

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

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2013 FEB 22 PM 2:04  
CENTRAL DISTRICT COURT  
LOS ANGELES  
BY: [Signature]

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 MARY CUMMINS  
11 Plaintiff

12 v.

13 ERIC SHUPPS  
14 Defendant

) Case No. CV11 08081 DMG (MANx)

) **THIRD AMENDED COMPLAINT**  
) **FOR DAMAGES**

) (Defamation, Defamation per se,  
) Interference with Business Relations,  
) Interference with Prospective Economic  
) Advantage, Infliction of Emotional  
) Distress)

) **DEMAND FOR JURY TRIAL**

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

19 **INTRODUCTION**

20  
21 1. This is a diversity action against Defendant Eric Shupps, asserting claims for  
22 defamation, defamation per se, interference with business relations, interference with  
23 prospective economic advantage and infliction of emotional distress. Plaintiff's action  
24 arises out of Defendant Eric Shupps (hereinafter "Defendant") posting on the Internet  
25 knowingly false and fraudulent statements about Plaintiff and other misconduct  
26 resulting in financial damage, public ridicule and emotional distress. Plaintiff  
27 incorporates her Declaration attached to this complaint as part of the complaint.

28 ///

**JURISDICTION**

2. This court has subject matter jurisdiction based on complete diversity of citizenship pursuant to 28 U.S.C. §1332. Damages resulting from the matter exceed \$75,000 exclusive of costs.

**VENUE**

3. Venue in this district is proper under 28 U.S.C. §1391(a) because a substantial part of the events or omissions giving rise to the damages occurred in this district in Los Angeles County and Plaintiff lives in this district.

**PARTIES**

4. Plaintiff Mary Cummins is an individual, a resident, a citizen and a licensed real estate appraiser doing business in Los Angeles County, California.

5. Plaintiff is associated with Animal Advocates, a non-profit corporation with a principal place of business in Los Angeles County, California.

6. Defendant Eric Shupps is a resident of Fort Worth, Texas.

**STATEMENT OF FACTS**

7. Plaintiff is the founder of non-profit organization Animal Advocates located in California. Plaintiff is permitted under license by the United States Department of Agriculture (USDA) and the California Department of Fish & Game (CADFG) to possess, rescue and rehabilitate ill, injured and orphaned native wildlife for release back to the wild. Plaintiff is trained, experienced and permitted under licenses to care for coyotes, bobcats, foxes, raccoons, opossums, skunks and all other small mammals including bats.

8. Plaintiff has published CADFG approved manuals on wildlife rehabilitation and instructs CADFG accredited classes to wildlife rehabilitators, veterinarians and animal care professionals.

9. Plaintiff has been trained at the Rio Hondo Police Academy and the California State Humane Association Animal Law Enforcement Academy to investigate animal

1 cruelty and neglect. Plaintiff is currently on the Humane Society of the United States  
2 (HSUS) National Disaster Animal Response Team which handles animal cruelty and  
3 neglect cases.

4 10. Plaintiff is a licensed real estate appraiser and expert witness in Los Angeles,  
5 California.

6 11. Plaintiff's greatest asset is Plaintiff's personal business reputation and the  
7 Defendant alleged herein has made every effort to destroy Plaintiff's reputation.

8 12. Defendant was supposedly an "expert witness" in a case involving Plaintiff  
9 in Texas. The defamatory items and images which Shupps posted on the Internet about  
10 Plaintiff were not part of that case. They were posted after the case ended. Most of the  
11 items have absolutely nothing to do with the case or his testimony and are only about  
12 Plaintiff.

13 13. Defendant has posted defamatory comments and articles about Plaintiff on  
14 the Internet. Defendants have falsely posted the following statements;

15 • Mary Cummins shows you "how to commit defamation without getting  
16 caught."

17 • "Mary Cummins is charged with criminal contempt of court."

18 • "Mary Cummins uses googlebombs to spread defamation: [http://](http://marycumminsgooglebomb.com)  
19 [marycumminsgooglebomb.com](http://marycumminsgooglebomb.com)."

20 • "Mary Cummins admits to being involved over 20 lawsuits and being sued 4  
21 times for defamation: <http://marycumminslottorandyturnerattorney.com>."

22 • "Cummins posted online that plaintiffs had LOST their motion for sanctions.  
23 Say what? Guess that wasn't an accurate representation of the proceedings, now was  
24 it? But then, it's become quite obvious that Mary just isn't all that good with the  
25 truth."

1 14. Defendant posted a graphic image on <http://marycumminsgooglebomb.com>  
2 that purports to demonstrate that Plaintiff posted supposedly defamatory articles about  
3 others on many different websites and blogs.

4 15. All of these statements and more are false and were intentionally made with  
5 malicious intent to destroy the personal and business reputation of Plaintiff, and to  
6 destroy Plaintiff's relationship with business contacts besides cause emotional distress.  
7 Here are but a few specific examples;

8 15 a. On July 7, 2012 Defendant posted on Twitter as user @eshupps "how to  
9 commit defamation without getting caught" and "ME: unfucking believable" (Exhibit  
10 1).

11 15 b. On July 9, 2012 Defendant posted on Twitter as user @CitizenWatcher1  
12 "Mary Cummins is charged with criminal contempt of court" (Exhibit 2).

13 15 c. July 6, 2012 Defendant posted on Twitter as user @truthaboutmary "Mary  
14 Cummins uses googlebombs to spread defamation: [http://](http://marycumminsgooglebomb.com)  
15 [marycumminsgooglebomb.com](http://marycumminsgooglebomb.com)" (Exhibit 3).

16 15 d. July 6, 2012 Defendant posted on Twitter as user @truthaboutmary "Mary  
17 Cummins admits to being involved in over 20 lawsuits and being sued 4 times for  
18 defamation: <http://marycumminslosttorandyturnerattorney.com> " (Exhibit 4).

19 15 e. August 23, 2012 Defendant posted on <http://truthaboutmary.wordpress.com>  
20 "Cummins posted online that plaintiffs had LOST their motion for sanctions. Say  
21 what? Guess that wasn't an accurate representation of the proceedings, now was it?  
22 But then, it's become quite obvious that Mary just isn't all that good with the  
23 truth" (Exhibit 5).

24 16. All of the above statements of facts made by Defendant are completely  
25 untrue. Many more defamatory statements were made by Defendant.

26 17. Defendant's statements are not protected freedom of speech. The statements  
27 are still online to this day. Defendant did not remove them after being notified in  
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1 writing that they were false and defamatory. They were posted with malice as  
2 Defendant knew they were not true.

3 18. Defendant did not make these statements in court or as an expert witness in  
4 the Texas case. The statements are therefore not privileged. Defendant made and  
5 posted these statements and the diagram as a private individual after the case  
6 concluded. They are therefore not protected.

7 19. Defendant’s libel and defamation per se are harming Plaintiff’s business  
8 relations and causing injury to Plaintiff’s existing and future economic relationships  
9 besides inflicting emotional distress.

10 20. Defendant was sent two cease and desist emails (Exhibits 6, 7) asking that he  
11 remove his defamation. Plaintiff threatened to sue Defendant for defamation if he did  
12 not remove his defamation. Defendant never removed his defamation and Plaintiff was  
13 forced to sue him.

14 21. Subpoena results from WordPress and Google revealed the identity of the  
15 Twitter user names to be Eric Shupps, IP address 66.182.229.170, email address  
16 truthaboutmary@hotmail.com, zip code of user 76020, area code of user 817 which  
17 match Defendant’s identifying information.

18 **CLAIM ONE**

19 (Defamation)

20 (California Civil Code §§ 44, 45a, and 46)

21 Plaintiff realleges and incorporates herein the allegations of paragraphs 1  
22 through 21 of this complaint, as though fully set forth herein.

23 Defendant knowingly published false statements of fact such as but not limited  
24 to the following, Mary Cummins shows you “how to commit defamation without  
25 getting caught,” “Mary Cummins is charged with criminal contempt of court,” “Mary  
26 Cummins uses googlebombs to spread defamation: http://  
27 marycumminsgooglebomb.com,” “Mary Cummins admits to being involved over 20  
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1 lawsuits and being sued 4 times for defamation: [http://](http://marycumminslosttorandyturnerattorney.com)  
2 [marycumminslosttorandyturnerattorney.com](http://marycumminslosttorandyturnerattorney.com),” “Cummins posted online that plaintiffs  
3 had LOST their motion for sanctions. Say what? Guess that wasn’t an accurate  
4 representation of the proceedings, now was it? But then, it’s become quite obvious that  
5 Mary just isn’t all that good with the truth.” Defendants knew or should have known  
6 that the statements of fact made against Plaintiff were false.

7 Defendants were not privileged to publish false statements about Plaintiff.

8 The false statements published by Defendants have a natural and inherent  
9 tendency to injure Plaintiff’s reputation and expose Plaintiff to public ridicule and  
10 shame.

11 Defendants acted with malice, oppression and fraud in publishing the false  
12 statements of fact as described herein.

13 As a direct result of Defendants’ conduct set forth herein, Plaintiff has suffered  
14 and will continue to suffer lost income, damages to reputation, shame, humiliation, and  
15 emotional suffering.

16 **CLAIM TWO**

17 (Defamation Per Se)

18 (California Civil Code § 45a)

19 Plaintiff realleges and incorporates herein the allegations of paragraphs 1  
20 through 21 of this complaint, as though fully set forth herein.

21 Defendant knowingly published false statements of fact such as but not limited  
22 to “Mary Cummins is charged with criminal contempt of court,” “Mary Cummins  
23 uses googlebombs to spread defamation,” “Mary Cummins admits to being involved  
24 over 20 lawsuits and being sued 4 times for defamation,” “Cummins posted online that  
25 plaintiffs had LOST their motion for sanctions. Say what? Guess that wasn’t an  
26 accurate representation of the proceedings, now was it? But then, it’s become quite  
27 obvious that Mary just isn’t all that good with the truth,” and “how to commit  
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1 defamation without getting caught.” Defendants knew or should have known that the  
2 statements of fact made against Plaintiff were false.

3 Defendant was not privileged to publish false statements about Plaintiff.

4 The false statements published by Defendant have a natural and inherent  
5 tendency to injure Plaintiff’s reputation and expose Plaintiff to public ridicule and  
6 shame.

7 Defendant acted with malice, oppression and fraud in publishing the false  
8 statements of fact as described herein. Defendant was sent a cease and desist stating  
9 that the statements were false and defamatory yet Defendant did not remove them.

10 The false statements of fact published by Defendant constitute defamation per  
11 se, i.e. broadcast or written publication of a false statement about another which  
12 accuses him/ her of a crime, immoral acts, inability to perform his/her profession,  
13 having a loathsome disease or dishonesty in business. Defendant posted that Plaintiff is  
14 a liar, was charged with **criminal** contempt of court and sets off bombs which is not  
15 true.

16 As a direct result of Defendant’s conduct set forth herein, Plaintiff has suffered  
17 and will continue to suffer lost income, damages to reputation, shame, humiliation, and  
18 emotional suffering.

19 **CLAIM THREE**

20 (Intentional Interference with Business Relations)  
21 (California Business and Professions Code § 17200)

22 Plaintiff realleges and incorporates herein the allegations of paragraphs 1  
23 through 21 of this complaint, as though fully set forth herein.

24 Plaintiff has a real estate appraisal business and non-profit organization.

25 Defendant intended to damage and have damaged Plaintiff personally, Plaintiff’s  
26 real estate business and non-profit organization Animal Advocates. Because of  
27  
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1 Defendant's defamation Plaintiff was fired from employment. Her employer stated that  
2 Defendant's blog truthaboutmary.wordpress.com was the reason she was fired.

3 **CLAIM FOUR**

4 (Intentional Interference with Prospective Economic Advantage)  
5 (California Business and Professions Code § 17200)

6 Plaintiff realleges and incorporates herein the allegations of paragraphs 1  
7 through 21 of this complaint, as though fully set forth herein.

8 Defendant's wrongful conduct is a substantial factor in causing injury to  
9 Plaintiff's existing and future economic relationships. Again, Plaintiff was fired from  
10 employment because of Defendant's defamation in his blog. Plaintiff has lost business  
11 because of this defamation.

12 **CLAIM FIVE**

13 (Intentional Infliction of Emotional Distress)

14 Plaintiff realleges and incorporates herein the allegations of paragraphs 1  
15 through 21 of this complaint, as though fully set forth herein.

16 Defendant's conduct was outrageous.

17 Defendant intended to cause Plaintiff emotional distress and they acted with  
18 reckless disregard of the rights, privileges and economic advantages of Plaintiff.

19 As a direct consequence of Defendant's actions as described herein, Plaintiff  
20 suffered and continues to suffer severe emotional distress.

21 Defendant's conduct was a substantial factor in causing Plaintiff's severe  
22 emotional distress.

23 **REQUEST FOR PERMANENT INJUNCTION**

24 Upon final trial of the merits of this cause, Plaintiff requests that this Court enter  
25 an order permanently enjoining Defendant from allowing the false statements  
26 described above to remain on the Internet, be reposted on the Internet or  
27 communicated in any form.  
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**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment against Defendant for:

General and special damages, in an amount to be determined at trial;

Economic loss and loss of other benefits due as a result of defendants' wrongful conduct in the amount of \$250,000;

Damages of pain, suffering and emotional distress, in an amount to be determined at trial;

Exemplary and punitive damages;

Reasonable costs of suit and attorney fees if any; and

Such other relief as the Court may deem just and proper.

Respectfully submitted,

*Mary Cummins*

Mary Cummins, Plaintiff

Dated: February 22, 2013

645 W. 9th St. #110-140

Los Angeles, CA 90015

In Pro Per

Telephone: (310) 877-4770

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**PROOF OF SERVICE BY MAIL**  
**(FRCivP 5 (b)) or**  
**(CCP 1013a, 2015.5) or**  
**(FRAP 25 (d))**

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

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

**PLAINTIFF'S THIRD AMENDED COMPLAINT**

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

Dean A. Rocco Jackson Lewis LLP 725 S. Figueroa, # 2500 Los Angeles, CA 90017
Sandra McMullen Jackson Lewis LLP 725 S. Figueroa, #2500 Los Angeles, CA 90017

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

Executed this day, February 22, 2013, at Los Angeles, California.

Respectfully submitted,

*Mary Cummins*

Mary Cummins, Plaintiff

Dated: February 22, 2013

645 W. 9th St. #110-140

Los Angeles, CA 90015

**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. Attached to PLAINTIFF'S THIRD AMENDED COMPLAINT as Exhibit 1 is a true and correct copy of a tweet I downloaded from Defendant's Twitter account.
3. Attached to PLAINTIFF'S THIRD AMENDED COMPLAINT as Exhibit 2 is a true and correct copy of a tweet I downloaded from Defendant's Twitter account.
4. Attached to PLAINTIFF'S THIRD AMENDED COMPLAINT as Exhibit 3 is a true and correct copy of a tweet I downloaded from Defendant's Twitter account.
5. Attached to PLAINTIFF'S THIRD AMENDED COMPLAINT as Exhibit 4 is a true and correct copy of a blog post I downloaded from Defendant's WordPress account.
6. Attached to PLAINTIFF'S THIRD AMENDED COMPLAINT as Exhibit 5 is a true and correct copy of a blog post I downloaded from Defendant's WordPress account.
7. Attached to PLAINTIFF'S THIRD AMENDED COMPLAINT as Exhibit 6 is a true and correct copy of an email I sent to Defendant.
8. Attached to PLAINTIFF'S THIRD AMENDED COMPLAINT as Exhibit 7 is a true and correct copy of an email I sent to Defendant.

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

Executed on February 22, 2013 at Los Angeles, California.

By: Mary Cummins  
MARY CUMMINS

7 Jul  Eric Shupps @eshupps

RT @ilovescotch: @truthaboutmary @MMMaryInLA how to commit defamation without getting caught  
[laanimalpals.blogspot.com/2006/11/mary-c...](http://animalpals.blogspot.com/2006/11/mary-c...) "ME: unfucking believable"

Exhibit 1

MC  
15h CitizenWatcher @CitizenWatcher1

@MMMaryInLA Mary Cummins is charged with criminal contempt of court: [hatworld.org/wp-content/upl...](http://hatworld.org/wp-content/upl...)

Exhibit 2

  
6 Jul Sun Tzu @truthaboutmary

@MMMaryInLA Mary Cummins uses googlebombs to spread defamation: [marycummingooglebomb.com](http://marycummingooglebomb.com)

Exhibit 3

6 Jul ✓ Sun Tzu @truthaboutmary

@MIMaryInLA Mary Cummins admits to being involved over 20 lawsuits and being sued 4 times for defamation: [cumminslosttorandyturnerattorney.com](http://cumminslosttorandyturnerattorney.com)

Exhibit 4

Truthaboutmary.wordpress.com

that check. Of course, immediately after the hearing in which the sanctions were found to be justified, Mary Cummins posted online that the plaintiffs had LOST their motion for sanctions. Say what? Guess that wasn't an accurate representation of the proceedings, now was it? But then, it's become quite obvious that Mary just isn't all that good with the truth..

Exhibit 5



From: Mary Cummins <mmmaryinla@aol.com>  
Subject: **CEASE AND DESIST - Cummins v Lollar**  
Date: June 25, 2012 7:57:38 AM PDT  
To: Stephen MacPhail <smacphail@braggkuluva.com>, sanctuary@batworld.org, eshupps@binarywave.com, Randy Turner <rturner@galyen.com>  
2 Attachments, 73.4 KB



I just saw this libelous and defamatory page on the Internet. You, Mr. Shupps, know that it's impossible to "Google bomb." Google changed their algorithm in 2007. I did not Google bomb. You are basically accusing me of illegally spamming the search engine. Please, cease and desist from making this totally false accusation. This is directed to Amanda Lollar as well. She posted this. I got a notice from the court reporter few days ago that she requested the transcript. I was just alerted to this website by a bot.

<http://marycumminsgooglebomb.com>

Mr. Shupps, what you are claiming in your diagram is completely incorrect. You have absolutely no idea what you are talking about. Remember, you've never been an expert witness before. You admitted that in court. You've never given court or deposition testimony before this case. You've never used that authorship software before for a paying client. I spoke with the person who wrote the software. It is in beta and has severe limitations with multiple authors and closed attribution. It is not supposed to be used for legal cases because it cannot tell you who wrote an article. You'd previously stated there is no way to know who wrote the articles, remember? I didn't write them. I didn't even write the samples you attributed to me. Garbage in, garbage out. Please, remove this garbage. I am currently suing Lollar for libel, defamation in California.

I've attached communication from the author of the software. It cannot be used for legal cases.



[jgaap \(68.0 KB\)](#)

Mary Cummins  
[MMMARYinLA@AOL.COM](mailto:MMMARYinLA@AOL.COM)



Exhibit 6

From: Mary Cummins <MMMARYinLA@AOL.COM>  
Subject: **Cease and desist - Cummins v Lollar - CV-11 08081**  
Date: July 6, 2012 8:42:35 AM PDT  
To: eshupps@binarywave.com, sanctuary@batworld.org, Randy Turner <rturner@galyen.com>, Stephen MacPhail <smacphail@braggkuluva.com>  
\* 1 Attachment, 5.4 KB



Please, cease and desist from posting, tweeting, blogging untrue things about me. You two started this recent activity by posting false and negative items about me. I did not Google Bomb. Please, look up the definition of the word. It's not even technically possible besides the fact that I didn't post a bunch of links. Shupps did not prove I wrote those articles. Read the transcript. I didn't write them. It's also extremely obvious that I did not post those items on workingtohelpanimalstodaytomorrow. They copy/pasted a couple of paragraphs from my website and added their own comments. Everyone knows who owns that blog and it's clearly not me. Their name is right there. That blog has been around a while and covers topics I don't even mention. I never use obscenities like that Blogger. I'm also not anti-pitbull. That Blogger has been posting negatively about Turner since he represented the fake war veteran which was before I ever heard his name.

If you choose to continue to post and tweet falsely about me, I will continue to counter everything with the truth.

Mary Cummins  
[MMMARYinLA@AOL.COM](mailto:MMMARYinLA@AOL.COM)



Exhibit 7