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FILED  
2013 FEB 22 PM 2:08  
CENTRAL DISTRICT COURT  
LOS ANGELES, CALIF.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MARY CUMMINS

CASE NUMBER:

PLAINTIFF(S),

CV11-08081-DMG-MANx

v.

AMANDA LOLLAR, BAT WORLD SANCTUARY

NOTICE OF APPEAL

DEFENDANT(S).

NOTICE IS HEREBY GIVEN that Mary Cummins hereby appeals to  
*Name of Appellant*  
the United States Court of Appeals for the Ninth Circuit from:

**Criminal Matter**

**Civil Matter**

- Conviction only [F.R.Cr.P. 32(j)(1)(A)]
- Conviction and Sentence
- Sentence Only (18 U.S.C. 3742)
- Pursuant to F.R.Cr.P. 32(j)(2)
- Interlocutory Appeals
- Sentence imposed:

- Order (specify):  
Summary judgment claims Defendants  
Amanda Lollar, Bat World Sanctuary
- Judgment (specify):

Other (specify):

Bail status:

Imposed or Filed on February 22, 2013. Entered on the docket in this action on February 22, 2013.

A copy of said judgment or order is attached hereto.

February 22, 2013  
Date

Mary Cummins  
Signature  
 Appellant/ProSe  Counsel for Appellant  Deputy Clerk

**Note:** The Notice of Appeal shall contain the names of all parties to the judgment or order and the names and addresses of the attorneys for each party. Also, if not electronically filed in a criminal case, the Clerk shall be furnished a sufficient number of copies of the Notice of Appeal to permit prompt compliance with the service requirements of FRAP 3(d).

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

MARY CUMMINS,  v.  AMANDA LOLLAR aka BAT WORLD SANCTUARY an individual person, et al.	Plaintiff,   Defendants.	} } } } }	Case No. CV 11-8081-DMG (MANx)  ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
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On July 10, 2012, Defendants Amanda Lollar and Bat World Sanctuary filed a motion for summary judgment/partial summary judgment (“the Motion”) noticed for hearing on August 10, 2012. [Docs. ## 41, 42, 43, 44, 45, 46, 47.] On July 25, 2012, Plaintiff filed her response. [Doc. # 59.] On July 27, 2012, Defendants replied. [Docs. 60, 61, 62.] On July 30, 2012, Plaintiff filed a reply to Defendants’ response. [Doc. # 64.] At the August 10, 2012 hearing, the Court orally granted Plaintiff’s request for leave to file a supplemental brief and, thereafter, allowed Defendants to file a supplemental reply. On September 12, 2012, Plaintiff filed her supplemental brief. [Docs. ## 86, 87, 88.] On September 21, 2012, Defendants filed their supplemental reply. [Docs. ## 90, 91, 92, 93.] The Motion was then submitted for decision. Having duly considered the parties’ submissions in favor of and in opposition to the Motion, the Court now renders its decision. For the reasons set forth below, the Motion is GRANTED.

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**I.**

**PROCEDURAL BACKGROUND**

On September 29, 2011, Plaintiff Cummins filed a complaint against Defendants Amanda Lollar and Bat World Sanctuary. On December 22, 2011, Plaintiff filed a first amended complaint (“FAC”) against the same Defendants and alleging the same causes of action, providing more specificity than the original complaint. [Doc. # 21.] In the FAC, Cummins alleges five causes of action (defamation, defamation per se, intentional interference with business relations, intentional interference with prospective economic advantage and intentional infliction of emotional distress) all based on allegedly defamatory statements about Cummins posted on the Internet by Defendants. The allegedly defamatory statements that Cummins challenges include statements that Cummins “has a criminal record,” was “convicted” of “theft of property, forged name on a credit card,” is a “cyberstalker,” “cybersquatter,” “hacked into our website” and “email list,” “was picked up by the LAPD Anti-Terrorism Task Force,” “posts pornography in children’s chat rooms,” “commits animal cruelty,” “tortures animals,” has made “false complaints to govt agencies about deft,” has a “history of stalking and harassment,” was “charged with criminal contempt,” and Plaintiff’s deposition was “court ordered.”

Defendants seek summary judgment contending that Cummins is a limited public figure and, therefore, summary judgment is warranted because the allegedly defamatory statements were either true, constituted opinions, or were made without malice.

**II.**

**FACTUAL BACKGROUND**

Cummins is the founder of a non-profit organization, Animal Advocates, located in California and is licensed by the United States Department of Agriculture 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. (FAC ¶ 9 [Doc. # 21].) According to Cummins’ declaration filed in opposition to the summary judgment

1 motion, Cummins also serves as the president of Animal Advocates. (Plaintiff's Opp'n,  
2 Exh 1.) [Doc. # 59.]

3 Cummins alleges she is trained to care for coyotes, bobcats, foxes, raccoons,  
4 opossums, skunks and all other small mammals including bats; has published CADFG  
5 approved manuals on wildlife rehabilitation and instructs CADFG accredited classes to  
6 wildlife rehabilitators, veterinarians and animal care professionals. (FAC ¶¶ 9-10.)  
7 Plaintiff further alleges that she has been trained at the Rio Hondo Police Academy and  
8 the California State Humane Association Animal Law Enforcement Academy to  
9 investigate animal cruelty and neglect. (*Id.* at ¶ 11.)

10 It is undisputed that Defendant Amanda Lollar operates a bat sanctuary in Texas,  
11 Defendant Bat World Sanctuary. In June 2010, Cummins attended an internship at Bat  
12 World Sanctuary, but left early after injuring her head. According to Cummins, during  
13 her internship, she "witnessed Defendant Lollar commit animal cruelty, animal neglect,  
14 [and] violations of the health code," and after returning to California "reported  
15 Defendants for the violations she witnessed." (Plaintiff's Opp'n at 7.) Cummins also  
16 posted comments about Lollar's activities on the Internet. (*Id.* at 8.) Numerous postings  
17 about Plaintiff and Defendants have appeared on the Internet. Plaintiff and Defendants  
18 each blame the other for the postings. In September 2012, Lollar sued Cummins in Texas  
19 for defamation. (Plaintiff's Opp'n at 5.) In September 2011, while Lollar's action was  
20 pending, Cummins filed the instant defamation action in the Central District of California  
21 against Lollar and Bat World Sanctuary. After a court trial in the Texas action, Lollar  
22 was awarded a \$6.1 million judgment against Cummins.

23 According to Cummins' opposition to the summary judgment motion,  
24 Plaintiff with written and oral permission from defendant  
25 posted videos and photos online. Plaintiff made honest  
26 comments on the photos such as "she (Defendant) debarked her  
27 dogs," "she has rabies vaccinations," "I found a dead bat with  
28 one wing under her desk . . . ." In retaliation for reporting

1 Defendant to authorities and posting the truth about her  
2 activities online, Defendant started defaming Plaintiff . . . .

3 Plaintiff's Opp'n at 8.

4 At her deposition, Plaintiff stated the following:

5 She [Amanda Lollar] states that I have harassed and  
6 defamed her and that she states that I posted on the Internet  
7 false statements of fact.

8 Everything I have posted about the woman and her  
9 organization is the absolute truth.

10 And she states I've made wild accusations containing  
11 false and defamatory statements about her and Bat World to  
12 numerous government agencies.

13 Again that's completely false. Everything that I have  
14 complained about her was the absolute truth.

15 (MacPhail Decl., Exh. A (Plaintiff's Depo., 64:25-65:9).) [Doc. # 42.]

16 Cummins has maintained a YouTube website with various downloadable videos  
17 concerning rescue and rehabilitation of squirrels, raccoons, skunks, bats and other  
18 wildlife (<http://www.youtube.com/user/marycummins>). (MacPhail Decl., Exh. B.) She  
19 also maintains a website for her non-profit organization, Animal Advocates, which  
20 provides links to her biography and four-page curriculum vitae, as well as several online  
21 articles about her (<http://www.animaladvocates.us>). (*Id.*, Exh. D.)

### 22 III.

### 23 LEGAL STANDARD

24 Summary judgment should be granted "if the pleadings, the discovery and  
25 disclosure materials on file, and any affidavits show that there is no genuine issue as to  
26 any material fact and that the movant is entitled to a judgment as a matter of law." Fed.  
27 R. Civ. P. 56(c)(2); *accord Mattos v. Agarano*, 590 F.3d 1082, 1085 (9th Cir. 2010).  
28 Material facts are those that may affect the outcome of the case. *Anderson v. Liberty*

1 *Lobby, Inc.*, 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). An issue is  
2 genuine “if the evidence is such that a reasonable jury could return a verdict for the  
3 nonmoving party.” *Id.*

4 The moving party bears the initial burden of establishing the absence of a genuine  
5 issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 91 L.  
6 Ed. 2d 265 (1986). Where the moving party does not have the ultimate burden of  
7 persuasion at trial, the moving party meets its burden of production and persuasion by  
8 either producing evidence negating an essential element of the nonmoving party’s claim  
9 or defense or showing that the nonmoving party does not have enough evidence of an  
10 essential element to carry its ultimate burden of persuasion at trial. *Id.* at 325; *see also*  
11 *Nissan Fire & Marine Ins. Co.*, 210 F.3d 1099, 1102 (9th Cir. 2000). Once the moving  
12 party has met its initial burden, Rule 56(e) requires the nonmoving party to “go beyond  
13 the pleadings and by her own affidavits, or by the ‘depositions, answers to  
14 interrogatories, and admissions on file,’ designate ‘specific facts showing that there is a  
15 genuine issue for trial.’” *Id.* at 324; *see also Bias v. Moynihan*, 508 F.3d 1212, 1218 (9th  
16 Cir. 2007). “[T]he inferences to be drawn from the underlying facts . . . must be viewed  
17 in the light most favorable to the party opposing the motion.” *Matsushita Elec. Indus.*  
18 *Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587, 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986).  
19 However, “an opposing party may not rely merely on allegations or denials in its own  
20 pleading.” Fed. R. Civ. P. 56(e).

#### 21 IV.

#### 22 DISCUSSION

#### 23 A. DEFENSE OF TRUTH AS TO CUMMINS’ DEPOSITION

24 It is not entirely clear why the statement that Cummins’ “deposition was court  
25 ordered” would be defamatory. Nonetheless, Cummins complains that contrary to  
26 Lollar’s post on the Internet that Cummins’ “deposition was court ordered,” it was,  
27 instead, pursuant to notice. Cummins concedes in her deposition, however, that the  
28 Texas court granted a motion to compel her deposition and ordered the deposition to

1 occur. (MacPhail Decl., Exh. A.) Thereafter, the parties mutually agreed on a different  
2 date for the deposition. *Id.* That subsequent mutual agreement regarding the date does  
3 not change the fact that the deposition was court ordered. Because this statement was  
4 true, Plaintiff cannot prevail on this claim of defamation.

5 **B. CERTAIN OF THE INTERNET POSTINGS ARE OPINION**

6 Cummins contends that she has been defamed by Lollar's Internet postings that  
7 accuse her of being a "cyberstalker," a "crackpot," "psycho" and a "crackpot stalker."  
8 These claims fail for two reasons: (1) because these are statements of opinion, they are  
9 not actionable and (2) Cummins cannot prove that these allegedly defamatory statements  
10 were authored by Lollar.

11 As the California Court of Appeal has explained:

12 "An essential element of libel . . . is that the publication in  
13 question must contain a false statement of fact. . . . This  
14 requirement . . . is constitutionally based." (*Gregory v.*  
15 *McDonnell Douglas Corp.* (1976) 17 Cal.3d 596, 600-601 [131  
16 Cal.Rptr. 641, 552 F.2d 425].) "However pernicious an opinion  
17 may seem, we depend for its correction not on the conscience of  
18 judges and juries but on the competition of other ideas. But  
19 there is no constitutional value in false statements of fact."  
20 (*Gertz v. Robert Welch, Inc.* (1974) 418 U.S. 323, 339-340 [41  
21 L.Ed.2d 789, 805, 94 S.Ct. 2997], fn. omitted.)

22 \* \* \*

23 [T]he courts have regarded as opinion any "broad, unfocused  
24 and wholly subjective comment," (*Fletcher v. San Jose*  
25 *Mercury News* (1989) 216 Cal.App.3d 172, 191 [264 Cal.Rptr.  
26 699]) such as that the Plaintiff was a "shady practitioner"  
27 (*Lewis v. Time Inc.* (9th Cir. 1983) 710 F.2d 549, 554), "crook"  
28 (*Lauderback v. American Broadcasting Companies* (8<sup>th</sup> Cir.

1 1984) 741 F.2d 193, 195-198), or “crooked politician”  
2 (*Fletcher v. San Jose Mercury News, supra*, 216 Cal.App.3d at  
3 pp. 190-191). Similarly, in *Moyer v. Amador Valley J. Union*  
4 *High School Dist., supra*, 225 Cal.App.3d at page 725, this  
5 court found no cause of action for statements in a high school  
6 newspaper that the Plaintiff was “the worst teacher at FHS” and  
7 “a babbler.” The former was clearly “an expression of  
8 subjective judgment.” (*Ibid.*) And the epithet “babbling” could  
9 be reasonably understood only “as a form of exaggerated  
10 expression conveying the student-speaker’s disapproval of  
11 Plaintiff’s teaching or speaking style.” (*Id.* at p. 726.)

12 *Copp v. Paxton*, 45 Cal. App. 4th 829, 837-38, 52 Cal. Rptr. 2d 831 (1996). One of the  
13 statements on which the *Copp* court focused was a statement in a letter that referred to the  
14 plaintiff as a “booby.” Finding such expression to be opinion, the court stated, “[t]he  
15 epithet ‘booby,’ like the expression ‘babbling,’ can be understood only as a vague  
16 expression of low esteem.” *Id.* at 838.

17 Like “booby” and “babbling,” labels such as “cyberstalker,” “crackpot,” “psycho,”  
18 and “crackpot stalker” are expressions of subjective judgment conveying an opinion of  
19 low esteem. As such, they are not actionable.

20 Moreover, at her deposition, when confronted with the exhibits containing these  
21 allegedly defamatory statements, Cummins admitted that she did not have evidence that  
22 Lollar was the author. When asked about a document, marked as Exhibit 9 during her  
23 deposition, Cummins claimed that the exhibit falsely stated that she was a cyberstalker  
24 and . . . they call me a crackpot. I’m psycho.” (MacPhail Decl., Exh. A (Plaintiff’s  
25 Depo., 84:16-20).) Cummins admitted, however, that she did not know who posted  
26 Exhibit 9 to the Internet. (*Id.* (Plaintiff’s Depo., 84:2-4).) Similarly, Cummins claimed  
27 that a document marked as Exhibit 20 was defamatory because it said, “I’m a  
28 quote/unquote morbid cyberstalker who should be in jail for her crimes.” (*Id.* (Plaintiff’s



1 Depo., 131:23-132:4.) Again, Plaintiff admitted that she had no evidence to prove that  
2 Lollar authored Exhibit 20. (*Id.* (Plaintiff's Depo., 131:3-7).) As to another document,  
3 marked as Exhibit 21, which allegedly contained the defamatory statement that Cummins  
4 was a "cyberstalker" (*id.* (Plaintiff's Depo. 132:23-25)), Cummins again admitted she did  
5 not know who the author was. (*Id.* (Plaintiff's Depo., 132:15-18).) Plaintiff claimed that  
6 a document marked as Exhibit 23 defamed her by calling her "a quote/unquote notorious  
7 crackpot stalker. . . . And they post that I am stalking people I've never even heard of  
8 . . . ." (*Id.* (Plaintiff's Depo., 137:6-14).) When asked whether this document was drafted  
9 by Lollar, Cummins admitted she had no evidence as to who posted this statement on the  
10 Internet. (*Id.* (Plaintiff's Depo., 137:2-5).)

11 Thus, even if these expressions were not constitutionally protected opinion,  
12 Cummins has failed to present any evidence that Lollar is the author of the Internet  
13 postings that accuse her of being a "cyberstalker," "crackpot," "psycho," and a "crackpot  
14 stalker." Consequently, Plaintiff cannot prevail against Lollar on these claims.

### 15 C. CUMMINS IS A LIMITED PUBLIC FIGURE

16 A public official is prohibited "from recovering damages for a defamatory  
17 falsehood relating to his official conduct unless he proves that the statement was made  
18 with 'actual malice' – that is, with knowledge that it was false or with reckless disregard  
19 of whether it was false or not." *New York Times Co. v. Sullivan*, 376 U.S. 254, 279-80,  
20 84 S. Ct. 710, 11 L. Ed. 2d 686 (1964). This "actual malice" requirement has been  
21 extended to "public figures." *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 87 S. Ct.  
22 1975, 18 L. Ed. 2d 1094 (1967).

23 In the *Gertz* decision, the Court observed that the  
24 characterization of a Plaintiff as a public figure "may rest on  
25 either of two alternative bases. In some instances an individual  
26 may achieve such pervasive fame or notoriety that he becomes  
27 a public figure for all purposes and in all contexts. More  
28 commonly, an individual voluntarily injects himself or is drawn

1 into a particular public controversy and thereby becomes a  
2 public figure for a limited range of issues.”

3 *Copp*, 45 Cal. App. 4th at 843-44 (quoting *Gertz*, 418 U.S. at 315).

4 “*Copp* . . . sets forth the elements that must be present in  
5 order to characterize a Plaintiff as a limited purpose public  
6 figure. First, there must be a public controversy, which means  
7 the issue was debated publicly and had foreseeable and  
8 substantial ramifications for nonparticipants. Second, the  
9 Plaintiff must have undertaken some voluntary act through  
10 which he or she sought to influence resolution of the public  
11 issue. In this regard it is sufficient that the Plaintiff attempts to  
12 thrust him or herself into the public eye. And finally, the  
13 alleged defamation must be germane to the Plaintiff’s  
14 participation in the controversy.”

15 *Gilbert v. Sykes*, 147 Cal. App. 4th 13, 24, 53 Cal. Rptr. 3d 752 (2007) (quoting *Ampex*  
16 *Corp. v. Cargle*, 128 Cal. App. 4th 1569, 1577, 27 Cal. Rptr. 3d 863 (2005)).

17 “A person *becomes* a limited public figure by injecting himself into the public  
18 debate about a topic that concerns a substantial number of people. Once he places  
19 himself in the spotlight on a topic of public interest, his private words and conduct  
20 relating to that topic become fair game.” *Gilbert*, 147 Cal. App. 4th at 25 (emphasis in  
21 original).

22 In this case, Cummins has made herself a limited public figure in the field of  
23 animal welfare – rescue, rehabilitation, and care. There is public interest in the protection  
24 of wildlife and Cummins has voluntarily and publicly involved herself in that issue. Her  
25 postings on the Internet evidence her voluntary acts seeking to involve herself in  
26 promoting animal welfare to the public and to influence the public debate concerning  
27 animal rescue and rehabilitation. Moreover, Cummins has voluntarily thrust herself into  
28 the public eye concerning the personal attacks between herself and Lollar by posting on

1 the Internet comments regarding her own experience as an intern at Batworld and  
2 Lollar's conduct and activities. Because Cummins has publicly aired on the Internet her  
3 personal dispute with Lollar, the alleged defamatory comments by Lollar are germane to  
4 Cummins' participation in the public controversy.

5 As a result, Cummins is a limited public figure with respect to the field of animal  
6 welfare as well as the personal attacks between herself and Lollar. Therefore, Cummins  
7 is required to show actual malice to prevail on her defamation claims.

8 Cummins contends that when Lollar posted on the Internet that Cummins was  
9 convicted of crimes, she acted with reckless disregard for the statement's truth or falsity.  
10 Cummins argues that "[t]he original post made by another stated Mary Cummins 'was  
11 charged with credit card forery (sic) and theft!' . . . That was posted by an anonymous  
12 person on an anonymous blog . . . It was not a credible source and it said 'charged with,'  
13 not 'convicted.'" (Plaintiff's Supp. Brief at 4 [Doc. # 86].) Plaintiff provides no  
14 evidence to support her assertion that the source was not credible or that Lollar was more  
15 than negligent.

16 Cummins' burden of proving "reckless disregard" is not an easy one:

17 The reckless disregard standard requires a high degree of  
18 awareness of . . . probable falsity . . . . There must be sufficient  
19 evidence to permit the conclusion that the defendant in fact  
20 entertained serious doubts as to the truth of his publication. . . .  
21 Gross or even extreme negligence will not suffice to establish  
22 actual malice; the defendant must have made the statement with  
23 knowledge that the statement was false or with actual doubt  
24 concerning the truth of the publication.

25 *Annette F. v. Sharon S.*, 119 Cal. App. 4th 1146, 1167, 15 Cal. Rptr. 3d 100 (2004)  
26 (quotation marks and citations omitted). Given this high standard for finding reckless  
27 disregard, Cummins' personal belief that Lollar's source was not credible is not sufficient  
28 to meet it.

1 As further argument for finding malice, Cummins contends that Lollar continued  
2 to post the defamatory statements that Cummins was convicted of crimes even after  
3 having been notified of their falsity. Cummins asserts that she sent two cease and desist  
4 email messages to Lollar, which Lollar admits receiving. (Plaintiff's Opp., Exh. 3 [Doc.  
5 # 59].) Cummins contends that Lollar's receipt of these email messages is evidence that  
6 she was on notice of the falsity of her Internet posting. In her deposition, however, Lollar  
7 explains that "I deleted the post because we received a cease and desist. I deleted every  
8 post on World Bat Line where you [Plaintiff] were a part of the comment thread." (*Id.*)  
9 Because Cummins neither disputes this deposition testimony nor provides any evidence  
10 to controvert the testimony, her evidence of Lollar's receipt of her cease and desist  
11 emails, without evidence that Lollar continued to post the statements thereafter, is not  
12 sufficient to foreclose summary judgment on the issue of malice.<sup>1</sup>

13 Cummins does not address the issue of malice with respect to the false statement  
14 that she was charged with criminal contempt. In fact, apparently, even Defendants'  
15 counsel herein believed that Cummins was found in criminal contempt as he was arguing  
16 such as recently as May 11, 2012, in Defendants' opposition to Plaintiff's preliminary  
17 injunction motion. In said opposition, Defendants' counsel asserted that the statement of  
18 criminal contempt was true but nevertheless, Defendants would delete the word,  
19 "criminal." [Doc. # 31.] In the Order denying Plaintiff's preliminary injunction motion,  
20 this Court explained that Plaintiff was found in civil contempt, not criminal contempt.  
21 (Order Denying Mot. for Prelim. Inj., filed July 17, 2012 [Doc. # 49].) Cummins,  
22 however, provides no evidence that Lollar knew of the falsity of the statement before this  
23 Court's order denying preliminary injunction, and provides no evidence that Lollar  
24 continued to post that statement after this Court's July 17, 2012 Order. Having failed to  
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26 <sup>1</sup> Even if Cummins could prove malice for Defendants' Internet posting of statements that she  
27 was convicted of crimes, to the extent such posting was the republication of information posted by  
28 another person, Defendants would be immune from liability. 47 U.S.C. § 230(c)(1); *Barrett v.*  
*Rosenthal*, 40 Cal. 4th 33, 63, 51 Cal. Rptr. 3d 55 (2006).

1 produce any evidence of malice (i.e., that Defendants acted with knowledge of falsity or  
2 reckless disregard of truth or falsity of a statement when posting such statement on the  
3 Internet), Cummins fails to show that a genuine issue of material fact remains.


4 V.

5 **CONCLUSION**

6 Based on the foregoing, Defendants are entitled to summary judgment on  
7 Cummins' defamation claims. Furthermore, because Cummins' other claims (intentional  
8 interference with business relations, intentional interference with prospective economic  
9 advantage, and intentional infliction of emotional distress) are all premised on the alleged  
10 defamation, summary judgment is warranted as to all of Cummins' claims.

11 Accordingly, Defendants Lollar and Bat World Sanctuary's motion for summary  
12 judgment is GRANTED. By no later than November 30, 2012, Plaintiff Cummins shall  
13 file a status report regarding her efforts to serve her Second Amended Complaint on all  
14 remaining defendants.

15  
16 DATED: November 16, 2012

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18 DOLLY M. GEE  
19 UNITED STATES DISTRICT JUDGE  
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(FRCVP 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:

**NOTICE OF APPEAL**

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, Plaintiff

Dated: February 22, 2013

645 W. 9th St. #110-140

Los Angeles, CA 90015