21 Exhibit 14

22 Exhibit 14 is edited. There are no footers or headers. The full disclaimer is missing from  
23 this post. It was printed from an edited file off a desktop and not from the internet. The  
24 blog item is about Plaintiff's attorney Randy Turner and not Plaintiff. What is posted is  
25 true. Plaintiff lied and stated she was on the edge of bankruptcy when she was making

more money than ever before.

<http://texasrandyturnerrandallturnerattorney.blogspot.com/2015/04/randy-turner-lies-to-media-and-court-he.html> (Def Exhibit 14).

Exhibit 15

Exhibit 15 does not exist. There is nothing here

<http://marycumminsrealestatemarycummins.blogspot.com/2014/09/mary-cummins-california-appeal-brief.html> Defendant did file a motion against Plaintiff in court. Court documents are fair and privileged. What Defendant wrote in the actual motion is 100% the truth (Def Exhibit 15).

Exhibit 16

Exhibit 16 is in a website not controlled by Defendant. Defendant did not post that item. What is posted is true. That article includes links to government documents about Bat World Sanctuary. [http://bespirit24.rssing.com/chan-12884806/all\\_p1.html](http://bespirit24.rssing.com/chan-12884806/all_p1.html) That item was posted on a blog at <http://animaladvocateswildliferehabilitation.blogspot.com/> years ago which no longer exists. The exhibit is altered. There are no headers or footers (Def Exhibit 16).

Exhibit 17

Exhibit 17 has been altered. There are no headers or footers. This directory <http://www.animaladvocates.us/batworldlawsuit> cannot be found in Google search engine results. It's therefore not fully public. Someone would have to know about the link and hand type it in. That page has dates for each entry. The latest entry was April

1 24, 2013 which is outside of the statute of limitations. Everything in that page is the  
2 truth. Defendant removed everything from the trial court order as instructed and did not  
3 repost it. "August 31, 2012: I just received the Judge's signed order. I just removed all of  
4 the 100% truthful statements which I made about Amanda Lollar of Bat World  
5 Sanctuary. Every word I posted was the absolute truth. I believe Amanda Lollar just  
6 wanted them removed because they make her look bad. People have been reporting  
7 and complaining about Amanda Lollar for years. I replaced the missing items with \*\*\*. I  
8 will be posting the Judge's signed order. It's a public document. You can see what I  
9 deleted from this page. " While someone downloaded it June 30, 2015 that is not the  
10 date when the items were posted. Plaintiff never sent a cease and desist or demand the  
11 page be taken down in the trial court order. The statute runs from when the item was  
12 first posted. This is included in previous Exhibit.

#### 14 Exhibit 18

15  
16 Exhibit 18 has been altered. There are no headers or footers. It was printed from a file  
17 on a desktop. The highlighted part of the post was made February 20, 2013 outside of  
18 the statute of limitations. What is stated is the absolute truth and part of the police report  
19 made against the assailant. The original post was made February 20, 2013 here  
20 <http://www.animaladvocates.us/batworldlawsuit/> . That part was copy/pasted exactly.  
21 Therefore the time of the initial post is used to determine statute of limitations. One can  
22 tell the post came from the website due to background color and type font. (Previous  
23 Exhibit).

#### 24 Exhibit 19

a. Exhibit 19 has been altered. There are no headers or footers.

<https://www.facebook.com/notes/mary-cummins/amanda-lollar-bat-world-sanctuary-lose-their-usda-permit-because-of-violations-o/10151581766044691> What is posted is the truth. Evidence is in the post which prove this. The evidence is two emails from USDA from 2011. An article about a rabid bat right next door to the open wild bat sanctuary which bit a child on the cheek, a rabies warning from the bite, proof Plaintiff lost her USDA permit, photos of Lollar taken with permission by Defendant.

b. The second Facebook note does not exist (Def Exhibit 19).

Exhibit 20

Exhibit 20 has been altered. There are no headers or footers. There is no direct link to any post which could have been easily done if they existed. There is no year on any of the items. The year has intentionally been removed. The year always shows in the dates on Twitter. This has been highly edited with many parts missing. What is viewable is true. Email from USDA, Lollar stating she hasn't gone past 8<sup>th</sup> grade, photos were taken by Defendant with permission, third party article on rabies at Bat World is accurate. The Tweets are not all statements. This has all been proven in previous Exhibits.

Exhibit 21

Exhibit 21 has been altered. There are no headers or footers. This is cut/paste text and not screen captures. The year is not included when the year is in the original tweet. The tweets include USDA email from 2011, photos from 2010 and the 352<sup>nd</sup> lawsuit taken by

1 Defendant, part of Yahoo post where Plaintiff admits doing c-sections on bats who died,  
2 email from Mineral Wells health inspector stating the sanctuary smells horrible, email to  
3 Fish & Wildlife Services from city, copies of posts by Lollar, deposition transcript, 1999  
4 article about rabies at Bat World, county wide rabies alert because of rabid bat found  
5 right next to Bat World. This has all been proven in previous Exhibits.

6  
7 Exhibit 22

8 Exhibit 22 has been altered. There are no headers or footers. It was printed from an  
9 altered file on the desktop. Plaintiff reported that article to Google Yahoo who removed  
10 it from search engine results via the old void order. It is not public. That article is about  
11 search engines, Plaintiff's attorney and other people. What is posted is true.

12  
13 The following items were posted in another blog years ago which was removed. They  
14 were reposted in this blog exactly. They were all reposted November 2014. Statute of  
15 limitations runs from when they were first posted. Everything posted is the truth.

16  
17 Exhibit 23

18 Exhibit 23 has been altered. The headers and footers are missing. It is the plain video of  
19 Plaintiff trying to do an episiotomy on a bat. After the Appeals Court reversed on the  
20 court order, the plain video was reposted along with the 2011 USDA email. The video  
21 was never deemed defamatory. The USDA email was not found until after the trial.

22  
23 Exhibit 24

24 Exhibit 24 has been altered. There are no headers or footers. There is nothing in  
25 batworldsanctuary.com or .org except the top disclaimer. Everything else is framed in.

All of the posts are the truth. Almost all of these articles were posted much earlier on a blog which was removed. The first posting date is the date used for statute of limitations.

#### Exhibit 25

Exhibit 25 has been altered. There are no headers and footers. That profile only shows a summary of posts. It doesn't show the underlying posts which include evidence which prove the post. The summary includes link to years old Indybay posts which were not written by defendant. When one posts a link to an article, the title of the article will be posted as the subject. Defendant merely shared the article.

<https://plus.google.com/110292236989711223555>

Pg 2 of Exhibit 25 this is posted "Rabies, filth at Bat World Sanctuary in Mineral Wells, Texas: Indybay." That is the title of the article which was not written by Defendant. Defendant merely shared the article.

Pg 3 is a copy of a public filed legal document. It is a restraining order against Plaintiff Lollar. Legal documents are fair and privileged. There is also a copy of a 1999 newspaper article about Plaintiff and her sanctuary. It is fair, privileged, written by someone other than Defendant and was written 17 years ago outside of the statute of limitations. The article is also true. It describes a toddler who was bitten on the cheek by a rabid bat directly next door to Plaintiffs open, wild bat "sanctuary." The sanctuary was merely a very old building in great disrepair which Plaintiff allowed wild bats to live. It was a public nuisance which people had been complaining about for over 20 years because of the bats, smell and guano left on the street. In previous exhibits.

1 Pg 4 is a fair and privileged video posted by Defendant

2  
3 Pg 9 This exhibit includes links to blogs which no longer exist. Here is but one missing  
4 blog. [http://amanda-lollar---bat-world-sanctuary.blogspot.com/2014/10/amanda-lollar-is-  
6 psychotic-and-projects.html](http://amanda-lollar---bat-world-sanctuary.blogspot.com/2014/10/amanda-lollar-is-<br/>5 psychotic-and-projects.html) and another [http://amanda-lollar-bat-world-sanctuary-  
xxx.blogspot.com/](http://amanda-lollar-bat-world-sanctuary-<br/>xxx.blogspot.com/)

7 Exhibit 26

8  
9 Exhibit 26 does not exist. There is no such photo album. There are no headers or  
10 footers. Even if that album were on the internet, all of those photos, images, documents  
11 are exactly what they are. They are fair and privileged photos, and public legal  
12 documents including the 2011 USDA email. The album also states at the top that the  
13 photos were posted June 21, 2010 to April 12, 2015. There are no individual dates for  
14 the photos. The dates in the documents are from 2011 to June 2012 outside of the  
15 statute of limitations.

16 [https://plus.google.com/photos/+MaryCumminsRealEstateAppraiserAnimalAdvocates/al  
17 bums/6135907891776028673](https://plus.google.com/photos/+MaryCumminsRealEstateAppraiserAnimalAdvocates/albums/6135907891776028673)

18  
19 Exhibit 27

20 Exhibit 27 has been altered. The headers and footers are missing. The district and  
21 appeals court never ruled that the plain video was defamatory. The plain video is posted  
22 along with USDA email from 2011. Everything posted is the truth. At the top is  
23 Defendant's disclaimer which is/was posted in every blog,  
24  
25

“Amanda Lollar, Bat World Sanctuary, legal documents, public documents, animal cruelty reports, items of interest to public concern about public persons. Everything is the truth to the best of my knowledge. I post all underlying documents so you can come to your own conclusion. The rest is personal opinion and belief. If you see an error, email me with proof and I will edit or delete the item.”

Plaintiff never contacted Defendant after Defendant left Bat World June 28, 2010 about alleged defamatory items.

<https://amandalollarbatworldsanctuary.wordpress.com/2015/04/13/amanda-lollar-appeal-court-throws-out-court-order-yet-lollar-still-lies-about-it/>

The exhibit also includes a link to a video of Plaintiff Lollar trying to do an episiotomy on a conscious bat. The comments were edited. There were many comments by other people who agreed that Plaintiff Lollar committed cruelty.

<https://www.youtube.com/watch?v=t8n509HcfHY>

The last part is a blog post which has been edited. There are no headers or footers. The blog disclaimer can be clearly seen at the top. The blog has been edited. It only shows one photo. There are many photos on that page which support the text. The text is the absolute truth. It's based on the 2011 USDA email which Defendant didn't receive until after the trial. This new evidence supports all of Defendant's claims.

<https://amandalollarbatworldsanctuary.wordpress.com/2015/04/13/amanda-lollar-of-bat-world-sanctuary-defies-court-order-and-files-fake-order-to-google/>

Exhibit 28

1 Exhibit 28 is a forgery. The link posted at the top was added by Plaintiff. The link is to a  
2 blogspot blog yet directly underneath that is states it's a WordPress blog. There are no  
3 headers and footers.

4  
5 This blog does not exist. <http://randyturnerrandallturnerattorney.blogspot.com> It was  
6 removed years ago. There are dates which shows the posts were made March 14,  
7 2014, December 22, 2013, October 29, 2013 which is outside statute of limitations.

8 Pg 1 talks about a website made about Justice Bonnie Sudderth by someone else  
9 <http://www.sudderthcoverup.com> The site no longer exists but it can be found in the  
10 web archive. <http://web.archive.org/web/20110128081632/http://sudderthcoverup.com/>

11 This site was made in 2006 to 2007. It's not about Plaintiff. It's about Justice Bonnie  
12 Sudderth's brother Skylar Sudderth. Skylar was charged with allegedly raping his seven  
13 year old daughter then trying to destroy the evidence. The main part of the article is that  
14 Justice Bonnie Sudderth allegedly committed perjury on the stand when Bonnie  
15 Sudderth stated she'd been subpoena'd to her brother's bond reduction hearing. There  
16 is no subpoena in the file per the website. Judges are also not allowed to be a voluntary  
17 character witness, Canon 2 "A judge shall not testify voluntarily as a character witness."  
18 Most likely because of Bonnie Sudderth's statement that Skylar Sudderth was an  
19 "honorable" person Skylar's bond was reduced. Skylar allegedly committed suicide right  
20 before the trial was to begin.  
21

22  
23 Pg 14 – 21 is a copy/paste of a legal document publicly filed in 2013. It's outside of the  
24 state of limitations. It's a fair and privileged public legal document.  
25

Pg 21 – 27 is a copy/paste of a legal document publicly filed by someone else July 27, 2011. It was posted on a blog which hasn't existed in years. The legal document was about a California Judge who had committed misconduct in the court room. Plaintiff in that case appealed and the order was reversed.

Pg 27 Parts of books on California Judges and posts from "The Robing Room" were copy/pasted exactly. The posts were made years earlier by other people. Defendant wrote very little of what is there. The post was made August 2013 on a blog which no longer exists. They are not about Plaintiff.

<http://animaladvocateswildliferehabilitation.blogspot.com/> does not exist. All the posts were from 2013. The blogs were removed years ago.

<https://www.indybay.org/newsitems/2013/05/18/18737060.php> was not posted by Defendant. The article is about someone other than Plaintiff.

A few items are copy/paste of other people's websites and links such as Justice Bonnie Sudderth's nephew <http://www.skysudderth.com> . He thinks his father was murdered and that the courts are corrupt. He stated his father DA Sky Sudderth told him that.

Other articles have nothing to do with Plaintiff. They are older items which were reposted as you can see from the double title.

Pg 51 There is a copy/paste of a statement made by Judge Bonnie Sudderth about the unanimous Supreme Court of Texas Opinion on the value of a dog released April 5,

1 2013. Judge Bonnie Sudderth stated the following in response to the opinion on April 7  
2 2013,

3  
4 "If someone steals a sentimental photo of your dog, you can recover damages for the  
5 loss, but if the thief kills your dog, you cannot recover damages for the sentimental  
6 value of the dog itself. One sign of the complete unravelling of our society is when the  
7 laws stop making sense. This is but one example."

8 Defendant did not write or post that article. It's about Judge Brigham and was made  
9 June 17, 2012. <https://www.indybay.org/newsitems/2012/06/17/18715651.php>

10  
11 Defendant did not write or post that article. It's about Judge Brigham and was made  
12 October 22, 2012.. <https://www.indybay.org/newsitems/2012/10/22/18724308.php>

13 Defendant did not write or post that article in indybay about Judge Brigham dated May  
14 16, 2013.

15  
16 Plaintiff's attorney Randy Turner did tell Defendant in the court room before a hearing  
17 "I've known this Judge for years. He'll sign anything I put in front of him." Defendant  
18 repeated this statement to Judge Bonnie Sudderth May 2012. It is in the transcript.

19 There is no reference at all for the few remaining articles.

20  
21 Exhibit 29

22 Exhibit 29 has been altered. There are no headers or footers or links. The articles are  
23 not about Plaintiff but other third parties. There are links to documents posted in appeal.

24 They are fair and privileged legal documents. Everything is the truth.  
25

Pg 1 Defendant stated Defendant believes Justice Dauphinot committed perjury. Defendant clearly stated many times in trial that Defendant had a negative net worth. Dauphinot stated Defendant never stated that when it's in the transcript which was cited in appeal documents.

Plaintiff's attorney Randy Turner stated in a legal document that Dauphinot's son didn't have a criminal record. I posted documents which showed he does have a criminal record. This exhibit repeats itself.

Pg 31 There are links to public documents. The documents are complaints made about Plaintiff Lollar by other people and government agencies which include USDA, Texas Parks & Wildlife.

Pg 32 – 34. There are no links, headers, footers. It's been edited.

In summary every exhibit has been altered. There are no headers, footers. Not all dates include the year. The ones which do include the year are outside of the statute of limitations of one year. Some items were copy/paste of much earlier posts which were deleted.

None of these exhibits are authentic. They were never authenticated by a third party. None of them had headers, footers to show the date, location for the item. Many of them are forged. Because Plaintiff and Plaintiff's attorney Randy Turner committed perjury, forgery and fraud, this case must be dismissed with prejudice. Defendant also asks the court to make sure Plaintiffs are prosecuted for perjury, forgery and fraud.

### **Perjury in Plaintiff's Exhibit A, Sworn Affidavit of Amanda Lollar**

1 Plaintiff Amanda Lollar stated in her September 22, 2015 sworn affidavit that “every  
2 statement in this affidavit is within my personal knowledge and is true and correct.”

3 Lollar also stated “Exhibit E attached hereto is a list of 2116 false statements that Mary  
4 Cummins has posted on the internet. Exhibit E references Exhibits 1 through 29 which  
5 are attached hereto. Exhibits 1 through 29 are true and correct copies of blogs,  
6 websites, and postings on the internet where Mary Cummins has made the false  
7 statements listed in Exhibit E along with the URL’s where those statements appear. The  
8 2,116 statements in Exhibit are false. Many of these 2,116 statements are either  
9 verbatim or substantially the same as the following statements which were adjudicated  
10 to be defamatory in the first lawsuit.”  
11

12 Exhibits 1 through 29 are not true and correct copies of blogs, websites and postings  
13 on the internet. Defendant Cummins did not make the statements in most of the exhibits  
14 1- 29 or in Exhibit E. If there were any statement which was defamatory in 2012, which  
15 there weren’t, there is ample evidence today that all of the statements are indeed the  
16 absolute truth and not defamatory.  
17

18 No specific statements were adjudicated to be defamatory in the first lawsuit. The  
19 word defamation is not even in the order, judgment. Judge Brigham never stated which  
20 statements were defamatory in his oral ruling in court. Plaintiffs never even specifically  
21 stated what they felt was defamatory.  
22

23 The court order included 47 statements. In Defendant’s appeal Defendant proved  
24 every one of the 47 statements were not defamatory. Many were written by government  
25

agencies, Plaintiff's veterinarian, other people, Plaintiff herself or were not about Plaintiff but other people not a party to this case.

The Appeals court then ruled that those were merely statements Plaintiff wanted removed from the Internet. They were not the defamatory statements.

Defendant did not repost the same video captions. Defendant posted the raw video plus the 2011 USDA email by Dr Laurie Gage. Nothing in Dr Gage's email is defamatory. It's the truth and her professional expert opinion. It's also outside the statute of limitations.

Plaintiff did not prove that any statement was false or defamatory in the trial court, reply to appeal or in their reply to motion to dismiss. Plaintiff must prove the elements of defamation. These four elements are (1) the statement is a verifiable statement of fact, (2) is false or not substantially true, (3) is of and concerning Plaintiff and (4) is capable of conveying a defamatory meaning about Plaintiff. Plaintiff must also prove that Defendant made the statements. None of this was proven in the trial court or in Plaintiff's Disclosure of Evidence of Falsity or reply to motion to dismiss. Defendant has proven time and time again that the statements made by Defendant are the truth. Evidence of the truth of the statements has been posted online and in court documents.

Plaintiff didn't even prove who wrote, posted the statements. Defendant did not write or post all of those statements. Most of the remaining statements are outside the statute of limitations of one year for defamation in Texas from when they were first posted. The rest are outside of the statute of limitation for defamation in relation to the Defamation Mitigation Act. Many of the statements are not on the internet at all. Not all of those

1 statements are even public. Plaintiff's attorney used the trial court order against  
2 Defendant to force Google and others to remove the statements even though the order  
3 was not against them but Defendant. The rest were removed from search engine results  
4 and can only be found if someone knows the exact link address ahead of time. None of  
5 the statements were made in Texas but California.  
6

7 Plaintiff also has to prove damages, causation and malice. Plaintiff admitted in the  
8 trial court Plaintiff had no evidence of any damages or causation by Defendant. Plaintiff  
9 also showed no evidence of malice. Defendant posted the truth about Plaintiff to warn  
10 the public about an issue of great public concern, namely rabies, animal cruelty, non-  
11 profit fraud.  
12

13 Perjury in Lollar's Affidavit is part of Plaintiff's answer to motion to dismiss. BWS is  
14 not the only sanctuary that is both GFAS and ASA accredited. Oasis Sanctuary, Project  
15 Perry, Jungle Friends Primate Sanctuary, WOLF, WildCat Ridge Sanctuary and many  
16 others have both accreditations.

17 Amanda Lollar is not the sole author of seven books. Most were co-authored by  
18 people with advanced degrees.

19 Defendant never posted copyrighted photos or proprietary information. Plaintiff  
20 admitted in trial no photos or anything was copyrighted or proprietary.

21 Defendant never signed a contract.

22 Defendant was never asked to remove false statements or proprietary material from  
23 the Internet. Plaintiff admitted Plaintiff never contacted Defendant after Defendant left  
24 Texas.  
25

Defendant didn't lie or defame Plaintiff.

The episiotomy is not a "life saving video." The mother and baby bat both died.

Plaintiff admitted in trial that she was never trained to perform an episiotomy by a veterinarian. Plaintiff stated in trial and deposition she taught herself everything through "trial and error."

Plaintiff did not give the bat topical or oral anesthetic. Defendant is the one who handed the bat to Plaintiff. Defendant was there for every second after that to the end of the video and beyond and witnessed the entire procedure while filming it.

What Defendant stated is the truth.

BWS made twice as much money after Defendant left. BWS did not lose one penny. Plaintiff Lollar admitted in trial she had no proof of any financial damages or causation. BWS's bank records were produced and verified nothing was lost.

Plaintiffs two veterinarians are not highly trained. Neither took a course in wildlife veterinary care or bats. The veterinarians stated they learned about bats from Plaintiff who has not gone past the 8<sup>th</sup> grade.

No specific statement was deemed defamatory in the district court.

The court order did not state the 47 statements, files, video were defamatory. The word "defamation," "defamatory" is not in the order anywhere.

Defendant proved that all of those 47 statements, files, video were not defamatory in the appeals court.

Dr Laurie Gage wrote that email in 2011. Defendant did not receive it until after the trial. The trial court did not rule that an email they'd never seen was defamatory. The

1 email is what it is. If Plaintiff thought it was defamatory they should have sued Dr Gage  
2 three years ago. Dr Gage did not make any false statements in her email.

3 Plaintiff did not show any evidence of “insomnia, nervous eye tick, lack of appetite.”  
4 There are no medical bills, psychiatric bills, prescription medications, evidence of any  
5 treatment or doctor records. If Plaintiff is upset, it’s because of her own poor behavior.

6 **Perjury in Plaintiff’s Disclosure of Evidence of Falsity**

7  
8 Exhibit 1 does not contain defamatory statements made by Defendant. The items are  
9 the truth. The exhibit is beyond misleading. The actual blogs with these statements had  
10 the text linked to underlying documents which proved the statements were the truth.

11 Every time Defendant stated that Plaintiff was “uneducated” for example that statement  
12 was linked to copies of two depositions, a deposition video and Plaintiff’s own public  
13 statements. Those underlying documents show that Plaintiff Lollar did not go past the  
14 8<sup>th</sup> grade, did not go to high school, college, grad school, veterinary college or any other  
15 school. Those documents prove Plaintiff is “uneducated.”

16 The statements in exhibit 1 are the truth and not defamatory.

17 The statements in exhibit 1 were made at least two years after the June 2012 trial.  
18 The trial court did not rule that the statements in exhibit 1 were defamatory as they  
19 didn’t exist in 2012. The witnesses also did not “prove” at the 2012 trial that the  
20 statements made two years later were defamatory.  
21

22 The witnesses in trial did not prove that the statements in the trial were false or the  
23 ones in exhibit 1.  
24  
25

The witnesses in trial did not prove that Defendant made the statements in the trial. They also did not prove that Defendant made the statements in exhibit 1. The statements were made two years after the trial.

The Appeals Court also did not prove that the statements in exhibit 1 were defamatory. The statements didn't exist until after the Appeals Court released its opinion. The Appeals Court did not prove the statements were made with malice. The statements in exhibit 1 did not exist until after the district and appeals court rulings.

The captions on the episiotomy video which was included in the district court trial were not defamatory. Defendant not only recorded the video but watched the procedure up close. Plaintiff did not use anesthetic. The vagina prolapsed. Plaintiff even stated on the video that the vagina is going to prolapse.

Defendant did not send an altered video to Dr Laurie Gage of the USDA. Defendant sent the unedited video to the USDA. Defendant has never met or communicated with Dr Laurie Gage. Dr Gage is a bat expert and a licensed veterinarian.

Dr Laurie Gage did not view the video with captions. Therefore her statement could never be based on the captions but only the video.

Defendant posted Dr Laurie Gage's email which Defendant received in a FOIA request after the trial. Defendant did not edit or alter Dr Gage's words. Defendant agrees with Dr Gage's statements. If Plaintiffs thought Dr Gage defamed them, they should have sued her for defamation three years ago. Statute of limitations for defamation have run.

1 The text in exhibit 1 attached to the Disclosure of Evidence of Falsity are very  
2 misleading. They are copy/paste of only the text. The text was linked to documents  
3 which supported the statements.

4 Defendant never posted "Reason it is defamatory: Dr Robert Gibbens issued an  
5 email discounting Laurie Gage's statements and the file indicates Amanda Lollar and  
6 Bat World Sanctuary were cleared of all charges." That statement is also not true.

7 The dates of some of the text is incorrect.

8 The dates of the text are from about July 2014 to July 2015.

9 There is nothing located at batworldsanctuary.org

10 There is nothing located at batworldsanctuary.com

11 Many of these links are dead such as <https://youtu.be/-JwGbqeicol>

12 Defendant did not post anything at the following sites which are owned and run by  
13 people not associated with defendant, Indybay.org

#### 14 **Perjury in Demand Letter**

15 Items in exhibit 1 are false or misleading.

#### 16 **Affidavit of Dr Messner**

17 Dr Messner is a cat and dog veterinarian. Messner stated that Lollar taught her how  
18 to treat bats. Lollar stated she learned to treat bats by "trial and error," the "school of  
19 life." Dr Messner is not a bat expert or bat veterinarian expert. Dr Messner has not seen  
20 anyone else perform an episiotomy other than Lollar.

### 21 **VIII. ARGUMENT AND AUTHORITIES**

#### 22 **A. The Petition Must Be Dismissed Under the Texas Citizens Participation Act.**

In 2011, the Texas Legislature, joining a number of other jurisdictions, passed the Texas Citizens Participation Act (the “TCPA”), Texas’s version of an Anti-SLAPP<sup>2</sup> statute, to “encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in the government to the maximum extent permitted by law . . . .” TEX. CIV. PRAC. & REM. CODE § 27.002. The TCPA is aimed at curtailing so-called SLAPP lawsuits, which are “actions without substantial merit brought against individuals or groups with the intention of ‘silencing [the] opponents, or at least . . . diverting their resources’ . . . [and] interfering with the defendants’ past or future exercise of constitutionally protected rights.” Kathryn W. Tate, California’s Anti-SLAPP Legislation: A Summary of and Commentary on its Operation and Scope, 33 LOY. L.A. L. REV. 801, 802-03 (2000). Accordingly, the TCPA is intended to “obtain early dismissals of meritless suits which aim to chill, or retaliate against, the exercise of free speech which is in the public interest.” Williams v. Cordillera Commc’ns, Inc., No. 2:13-cv-124, 2014 U.S. Dist. LEXIS 79584, at 2 (S.D. Tex. June 11, 2014).

SLAPP lawsuits not only interfere with a defendant’s exercise of her constitutional rights, but also threaten the defendant with extreme financial liability and litigation costs, while simultaneously chilling the public’s exercise of individual rights. Dena M. Richardson, Comment, Power Play: An Examination of Texas’s Anti-SLAPP Statute and Its Protections of Free Speech Through Accelerated Dismissal, 45 ST. MARY’S L.J. 245, 253 (2014). Therefore, the TCPA is to be “construed liberally to effectuate its purpose and intent fully.” TEX. CIV. PRAC. & REM. CODE § 27.011.

1 The TCPA provides that “a court shall dismiss a legal action” if the defendant shows  
2 “by a preponderance of the evidence that the legal action is based on, relates to, or is in  
3 response to” the defendant’s: (1) exercise of the right of free speech, (2) exercise of the  
4 right to petition, or (3) exercise of the right of association. Id. § 27.005(b). Exercise of  
5 the right to petition is defined as “a communication in or pertaining to . . . a judicial  
6 proceeding [or] an official proceeding, other than a judicial proceeding, to administer the  
7 law . . . .” Id. § 27.001(4)(A). An official proceeding includes “any type of administrative,  
8 executive, legislative, or judicial proceeding that may be conducted before a public  
9 servant,” defined as one employed as an officer, employee, or agent of the government.  
10 Id. § 27.001(8), (9)(A).

12 Exercise of the right of free speech is defined as “a communication made in  
13 connection with a matter of public concern.” Id. § 27.001(3). A matter of public concern  
14 includes issues related to: (1) health or safety; (2) environmental, economic, or  
15 community well-being; (3) the government; (4) a public official or public figure; (5) or a  
16 good, product, or service in the marketplace. Id. § 27.001(7).

17 If the legal action is based on, relates to, or is in response to the defendant’s  
18 exercise of the right of free speech, the right to petition, or the right of association, then  
19 the court must dismiss the lawsuit, unless the plaintiff “establishes by clear and specific  
20 evidence a prima facie case for each essential element of the claim in question.” Id. §  
21 27.005(c). In this context, “clear” means evidence that is “unambiguous, sure, or free  
22 from doubt,” and “unaided by presumptions, inferences, and intendments.” KTRK  
23 Television, Inc. v. Robinson, 409 S.W.3d 682, 689 (Tex. App.—Houston [1st Dist.]  
24 2013, pet. denied) (internal quotations removed) (quoting BLACK’S LAW DICTIONARY  
25

268, 1167 (8th ed. 2004)); *Rehak Creative Servs. v. Witt*, 404 S.W.3d 716, 726 (Tex. App.—Houston [14th Dist.] 2013, pet. denied).

Under the TCPA, even if the plaintiff establishes by clear and specific evidence a prima facie case as to each element of his claims, “the court shall dismiss [the] legal action” if the defendant shows by a preponderance of the evidence each essential element of a valid defense. TEX. CIV. PRAC. & REM. CODE § 27.005(d). To effectuate its purpose, the TCPA “imposes high standards for data and specificity in the pleadings” for legal actions claiming injuries from the defendant’s exercise of his or her rights of free speech, petition, and association. *Culberston v. Lykos*, No. H-12-3644, 2013 U.S. Dist. LEXIS 129538, at \*5 (S.D. Tex. Sept. 11, 2013).

The mechanism by which the TCPA and other Anti-SLAPP statutes achieve their intended purpose of obtaining prompt dismissals of meritless SLAPP suits is to “shift[] the moment for judicial intervention back from the summary judgment stage to the motion to dismiss stage.” *Tate*, supra 33 LOY. L.A. L. REV. at 811. See also House Comm. on Judiciary and Civil Jurisprudence, Bill Analysis, Tex. H.B. 2973, 82d Leg., R.S. (2011) (“By allowing a motion to dismiss, CSHB 2973 would allow frivolous lawsuits to be dismissed at the outset of the proceeding, promoting the constitutional rights of citizens and helping to alleviate some of the burden on the court system.”). Accordingly, the TCPA’s statutory purpose mandates that a plaintiff filing a lawsuit that implicates the TCPA “have sufficient facts to support a claim before filing a lawsuit.” See *Tate*, supra 33 LOY. L.A. L. REV. at 842 (interpreting California’s Anti-SLAPP statute) (emphasis added). B. The Petition Relates to Cummins’ Right to Petition and Cummins’ Right of Free Speech.

1 Plaintiff's Petition is based on, relates to, and is in response to Cummins reporting  
2 incidents to law enforcement officials, posting public information act requests online and  
3 commenting about Lollar's supposed care of bats and her bat sanctuary. These actions  
4 implicate Cummins' exercise of her right to petition as defined under the TCPA.

5 Cummins' legal filings in California and Texas were a publicly-filed pleading with the  
6 Courts. A pleading filed in court is a communication in and pertaining to a judicial  
7 proceeding. TEX. CIV. PRAC. & REM. CODE § 27.001(4)(A)(i). See also Fitzmaurice v.  
8 Jones, 417 S.W.3d 627, 629-32 (Tex. App.—Houston [14th Dist.] 2013, no pet.).

9 Likewise, making a police report and speaking to other law enforcement officials is a  
10 communication in and pertaining to an official proceeding because it is a communication  
11 in an executive proceeding conducted before a public servant who was an employee of  
12 a governmental body. TEX. CIV. PRAC. & REM. CODE § 27.001(8), (9)(A). See also  
13 Comstock v. Aber, 212 Cal. App. 4th 931, 941 (2012) ("The law [under California's Anti-  
14 SLAPP statute] is that communications to the police are within SLAPP."). Plaintiff's  
15 allegations are all based on, relate to, and are in response to Cummins either making a  
16 police report, report to government agency, posting of legal documents or posting public  
17 information.  
18

19 Alternatively, Cummins' statements to third parties such as doctors, media outlets,  
20 and on social media implicate Cummins' exercise of her right of free speech under the  
21 TCPA because they are statements "made in connection with a matter of public  
22 concern." TEX. CIV. PRAC. & REM. CODE § 27.001(3). Specifically, the statements,  
23 which all relate to the reporting of a possible crime, are related to the public's health,  
24 safety, and well-being as 74% of Lollar's dead and dying bats tested positive for rabies.  
25

Id. § 27.001(7)(A), (B) (matter of public concern includes issues related to health or safety and issues related to community well-being).

These statements are also ones of public concern because Plaintiff is a limited purpose public figure. See TEX. CIV. PRAC. & REM. CODE § 27.001(7)(D) (matter of public concern includes issues related to a public figure). Although “public figure” is not defined under the TCPA, under common law defamation standards, a public figure includes both general purpose and limited purpose public figures. *Einhorn v. LaChance*, 823 S.W.2d 405, 413 (Tex. App.—Houston [1st Dist.] 1992, writ dismissed w.o.j.). An individual is a limited purpose public figure when: “(1) the controversy at issue [is] public both in the sense that people are discussing it and people other than the immediate participants in the controversy are likely to feel the impact of its resolution; (2) the plaintiff [has] more than a trivial or tangential role in the controversy; and (3) the alleged defamation [is] germane to the plaintiff’s participation in the controversy.” *Neely v. Wilson*, 418 S.W.3d 52, 70 (Tex. 2013). For example, in *New Times, Inc. v. Wamstad*, the court determined that the plaintiff was a limited purpose public figure with respect to an article published about his personal life because he was the subject of extensive media coverage over his contentious business and personal relationships and he participated in the ongoing discussion. 106 S.W.3d 916, 922-25 (Tex. App.—Dallas 2003, pet. denied). The court explained that the publicity issue turns on “whether the public actually is discussing a matter, not whether the content of the discussion is important to public life.” *Id.* at 925. Here, the controversy is public because Plaintiff has achieved public attention through her national press releases, press conferences, direct contact with media, being interviewed in many media articles and books. Lollar also

1 posts all of her legal documents online, private and public information about Defendant,  
2 has written many articles about the case and even made, posted over 400 blogs  
3 devoted only to harassing, defaming, libeling, threatening Defendant in domains she  
4 purchased with Defendant's name in them, e.g. marycumminsmarycummins.com.  
5

6 The community is impacted because the public has exhibited interest in media  
7 stories about Plaintiff and Cummins and the events which transpired between them.  
8 Finally, Plaintiff occupies a central role in the controversy as one of the main individuals  
9 involved, and the alleged defamatory statements stem directly from Plaintiff's role in the  
10 controversy. Accordingly, for the now-public controversy between Plaintiff and  
11 Cummins, Plaintiff is a limited purpose public figure under the TCPA and for purposes of  
12 his defamation claim. Plaintiff's bringing this public lawsuit not under seal or with Doe  
13 names is further proof that Plaintiff has thrust herself into this very public debate.

14 For the above reasons, the Petition falls under the TCPA's language as a lawsuit  
15 that is based on, relates to, or is in response to Cummins' exercise of her right to  
16 petition and her right of free speech. See TEX. CIV. PRAC. & REM. CODE § 27.005(b).  
17 The Court must therefore dismiss the Petition unless Plaintiff can show by clear and  
18 specific evidence a prima facie case for each essential element of his claims or if  
19 Cummins establishes a valid defense by a preponderance of the evidence. Id. §  
20 27.005(c), (d). Because the evidence establishes such defenses, which are in turn  
21 dispositive of the issues irrespective of Plaintiff's offer of proof, Cummins addresses  
22 these defenses first.  
23

24 **B. The Petition Must Be Dismissed Under the Texas Defamation Mitigation Act.**  
25

Texas Code of Civil Procedure Section 73.051 is the Texas Defamation Mitigation Act. The purpose 73.052 is to provide a method for a person who has been defamed by a publication or broadcast to mitigate any perceived damage or injury. This subchapter applies to a claim for relief, however characterized, from damages arising out of harm to personal reputation caused by the false content of a publication. This applies to all publications, including writings, broadcasts, oral communications, electronic transmissions, or other forms of transmitting information. In this case a request for retraction was not made. Plaintiff admits they never contacted Defendant after June 2010. A request for retraction was not made in the 2010 352<sup>nd</sup> case. A request for retraction was not made in this case until long after the complaint was filed. The purpose of this act was to stop frivolous, meritless defamation lawsuits exactly like this one.

Sec. 73.055. Request for Correction (a) A person may maintain an action for defamation only if:

- (1) the person has made a timely and sufficient request for a correction, clarification, or retraction from the defendant; or
  - (2) the defendant has made a correction, clarification, or retraction.
- (b) A request for a correction, clarification, or retraction is timely if made during the period of limitation for commencement of an action for defamation.
- (c) If not later than the 90th day after receiving knowledge of the publication, the person does not request a correction, clarification, or retraction, the person may not recover exemplary damages.
- (d) A request for a correction, clarification, or retraction is sufficient if it:

- 1 (1) is served on the publisher;
- 2 (2) is made in writing, reasonably identifies the person making the request, and is
- 3 signed by the individual claiming to have been defamed or by the person's authorized
- 4 attorney or agent;
- 5 (3) states with particularity the statement alleged to be false and defamatory and, to the
- 6 extent known, the time and place of publication;
- 7 (4) alleges the defamatory meaning of the statement; and
- 8 (5) specifies the circumstances causing a defamatory meaning of the statement if it
- 9 arises from something other than the express language of the publication.
- 10
- 11 (e) A period of limitation for commencement of an action under this section is tolled
- 12 during the period allowed by Sections [73.056](#) and [73.057](#).

13 Defendant has disclaimers posted on all blogs and web pages for years (Exhibit 53).

14 The disclaimers basically state “Amanda Lollar, Bat World Sanctuary, legal documents,

15 public documents, animal cruelty reports, items of interest to public concern about

16 public persons. Everything is the truth to the best of my knowledge. I post all underlying

17 documents so you can come to your own conclusion. The rest is personal opinion and

18 belief. If you see an error, email me with proof and I will edit or delete the item.”

19

20 Plaintiff has never made a request for retraction before filing this complaint or the

21 previous one. A request should have been made during the statute of limitations of a

22 year. It was not made. Plaintiff did not make a request for retraction within 90 days of

23 publication of the item.

24

25

Plaintiff filed this complaint April 15, 2015. Defendant accepted this complaint May 22, 2015. Plaintiffs had not sent a cease and desist letter, list of alleged defamatory items or proof of falsity before filing this action.

Plaintiff's attorney Randy Turner sent a demand letter July 15, 2015 to Defendant. August 3, 2015 Defendant sent an email requesting proof that the items are defamatory. August 27, 2015 Plaintiff's attorney sent "Disclosure of Evidence of Falsity." September 16, 2015 Defendant sent two emails and reply to "Disclosure of Evidence of Falsity" (Previous Exhibits). The communications stated that Plaintiff did not send any proof of falsity. Plaintiff merely falsely states that other people and the courts stated that all the specific items attached to Plaintiff's July 15, 2015 letter are defamatory. The District and Appeals court did not rule or state that those items are defamatory. Most of the items in the letter were made two years after the June 2010 trial. Defendant removed all items in the August 27, 2012 order and did not replace them ever. Therefore none of those statements were even considered in the district court or appeals court.

The list of items attached to the demand letter as Exhibit 1 are posts made from July 2014 to April 2015. Some are listed as 2015 when they are 2014. None of these items could be defamatory as a demand letter was not sent before filing this frivolous complaint. The District and Appeals court never ruled on these statements which were made two years after the trial.

Plaintiff has not even stated what they feel is defamatory or how it is defamatory. Plaintiff never showed the elements of defamation in the district or appeals court. The final August 27, 2012 court order in the 352<sup>nd</sup> case (Exhibit 54) does not state that any of the items to be permanently removed in the order are defamation. The order which

1 was void as it included prior restraint merely states Defendant is to remove some  
2 sentences and a video which Defendant did. It further states "All other relief not  
3 expressly granted in this judgment is denied." 352<sup>nd</sup> Court did not state in the judgment  
4 that anything was defamatory or made with malice. For this reason this petition must be  
5 dismissed.

6 Just to show the court how biased the 352<sup>nd</sup> case was Plaintiff's attorney Randy  
7 Turner stated in the trial that there can be no prior restraint in the court order (Trial  
8 transcript 715/200 lines 1-7) Turner examines Lollar,  
9

10 Q. Now, do you understand that -- or it's your understanding that under the law the  
Court cannot order her to not put things up in the future, you understand that?

11 A. I understand that.

12 Q. That's called a prior restraint and we have talked about that?

13 A. Yes.

14 Turner then wrote the order himself and included prior restraint.

15 "IT IS ORDERED that Mary Cummins be permanently enjoined and she is ORDERED  
16 to immediately and permanently remove from the internet the following statements, files,  
and any video recording of any episiotomy that was recorded or made at Bat World  
Sanctuary."

17 Randy Turner intentionally included unconstitutional prior restraint in the order.

18 **C. Cummins Has Established by a Preponderance of the Evidence of Valid  
19 Defenses to the Claims in The Petition.**

20 **1. Statements In or Relating to the Fair Reports to Authorities are Absolutely  
21 Privileged.**

22 Statements published during the course of a judicial proceeding, including statements  
23 in an affidavit filed with a court, are absolutely privileged. Bird v. W.C.W., 868 S.W.2d  
24 767, 771 (Tex. 1994). A party's statements in pleadings, affidavits, and other papers in  
25 a lawsuit, including statements made in litigation in another jurisdiction, are absolutely

privileged and cannot give rise to a cause of action. *Davis v. Davis*, 734 S.W.2d 707, 711-12 (Tex. App.—Houston [1st Dist.] 1987, writ ref'd n.r.e.). The privilege is absolute because it applies even if the statement was published negligently or with malice, or even if the statement was false. *James v. Brown*, 637 S.W.2d 914, 916 (Tex. 1982); *Reagan v. Guardian Life Ins. Co.*, 166 S.W.2d 909, 912 (Tex. 1942).

The absolute privilege also extends to out-of-court communications bearing some relationship to the judicial proceeding. *Riley v. Ferguson*, No. 01-09-00350-CV, 1999 Tex. App. LEXIS 2604, at \*9 (Tex. App.—Houston [1st Dist.] Apr. 8, 1999, pet. denied) (“The standard is not relevance, but only some relation, and all doubt should be resolved in favor of the communication’s relation to the proceeding.”) (emphasis original). In *Riley*, the court held that a defendant mailing portions of a pleading to owners and the manager of a condominium where the plaintiff was a co-owner was absolutely privileged. *Id.* at \*8-11. See also *Hill v. Herald-Post Publ’g Co.*, 877 S.W.2d 774, 782-83 (Tex. App.—El Paso), *aff’d in part, rev’d in part on other grounds*, 891 S.W.2d 638 (Tex. 1994) (delivering pleadings in pending litigation to news media did not amount to a publication outside of judicial proceedings because the media could have found the pleadings on their own accord).

Accordingly, Cummins’ statements in legal filings are absolutely privileged because they were made in the course of a judicial proceeding. Furthermore, Cummins’ statements on social media pertained to the filing of the legal documents and corresponded to the facts alleged therein.

## **2. Statements to Law Enforcement Officials Are Qualifiedly Privileged.**

1 Other statements Plaintiff complains of are qualifiedly privileged. A qualified privilege  
2 exists for any statements made without actual malice that: (1) “concern[] a subject  
3 matter of sufficient interest to the author, or [are] in reference to a duty owed by the  
4 author,” and (2) are “communicated to another party with a corresponding interest or  
5 duty.” *Gonzalez v. Methodist Charlton Med. Ctr.*, No. 10-11-00257-CV, 2011 Tex. App.  
6 LEXIS 9613, at \*34 (Tex. App.—Waco Dec. 7, 2011, no pet.).  
7

8 The privilege applies to “initial communication[s] of alleged wrongful or illegal acts to  
9 an official authorized to protect the public from such acts.” *Clark v. Jenkins*, 248 S.W.3d  
10 418, 432 (Tex. App.—Amarillo 2008, pet. denied). A police officer is a public official as a  
11 matter of law. *Pardo v. Simons*, 148 S.W.3d 181, 189 (Tex. App.—Waco 2004, no pet.).  
12 The privilege is qualified because it can be lost on a showing that the defendant acted  
13 with actual malice in making the statement. *Randall’s Food Markets, Inc. v. Johnson*,  
14 891 S.W.2d 640, 646 (Tex. 1995). The burden to show the defendant made the  
15 statement with actual malice rests with Plaintiff. *Marathon Oil Co. v. Salazar*, 682  
16 S.W.2d 624, 631 (Tex. App.—Houston [1st Dist.] 1984, writ ref’d n.r.e.). In *Halbert v.*  
17 *City of Sherman*, the Fifth Circuit held that a qualified privilege applied to a security  
18 guard’s statement to police officers that a truck driver was under the influence of drugs,  
19 even though the statement was false. 33 F.3d 526, 530 (5th Cir. 1994). See also *Zarate*  
20 *v. Cortinas*, 553 S.W.2d 652, 655 (Tex. Civ. App.—Corpus Christi 1977, no writ) (“It is  
21 obviously vital to our system of criminal justice that citizens be allowed to communicate  
22 to peace officers the alleged wrongful acts of others without fear of civil action for  
23 honest mistakes.”).  
24  
25

Cummins' statements to Police, Government Agencies and any subsequent statements to other law enforcement officials enjoy a qualified privilege because they were made to public officials as part of their duty to protect the public. These statements retain their privileged status even if made as an honest mistake so long as not made with actual malice.

Accordingly, the statements in the Reports to Authorities and comments bearing some relation to the reports are absolutely privileged, and thus are not actionable, even if they are false and if Cummins acted with malice in making them (which she did not). The statements to law enforcement officials, government agencies qualifiedly privileged, and are therefore not actionable because Cummins has established the privilege by a preponderance of the evidence.

**D. Plaintiff Cannot Meet Her Burden of Proving by Clear and Specific Evidence a Prima Facie Case for Each Essential Element of Her Claims.**

The claims asserted in the Petition must also be dismissed because Plaintiff cannot meet her burden of proving by clear and specific evidence every essential element of each of his claims. In fact Plaintiffs have failed to state a claim and have not included one bit of evidence of any claim in the complaint.

**1. Defamation and Defamation Per Se Claims**

To state a claim for defamation, Plaintiff must prove: (1) Cummins published a statement, (2) that was defamatory concerning Plaintiff, and (3) Cummins published the statement while acting with actual malice. Neely, 418 S.W.3d at 61. Actual malice is defined as knowledge a statement was false or reckless disregard for its falsity, and reckless disregard occurs where the speaker "entertained serious doubts as to the truth

1 of his publication.” Id. at 69 (quoting Isaacks, 146 S.W.3d at 162). Plaintiff also bears  
2 the burden of proving the falsity of the statement because he is a limited purpose public  
3 figure.<sup>18</sup> Casso v. Brand, 776 S.W.2d 551, 554 (Tex. 1989) (requiring a public figure  
4 plaintiff to prove falsity even when suing a non-media defendant), superseded on other  
5 grounds by, TEX. R. CIV. P. 166a(i). Here, Plaintiff is a limited purpose public figure  
6 because the controversy at issue between Plaintiff and Defendant is public, Plaintiff  
7 plays a direct role in the controversy, and the defamatory statements are directly related  
8 to the controversy. See Wamstad, 106 S.W.3d at 925.

9  
10 For the reasons set forth above, Plaintiff cannot meet her burden of producing clear  
11 and specific evidence that any statements were false or that Cummins acted with actual  
12 malice in publishing them. Because the evidence shows Cummins believed her  
13 statements were true at the time she made them, Plaintiff cannot produce clear  
14 evidence Cummins knew her statements were false or entertained serious doubts about  
15 their falsity, as required to show actual malice. On top of all of this NONE of Cummins’  
16 statements were false. This was specifically proven in Defendant’s reply brief in the  
17 appeals court.

18  
19 Finally, Plaintiff lacks clear and specific evidence that some of the alleged  
20 statements were actually defamatory. Plaintiff has not alleged what specific defamatory  
21 statements were allegedly made by Cummins but has merely assumed that defamatory  
22 statements were made. For all the foregoing reasons, Plaintiff’s defamation and  
23 defamation per se claims must be dismissed in their entirety because these claims lack  
24 clear and specific evidence of one or more essential elements as they relate to each of  
25 the alleged defamatory statements.

## **2. Breach of Contract Claims**

Plaintiff does not offer any proof of a contract or breach of contract. This identical claim was made in the previous case 352-248169-10. In Appeal the breach of contract claim was reversed<sup>45</sup>. Plaintiff brings this false claim to harass Defendant with this meritless and frivolous lawsuit.

If the Petition is not dismissed, the Court is advised that Defendant will file a counter complaint for harassment, defamation, fraud, perjury and abuse of process against Amanda Lollar and her attorney Randy Turner. Proceedings will be recorded. Other evidence may be presented at hearing.

The original Motion was filed July 2015 with a FIAT requesting a hearing date. Defendant was instructed by the court to delete the FIAT and refile. Defendant did that. Defendant had requested hearing dates after it was filed but did not receive one until recently.

Defendant sent notice to the Court and Plaintiff's attorney Turner that all documents, exhibits, evidence must be submitted before the hearing as the hearing is telephonic. As of today Defendant has not received any exhibits, evidence. If no exhibits, evidence are received well before the hearing to give Defendant time to research, Defendant will object to that evidence being submitted at the hearing. If Turner intends to present bank records which are under a protective order in another case in the February 16, 2016 hearing, Defendant will object. Any bank statements are not to be shared publicly or added to any legal filing. The hearing is public.

## **IX. CONCLUSION**

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<sup>45</sup> <http://www.search.txcourts.gov/Case.aspx?cn=02-12-00285-CV&coa=coa02>

1 Defendant Cummins requests that Plaintiff's claims in Plaintiff's Petition be  
2 dismissed pursuant to the Texas Citizens Participation Act, the Defamation Mitigation  
3 Act, failure to state a claim for defamation, lack of jurisdiction, statute of limitations,  
4 perjury, forgery, fraud and frivolously filing the breach of contract claim which was  
5 previously dismissed in Appeals Court. Defendant requests the Court award her costs,  
6 fees, and other expenses incurred in defending against Plaintiff's Petition, and seeks all  
7 other relief to which she may be entitled. Plaintiff and Plaintiff's attorney Randy Turner  
8 should be prosecuted for forgery, fraud and perjury. Turner should be immediately  
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Mary Cummins, Defendant Pro se

645 W 9<sup>th</sup> St, #110-140  
Los Angeles, CA 90015-1640  
Phone 310-877-4770  
Email: [mmmaryinla@aol.com](mailto:mmmaryinla@aol.com)



**DECLARATION OF PLAINTIFF MARY CUMMINS**

I, MARY CUMMINS, declare as follows:

1. I am Mary Cummins Plaintiff in pro per. I make this declaration on my personal knowledge of the facts set forth herein.
2. This motion was written by me, Mary Cummins, a pro se who is not an attorney.
3. Every statement in the motion is the absolute truth to the best of my knowledge and can be verified with physical exhibits and evidence.
4. Attached to DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S PETITION PURSUANT TO THE TEXAS CITIZENS PARTICIPATION ACT, DEFAMATION MITIGATION ACT as Exhibits are true and correct copies of originals.
5. Every footnote in this brief links to the actual document listed in the brief. The linked files are included in this reply.
6. I suffered an injury at BWS in Texas. I herniated, ruptured a disc in my back. I cannot travel, sit or stand for more than a very few minutes at a time. I am awaiting surgery.
7. I am indigent, do not have a job, don't own a home or car, have no assets, no bank accounts or income. I will have to proceed as indigent in this case.
8. I receive state aid for free medical insurance Medi-Cal.
9. I didn't have money to get this notarized.

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

Executed on February 8, 2016 at Los Angeles, California.



By: MARY CUMMINS

1  
2 **CERTIFICATE OF CONFERENCE**

3 February 3, 2016 and February 8, 2016 I sent a letter, notice to the court and Randy  
4 Turner stating I will be filing an amended motion to dismiss, brief in support with all  
5 exhibits necessary for the February 16, 2016 hearing before the hearing. I received no  
6 reply or opposition.

7 **CERTIFICATE OF SERVICE**

8 I, Mary Cummins, hereby certify that a TRUE COPY of the above **DEFENDANT'S**  
9 **AMENDED UNOPPOSED BRIEF IN SUPPORT OF MOTION TO DISMISS**  
10 **PLAINTIFF'S PETITION PURSUANT TO THE TEXAS CITIZENS PARTICIPATION**  
11 **ACT, DEFAMATION MITIGATION ACT** was served on the Plaintiffs' Attorney of record  
12 by efiletexas.gov at

13 **Randy Turner**  
14 **Law Offices of Randall E. Turner, PLLC**  
15 4255 Bryant Irvin Rd. Suite 210  
16 Fort Worth, TX 76109  
17 Tel.: 817-420-9690  
18 Fax: 817-887-5717  
19 randy@randyturner.com  
20 this 8<sup>th</sup> Day of February 2016

21  
22  
23  
24  
25  


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26 Mary Cummins, Defendant Pro se  
27 645 W 9<sup>th</sup> St, #110-140  
28 Los Angeles, CA 90015-1640  
29 Phone 310-877-4770  
30 Email: [mmmaryinla@aol.com](mailto:mmmaryinla@aol.com)