

COURT OF APPEAL Second APPELLATE DISTRICT, DIVISION Eight	COURT OF APPEAL CASE NUMBER: B258027
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NA NAME: Mary Cummins - Pro se FIRM NAME: NA STREET ADDRESS: 645 W 9th St #110-140 CITY: Los Angeles STATE: CA ZIP CODE: 90015 TELEPHONE NO.: 310 877 4770 FAX NO. (if available): E-MAIL ADDRESS (if available): mmaryinla@aol.com ATTORNEY FOR (name): Appellant Pro Se	SUPERIOR COURT CASE NUMBER: BS140207
APPELLANT: Mary Cummins RESPONDENT: Amanda Lollar, Bat World Sanctuary	<div style="text-align: center;"> <p>COURT OF APPEAL – SECOND DIST.</p> <p>FILED</p> <p>ELECTRONICALLY</p> <p>Apr 21, 2015</p> <p>JOSEPH A. LANE, Clerk</p> <p><u>KLEWIS</u> Deputy Clerk</p> </div>
<div style="text-align: center;"> <p>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF (CIVIL CASE)</p> </div>	
<p>Notice: Please read Judicial Council form APP-001 before completing this form.</p>	

1. I (name): **Mary Cummins** request that the time to file (check one):

appellant's opening brief (AOB)

respondent's brief (RB)

combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)

combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)

appellant's reply brief (ARB)

now due on (date): **04/17/2015** be extended to (date): **6/17/2015** or after August 3 hearing

2. I have have not received a rule 8.220 notice.

3. I have received:

no previous extensions to file this brief.

the following previous extensions:

(number of extensions): _____ extensions by stipulation totaling (total number of days): _____

(number of extensions): _____ 1 extensions from the court totaling (total number of days): **58**

Did the court mark any previous extension "no further?" Yes No

4. I am unable to file a stipulation to an extension because

XXX the other party is unwilling to stipulate to an extension.

other reason (please specify): _____

5. The last brief filed by any party was: AOB RB RB and AOB ARB and RB
 filed on (date): _____

6. The record in this case is:

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Appendix/Clerk's Transcript:	1	182	01/09/2015
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____

7. The trial court has ordered the proceedings in this case stayed until this appeal is decided.

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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The reasons that I need an extension to file this brief are stated

below

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please specify; see Cal. Rules of Court, rule 8.63, for factors used in determining whether to grant extensions):

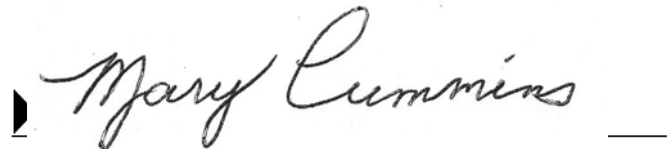
Appellant is a pro se. Appellant still has major problems with her back. The Second Court of Appeals of Texas also just partially reversed the judgment in this case (Exhibit 1). Appellant believes that makes this sister state judgment void making this appeal of post trial discovery void. Appellant needs to file motion to vacate sister statement judgment for this reason. Appeals court ruled Bat World Sanctuary would take no judgment because Appellant won breach of contract, liquidated damages and attorney fee issues. Bat World Sanctuary would no longer be a party and amount of judgment is reduced. Defendant just filed motion to vacate judgment. Hearing is August 3, 2015 which was first available. (Exhibit 2)

- 9. For attorneys filing application on behalf of client, I certify that I have delivered a copy of this application to my client (Cal. Rules of Court, rule 8.60).
- 10. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.50). You may use *Proof of Service (Court of Appeal)* (form APP-009) for this purpose.

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

Date: 04/21/2015

Mary Cummins
(TYPE OR PRINT NAME)



Order on Application is below on a separate document


ORDER

EXTENSION OF TIME IS:

Granted to (date): 30 days only
June 5, 2015
 Denied

NO further extensions will be granted. Default vacated.

Date: Apr 22, 2015


(SIGNATURE OF PRESIDING JUSTICE)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

PROOF OF SERVICE (Court of Appeal) **Mail** **Personal Service**

FOR COURT USE ONLY

Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) before completing this form.

Case Name: Mary Cummins v Amanda Lollar, Bat World Sanct

Court of Appeal Case Number: B258027

Superior Court Case Number: BS140207

1. At the time of service I was at least 18 years of age and **not a party to this legal action.**
 2. My residence business address is (*specify*):
645 W 9th St #110-140, Los Angeles, CA 90015
 3. I mailed or personally delivered a copy of the following document, as indicated below (*fill in the name of the document you mailed or delivered and complete either a or b*): Application for extension of time to file brief
 - a. **Mail.** I mailed a copy of the document identified above as follows:
 - (1) I enclosed a copy of the document identified above in an envelope or envelopes **and**
 - (a) **deposited** the sealed envelope(s) with the U.S. Postal Service, with the postage fully prepaid.
 - (b) **placed** the envelope(s) for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope(s) with postage fully prepaid.
 - (2) Date mailed: April 15, 2015
 - (3) The envelope was or envelopes were addressed as follows:
 - (a) Person served:
 - (i) Name: David Watts
 - (ii) Address:
1260 Lake Blvd #218, Davis, California 95616
 - (b) Person served:
 - (i) Name:
 - (ii) Address:
 - (c) Person served:
 - (i) Name:
 - (ii) Address:
- Additional persons served are listed on the attached page (*write "APP-009, Item 3a" at the top of the page*).
- (4) I am a resident of or employed in the county where the mailing occurred. The document was mailed from (*city and state*): Los Angeles, California

CASE NAME: Mary Cummins v Amanda Lollar, Bat World Sanct

CASE NUMBER:

B258027

3. b. **Personal delivery.** I personally delivered a copy of the document identified above as follows:

(1) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

(2) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

(3) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

Names and addresses of additional persons served and delivery dates and times are listed on the attached page (*write "APP-009, Item 3b" at the top of the page*).

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

Date: April 15, 2015

Mary Cummins

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

▶  —



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH**

NO. 02-12-00285-CV

Mary Cummins	§	From the 352nd District Court
v.	§	of Tarrant County (352-248169-10)
	§	April 9, 2015
Bat World Sanctuary and Amanda Lollar	§	Per Curiam

JUDGMENT

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

It is further ordered that Appellant Mary Cummins shall bear her own costs of this appeal and the costs of Appellee Amanda Lollar, and that Appellee Bat World Sanctuary shall bear its own costs of this appeal, for which let execution issue.

SECOND DISTRICT COURT OF APPEALS

PER CURIAM

1 MARY CUMMINS
2 Defendant
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

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 By Fax Appear by phone as Defendant is injured

11 BAT WORLD SANCTUARY,
12 AMANDA LOLLAR
13 *Plaintiff*

14 v.

15 MARY CUMMINS
16 *Defendant*

17) Case No. BS140207

18) **MOTION FOR ORDER TO SHOW**
19) **CAUSE RE: VACATION OF**
20) **SISTER-STATE JUDGMENTS**
21) **/ORDERS**

22) **Date: August 3, 2015**
23) **Time: 8:30 a.m.**
24) **Room:**
25) **Judge: Robert Hess**
26)
27)
28)

29 **RELIEF REQUESTED**

30 Defendant Mary Cummins, (hereinafter "Defendant") respectfully moves the Court
31 for an order requiring Plaintiffs Amanda Lollar and Bat World Sanctuary to appear and
32 show cause why the Motion to Vacate sister-state Judgement/Orders of the Court
33 should not be granted. Defendant Cummins asks the Court to vacate the order in favor
34 of Amanda Lollar, Bat World Sanctuary for approximately \$6,000,000. Defendant/
35 Appellant Cummins filed an appeal in the case and just won in part reversing the court
36 order, monetary award and eliminating party Bat World Sanctuary (Exhibit 1).

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INTRODUCTION

Defendant was sued for defamation and breach of contract. Defendant never defamed or breached a contract. The court nevertheless signed the judgment in 2012. Since then Defendant filed an appeal¹ July 15, 2012. After 18 months the Second Court of Appeals of Texas finally released their opinion April 9, 2015 (Exhibit 1). The Appeals Court reversed part of the judgment namely all causes related to breach of contract, attorney fees, liquidated damages and party Bat World Sanctuary. The Court also reversed the court order as they deemed it unconstitutional.

Defendant is filing a motion for rehearing on the remaining cause for very strong reasons. Every word Defendant stated was the absolute truth. All items stated came from honest, fair and privileged reports to authorities backed up by physical evidence. The remaining items were stated by Plaintiff, others or government agencies. A few items had nothing to do with Plaintiff. If Defendant doesn't win the rehearing, Defendant will appeal to the Supreme Court of Texas.

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FACTUAL BACKGROUND

November 9, 2012 the Orders to be vacated were entered.

January 4, 2013 Declaration of Non-service was filed by Plaintiffs.

March 27, 2013 Plaintiffs filed proof of service of notice re sister state judgment docs.

April 25, 2013 Plaintiffs filed an abstract of judgment inre Amanda Lollar for \$6,121,039.42 and Bat World Sanctuary for \$190,877.08.

April 9, 2015 Second Court of Appeals released their opinion striking part of the order, reversing part of the judgment and eliminating party Bat World Sanctuary completely.

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STATEMENT OF THE CASE AND GROUNDS TO VACATE THE ORDER

The Orders should be vacated for the following reasons.

_____ ¹ <http://www.search.txcourts.gov/Case.aspx?cn=02-12-00285-CV&coa=coa02>

1 1. Civil Rule 60(b)(5): The judgment has been reversed in the Appeals Court.
2 Applying it prospectively is no longer equitable. The original court order and judgment
3 were void. The signed court order was overly broad and contained prior restraint which
4 is unconstitutional making it void. The Appeals Court ruled that it was
5 unconstitutional. The monetary award is excessive to the point of being illegal making
6 it void.

7 Civil Rule 60(b)(11): Action is pending in this case. Defendant is filing a motion
8 for rehearing within the next few days. If Defendant loses, Defendant will file a
9 petition for review with the Supreme Court. Defendant will file an amended motion to
10 vacate in the next few days as soon as she files the petition for rehearing in the Appeals
11 Court.

12 2. Civil Rule 60(b)(11): Any other reason justifying relief from the operation of
13 judgment. Defendant is indigent, does not own any real estate, doesn't own a car, has
14 no assets and no employment. Defendant responded to post-trial discovery and gave all
15 of this information to Plaintiffs. If Defendant had any assets or money, she would have
16 hired an attorney. Defendant is now receiving Medi-cal, i.e. free government health
17 insurance besides aid. If Defendant had any bank accounts, which she doesn't, they
18 would be exempt.

19 **PRAYER**

20 Defendant respectfully requests that this Court vacates the court order and return
21 the approximately \$4,300 taken from Defendant's bank account.

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

23 Respectfully submitted,
24 *Mary Cummins*
25 _____
26 Mary Cummins, Defendant
27 Dated: April 21, 2015
28 645 W. 9th St. #110-140
 Los Angeles, CA 90015
 In Pro Per

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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:

MOTION TO VACATE SISTER-STATE JUDGMENTS/ORDERS

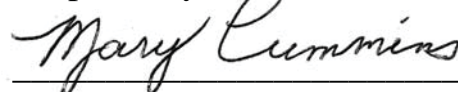
on the following interested parties by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at 645 W. 9th St. #110-140, Los Angeles, CA 90015-1640.

Plaintiffs' Attorney David C Watts 1260 Lake Blvd #218 Davis, CA 95616

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

Executed this day, April 21, 2015, at Los Angeles, California.

Respectfully submitted,



Mary Cummins, Plaintiff

Dated: April 21, 2015

645 W. 9th St. #110-140

Los Angeles, CA 90015

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(3) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

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

Date: April 15, 2015

Mary Cummins

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

▶

(SIGNATURE OF PERSON COMPLETING THIS FORM)