

1 **Cause No. 2015-002259-3**

2 **AMANDA LOLLAR,**

COUNTY COURT 3

3 **Plaintiff,**

4 **vs.**

TARRANT COUNTY, TEXAS

5 **MARY CUMMINS,**

6 **Defendant Pro se**

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8
9 **DEFENDANT'S NOTICE OF APPEAL**

10 Defendant, Mary Cummins, desires to appeal from the oral order by the Court on
11 May 17, 2016 to the Second District Court of Appeals of Texas. As of today Judge Mike
12 Hrabal refuses to write, sign, file an order on Motion to Dismiss¹ per Defamation
13 Mitigation Act, Citizen Participation Act, Forgery, Fraud, Perjury, Lack of Jurisdiction
14 and Statute of Limitations (Exhibit 1, Docket).

15 Defendant filed an Affidavit of Indigence January 6, 2016 per TRAP 20.1, see above
16 Docket. Plaintiff filed a Contest to Indigence. The contest was set for hearing and
17 Plaintiff did not wish it to be heard. The contest was reset for hearing and Plaintiff did
18 not request it to be heard at the hearing. The indigence is therefore confirmed.

19 Defendant filed a proposed order on indigence. Judge Mike Hrabal refuses to sign, file
20 the order on Affidavit of Indigence of Defendant, see docket.

21 Defendant was previously declared indigent in the Second Court of Appeals case 12-
22 02-00285-CV² and identical underlying case 352-248169-10. Defendant currently has

23
24 ¹ Mary Cummins' Motion to Dismiss per Defamation Mitigation Act, Citizen
Participation Act, Forgery, Perjury, Fraud, Lack of Jurisdiction, Statute of
Limitations (minus filed exhibits)

25 http://animaladvocates.us/DEFENDANT_motion_dismiss.pdf

² Mary Cummins v Amanda Lollar, Bat World Sanctuary
<http://www.search.txcourts.gov/Case.aspx?cn=02-12-00285-CV&coa=coa02>

DEFENDANT'S NOTICE OF APPEAL

1 no bank account at all and no assets or income. Defendant now receives public aid and
2 is legally disabled due to injury. Defendant was declared disabled by the ADA Dept of
3 the Tarrant County Court system in 2015. Defendant sent a doctor's letter and was
4 allowed to appear by phone. Defendant cannot afford to pay the \$125 for the minutes of
5 the hearing or the cost to file the appeal. Defendant will be denied a fair hearing if
6 Defendant cannot appeal as indigent.

7 Plaintiff's attorney Randy Turner is intentionally trying to make it impossible for
8 Defendant to Appeal. Turner did the exact same in the 12-02-00285 case. The Second
9 Court of Appeal ruled Judge William Brigham abused his discretion. Brigham gave
10 Defendant the minimum 72 hour's notice of a hearing in Texas and would not allow
11 Defendant who lives in California to appear by phone (Exhibit 2).

12 Turner is also trying to get an unconstitutional injunction against Defendant. Turner
13 set a hearing for injunction yet has not written or filed a motion for injunction, see
14 docket. Defendant cannot defend a motion without seeing it and the exhibits before the
15 hearing. Defendant filed an objection. This is an Internet defamation case. Defendant
16 must view any alleged defamation on the Internet. Defendant who lives in California can
17 only appear by phone due to indigence and disability. Turner continues to commit
18 motion abuse by filing motion after motion to try to drag Defendant to Texas. Turner
19 knows full well this is impossible for Defendant. Turner hopes to win by default as he
20 has done in many previous cases when he has no case. One such case was turned into
21 a documentary titled "Mine." Turner was the villain of the documentary playing himself.
22 CIV 6/21/2006 MISCELLANEOUS CHARLES, LINDA v. HUMANE SOCIETY OF
23 NORTH TEXAS 106485-A filed in St. Bernard Parish, Louisiana. Turner was in
24
25

1 contempt of a court order by refusing to return the Plaintiff's dog. Turner papered
2 Plaintiff until she could not afford to reply. Turner hopes to do the same in this case.

3 Moments ago Turner just filed Motion for Sanctions as Defendant could not fly to
4 Texas to be deposed in post judgment discovery in the 352nd case. Defendant told
5 Plaintiff originally that Defendant could not appear as Defendant is awaiting back
6 surgery and has no funds. Defendant told Turner not to schedule the deposition.
7 Defendant offered to be deposed by phone which Plaintiff had done with other out of
8 state witnesses but Turner refused. Turner stated to Defendant that his goal was to find
9 Defendant in contempt and throw her in jail. Turner has been threatening jail for the last
10 five years.

11 The current case is 2015-002259-3. It was originally filed as 2015-002259-2 until
12 Judge Jennifer Rymell voluntarily recused herself after hearing the Motion to Dismiss
13 and refused to rule. Judge Mike Hrabal was then assigned the case by Judge Evans.

14 The current case is copy/paste the 352-248169-10 case including claims which were
15 reversed on appeal. This case was instantly filed after this court released their opinion
16 in case 12-02-00185-CV. Randy Turner even included all of the reversed claims
17 including the breach of contract claim. This was intentional to try to make the forum be
18 Tarrant County, Texas per the void contract instead of California or Federal court which
19 is the proper jurisdiction and venue. Plaintiff has repeatedly stated that Defendant
20 allegedly defamed Plaintiff only while in California. Defendant has never defamed
21 Plaintiff.

22 In the original case Plaintiffs did not show elements of defamation or even state
23 which items they felt were defamatory. Second Court of Appeals ruled that "defamation
24

1 is assumed.” They also ruled that Defendant should have filed a motion to force
2 Plaintiffs to identify the defamatory items.

3 The Defamation Mitigation Act and Citizen Participation Act both passed after
4 Defendant was originally sued because of cases identical to Defendant’s. Plaintiff now
5 had to specifically identify the alleged defamation, send a cease and desist letter then
6 send proof that the items are indeed defamatory. Plaintiff failed to do these things
7 before filing the current case.

8 Because Defendant never defamed Plaintiff there was no evidence of defamation.
9 Plaintiff Amanda Lollar and Randy Turner then forged the evidence in this case. Lollar
10 added defamatory comments within the statute of limitations and signed Defendant’s
11 name to the anonymous public posts. The actual public articles with comments do not
12 have a comment made by anyone on that date and time. There are no comments by
13 Defendant. All of the exhibits were forged in the same manner. Here is but one of the
14 forged exhibits. They were all exactly like this. Amanda Lollar's forged Exhibit 5³. The
15 actual Exhibit 5 in my brief⁴. The actual Exhibit 5 online⁵. This is an Internet defamation
16 case. The exhibits must be viewed online to compensate for viewer’s individual browser
17 differences. There is no comment by “Mary Cummins” or anyone on that date, time. All
18 entries in that website are anonymous.

19 Plaintiff Amanda Lollar also forged an email from the head of the USDA clearing her
20 of all wrong doing. In actuality the USDA sent an email stating Lollar was investigated
21 and found guilty of causing “bats pain, suffering and death” and Lollar “violated the
22 Animal Welfare Act” (Exhibit 3). Lollar’s USDA permit was then cancelled. The forged
23

24 ³ Plaintiff Lollar’s Exhibit 5 <http://animaladvocates.us/exhibit%205.pdf>

25 ⁴ Defendant’s Exhibit 5 http://animaladvocates.us/def_exhibit_5.pdf

⁵ Real online Exhibit 5
<https://www.indybay.org/newsitems/2013/02/21/18732538.php>

1 emails are dated two years after Lollar lost her USDA permit. There are actually three
2 different versions of the forgery made and posted by Lollar which Defendant included in
3 the Motion to Dismiss⁶. One forgery was included in the complaint in this case. Freedom
4 of Information Act responses prove that no such email exists. The USDA would not
5 clear someone of wrong doing two years after finding them guilty of wrong doing.

6 As Plaintiff Lollar and attorney Turner both wrote and signed sworn affidavits and
7 motions stating the exhibits, USDA email were authentic, they committed perjury.
8 Turner needs to be disbarred. Both Turner and Lollar should be charged with forgery,
9 fraud and perjury.

10 In this case not only has Defendant never defamed Plaintiff but Plaintiff Lollar and
11 her attorney Randy Turner have defamed Defendant. Plaintiff's attorney Randy Turner
12 has a 35 pg singled spaced ihatemary page in his business website⁷ independently
13 confirmed by the Internet Archive Wayback Machine. Turner talks about the size of
14 Defendant's breasts when she was 11 years old in this site. Turner also falsely states
15 that Defendant sued her grandmother, the bishop, is wanted by the law, has committed
16 crimes... all completely false.

17 Plaintiff Lollar has over 400 blogs devoted to defaming Defendant. Those blogs also
18 talk about Defendant's breasts, ass, vagina, vomit, poop and include child pornography
19 using Defendant's face. Here is but one post⁸ certified by the Internet Archive Wayback
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21
22
23 ⁶ Three USDA emails forged by Lollar
http://animaladvocates.us/usda_email_forgery_proof.pdf

24 ⁷ Randy Turner's ihatemary page in his business website
<http://web.archive.org/web/20141206181833/http://www.randyturner.com/index.php/andys-cyber-stalker>

25 ⁸ Amanda Lollar defamatory, bizarre blog post about Defendant
<http://web.archive.org/web/20150902095338/http://mary-cummins.co/2014/10/28/is-mary-cummins-obsessed-with-pedophilia/>

1 Machine. Defendant was forced to file police reports with the Fort Worth Police
2 Department. The FWPD actually identified the child pornography, not Defendant.

3 For all these reasons the new case must be dismissed. Defendant must appeal the
4 Motion to Dismiss which was denied by Judge Mike Hrabal in County Court 3. This
5 notice of appeal is filed in County Court 3 and the Second Court of Appeals of Texas.

6 Respectfully submitted.

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Mary Cummins, Defendant Pro se
12 645 W 9th St, #110-140
13 Los Angeles, CA 90015-1640
14 Direct: 310 877 4770
15 May 20, 2016
16 Fax: 310 494 9395
17 Email: mmmaryinla@aol.com
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CERTIFICATE OF CONFERENCE

Defendant told Plaintiff and the Court that Defendant would file a notice of appeal. There were no objections.

CERTIFICATE OF SERVICE

I, Mary Cummins, hereby certify that a TRUE COPY of the above **DEFENDANT'S NOTICE OF APPEAL** was served on the Plaintiffs' Attorney of record by eFileTexas.gov.

Randy Turner
Law Offices of Randall E Turner PLLC
4255 Bryant Irvin Rd #210,
Fort Worth, Texas
This 20th Day of May 2016



Mary Cummins, Defendant Pro se
645 W 9th St, #110-140
Los Angeles, CA 90015-1640
Direct: 310 877 4770
Fax: 310 494 9395
Email: mmmaryinla@aol.com

REGISTER OF ACTIONS

CASE No. 2015-002259-3

Amanda Lollar vs Mary Cummins

§
§
§
§
§
§

Case Type: **Other Civil - Other**
Date Filed: **04/15/2015**
Location: **County Court at Law No. 3**

PARTY INFORMATION

Defendant **Cummins, Mary**
645 W 9th ST
Los Angeles, CA 90015-1640

Lead Attorneys
Pro Se

Plaintiff **Lollar, Amanda**
1300 Summit Ave.
Fort Worth, TX 76102

Randall E. Turner
Retained
817-420-9690(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS		
04/15/2015	Original Petition	Doc ID# 1
04/15/2015	Original Petition	Doc ID# 2
04/15/2015	Jury Fee Payment	Doc ID# 3
04/21/2015	Citation	
	Cummins, Mary	Unservd
05/26/2015	Waiver of Citation	Doc ID# 4
07/21/2015	Motion to Dismiss	Doc ID# 5
07/23/2015	Motion to Dismiss	Doc ID# 6
07/23/2015	Motion	
09/04/2015	Motion	
09/04/2015	Motion	
09/24/2015	Order of Recuse	Doc ID# 7
09/28/2015	Response	Doc ID# 8
09/28/2015	Response	Doc ID# 9
09/28/2015	Response	Doc ID# 10
09/29/2015	Response	Doc ID# 11
10/13/2015	Order	Doc ID# 12
10/29/2015	Letter	Doc ID# 13
11/09/2015	Motion	
12/14/2015	Letter	Doc ID# 14
12/16/2015	Letter	Doc ID# 15
12/16/2015	Order Setting Hearing	Doc ID# 17
12/16/2015	Letter	Doc ID# 34
12/23/2015	Notice of Change of Address	Doc ID# 16
12/23/2015	Order Setting Trial	Doc ID# 18
01/05/2016	Motion	
01/05/2016	Motion	
01/06/2016	Affidavit of Inability to Pay	Doc ID# 19

01/06/2016 **Copy Doc ID# 20**
01/06/2016 **Record - Other**
01/07/2016 **Record - From Outside Jurisdiction**
01/07/2016 **Record - Other**
01/07/2016 **Record - From Outside Jurisdiction**
01/07/2016 **Record - From Outside Jurisdiction**
01/21/2016 **Letter Requesting Setting for Trial Doc ID# 21**
01/26/2016 **Motion**
01/27/2016 **Response Doc ID# 23**
01/27/2016 **Order Doc ID# 25**
01/28/2016 **Notice of Hearing / Trial Doc ID# 24**
02/08/2016 **Motion to Dismiss Doc ID# 26**
02/10/2016 **Motion**
02/10/2016 **Motion**
02/10/2016 **Motion**
02/10/2016 **Motion**
02/11/2016 **Motion**
02/11/2016 **Motion**
02/15/2016 **Supplemental Doc ID# 28**
02/15/2016 **Letter Doc ID# 29**
02/15/2016 **Response Doc ID# 30**
02/15/2016 **Supplemental Doc ID# 31**
02/16/2016 **Motion to Dismiss (9:45 AM) (Judicial Officer Rymell, Jennifer)**
02/18/2016 **Notice Doc ID# 32**
02/23/2016 **Notice Doc ID# 33**
02/23/2016 **Order of Recuse Doc ID# 35**
02/24/2016 **Order of Assignment Doc ID# 36**
03/03/2016 **Order of Assignment Doc ID# 37**
03/03/2016 **Letter Doc ID# 38**
03/10/2016 **Letter Doc ID# 39**
03/24/2016 **Letter Doc ID# 40**
04/04/2016 **CANCELED Hearing (1 Hour) (1:15 PM) (Judicial Officer Hrabal, Mike)**
Per Judge
04/04/2016 **Supplemental Doc ID# 41**
05/17/2016 **Hearing (1 Hour) (1:15 PM) (Judicial Officer Hrabal, Mike)**
05/17/2016 **Notice of Appeal Doc ID# 42**
05/18/2016 **Notice of Appeal Doc ID# 43**
05/18/2016 **Letter Doc ID# 44**
05/20/2016 **Letter Doc ID# 45**
06/14/2016 **Hearing (1:15 PM) (Judicial Officer Hrabal, Mike)**
06/10/2016 Reset by Court to 06/14/2016



**COURT OF APPEALS
SECOND DISTRICT OF TEXAS**

CHIEF JUSTICE
TERRIE LIVINGSTON

JUSTICES
LEE ANN DAUPIHNOT
ANNE GARDNER
SUE WALKER
BOB McCOY
BILL MEIER
LEE GABRIEL

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CLERK
DEBRA SPISAK

CHIEF STAFF ATTORNEY
LISA M. WEST

FAX TRANSMISSION

TO:

FAX NO.:

Hon. Bonnie Sudderth	(817)884-2384
Civil District Clerk, Tarrant County	(817)212-7010
Court Reporter, 352nd District Court	(817)884-2384
Mary Cummins	(310)494-9395
Randall E. Turner	(817)764-6336

FROM: Rose M. Stewart, Deputy Clerk

DATE: October 22, 2012

NO. OF PAGES: 5 (including this page)

RE: Court of Appeals Number: 02-12-00285-CV
Trial Court Case Number: 352-248169-10

Style: Mary Cummins
v.
Bat World Sanctuary and Amanda Lollar

MESSAGE:

ORDER



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

NO. 02-12-00285-CV

MARY CUMMINS

APPELLANT

V.

BAT WORLD SANCTUARY AND
AMANDA LOLLAR

APPELLEES

FROM THE 352ND DISTRICT COURT OF TARRANT COUNTY

ORDER

This court has received the record from the trial court's hearing on the contests to appellant Mary Cummins's affidavit of indigency and reviewed it to determine whether the trial court abused its discretion in sustaining the contests. *See In re Arroyo*, 988 S.W.2d 737, 739 (Tex. 1998); *In re C.D.S.*, 172 S.W.3d 179, 184 (Tex. App.—Fort Worth 2005, no pet.).

Appellant—who resides in California and who was provided notice of the October 15, 2012 hearing on the contests on October 12, 2012—filed a motion asking to appear telephonically on October 11, 2012,¹ but the record contains no ruling on the motion. Moreover, although the trial court clerk had notified appellant that she could appear telephonically for the previously scheduled October 8, 2012 hearing, the clerk did not do so for the October 15, 2012 hearing.² Nevertheless, the trial court sustained the contests without considering the contents of appellant's affidavit,³ because appellant failed to appear at the hearing.

The purpose of Rule 20.1 of the Texas Rules of Appellate Procedure is to permit parties to proceed without paying filing fees if they are unable to do so, and we construe the rules liberally in favor of preserving appellate rights. See *Verburgt v. Dorner*, 959 S.W.2d 615, 616–17 (Tex. 1997); *Jones v. Stayman*, 747

¹We faxed this motion to the trial court on October 11, 2012, along with an order forwarding the motion for the trial court's consideration. Although at that time, Regional Presiding Judge Walker had not yet denied appellant's motion to recuse Judge Brigham, the order denying the motion to recuse was issued on October 12, 2012.

²This court's order abating the contests to the trial court stated that “[t]he trial court may arrange for appearances by telephone conference or other alternate means if necessary.”

³If the affidavit provides sufficient information to prove by a preponderance of evidence that the party is unable to pay costs on appeal, the affidavit is sufficient, even if information on each of the twelve items is not included. *Higgins v. Randall County Sheriff's Office*, 257 S.W.3d 684, 688–89 (Tex. 2008).

S.W.2d 369, 370 (Tex. 1987) (“Indigency provisions, like other appellate rules, have long been liberally construed in favor of a right to appeal.”).

The indigency rules are rooted in the principle that “[c]ourts should be open to all, including those who cannot afford the costs of admission.” *In re C.H.C.*, 331 S.W.3d 426, 429 (Tex. 2011). To require a pro se out-of-state resident asserting indigence to physically appear at a contest hearing to prove the allegations in her affidavit, without reasonably accommodating that party by means such as a telephonic hearing, undercuts the purpose and spirit of rule 20.1. *Cf. Morris v. Aguilar*, 369 S.W.3d 168, 171 (Tex. 2011) (“To require a pro se party to object to a late-filed contest to an affidavit of indigence in order to preserve error—something the party is not likely to know to do—is to eviscerate the protection Rule 20.1(f) is intended to afford.”); *Misigaro v. Bassowou*, No. 02-10-00473-CV, 2012 WL 171110, at *1 (Tex. App.—Fort Worth Jan. 19, 2012, no pet.) (mem. op.) (reciting cases holding that although inmates need not be allowed to appear personally in court, their right of access to the courts must be accommodated by affidavit, deposition, telephone, or other means).

Accordingly, we reverse the trial court’s ruling on the contests to appellant’s affidavit of indigency and remand that issue to the trial court for a new hearing in which appellant is allowed to appear telephonically to attempt to prove her alleged indigence. *See In re M.A.H.*, 98 S.W.3d at 745, 749 (Tex. App.—Waco 2003, order). Within ten days of receiving this order, the trial court shall, in

accordance with rule 20.1(i), either conduct a hearing on the contest or sign an order extending the time to conduct a hearing to a date no later than twenty days from the date it signs the order. Tex. R. App. P. 20.1(i)(2)(b), (4). The trial court clerk shall file a record of any order sustaining or denying the contest or extending the time to hold a hearing on the contest within ten days after the date of such order.

The clerk of this court is directed to transmit a copy of the order to appellant, the attorneys of record, the trial court judge, the trial court clerk, and the court reporter.

DATED October 22, 2012.

PER CURIAM

Amanda Lollar of Bat World Sanctuary violated the Animal Welfare Act and caused bats “pain, suffering and death.” Amanda Lollar lost her USDA permit.

A video of Amanda Lollar of Bat World Sanctuary trying to perform surgery on a conscious bat without pain relief was sent to the USDA. Their veterinarian viewed the video and stated that Amanda Lollar of Bat World Sanctuary caused bats “pain, suffering and death,” and “violated the Animal Welfare Act.” Below is an email from Dr. Gage to the head of USDA Dr. Gibbens.

Morris, Connie R (APHIS)

From: Gage, Laurie J (APHIS)
Sent: Thursday, May 05, 2011 4:13 PM
To: Jones, Daniel R (APHIS)
Cc: Morris, Connie R (APHIS); Gibbens, Robert (APHIS)
Subject: Re: Complaint against Bat World Sanctuary, Amanda Lollar

Hi All

I wanted to include another line about suffering in my previous analysis of this procedure.

I have reviewed the U-Tube footage and looked at the complaint about the bat that was mishandled by Ms. Amanda Lollar of the Bat World Sanctuary. This is indeed a violation of the AWA. Ms. Lollar should have sought veterinary assistance for the bat with dystocia. It would be one thing if she were only assisting a birth, but the moment Ms. Lollar realized this was a dystocia requiring an episiotomy, she should have taken the bat to her attending vet or a local veterinarian. Apologizing in the video to the bat does not solve the problem. This mother bat clearly experienced pain and suffering at Ms. Lollar's hand, so much so that it appeared to lose consciousness during the procedure. No anesthesia was given to the bat and no pain management was offered. I believe the mother bat could have survived if it had been properly anesthetized and the pup delivered using proper surgical techniques. It is possible the pup could also have survived if this case had been properly managed by a veterinarian.

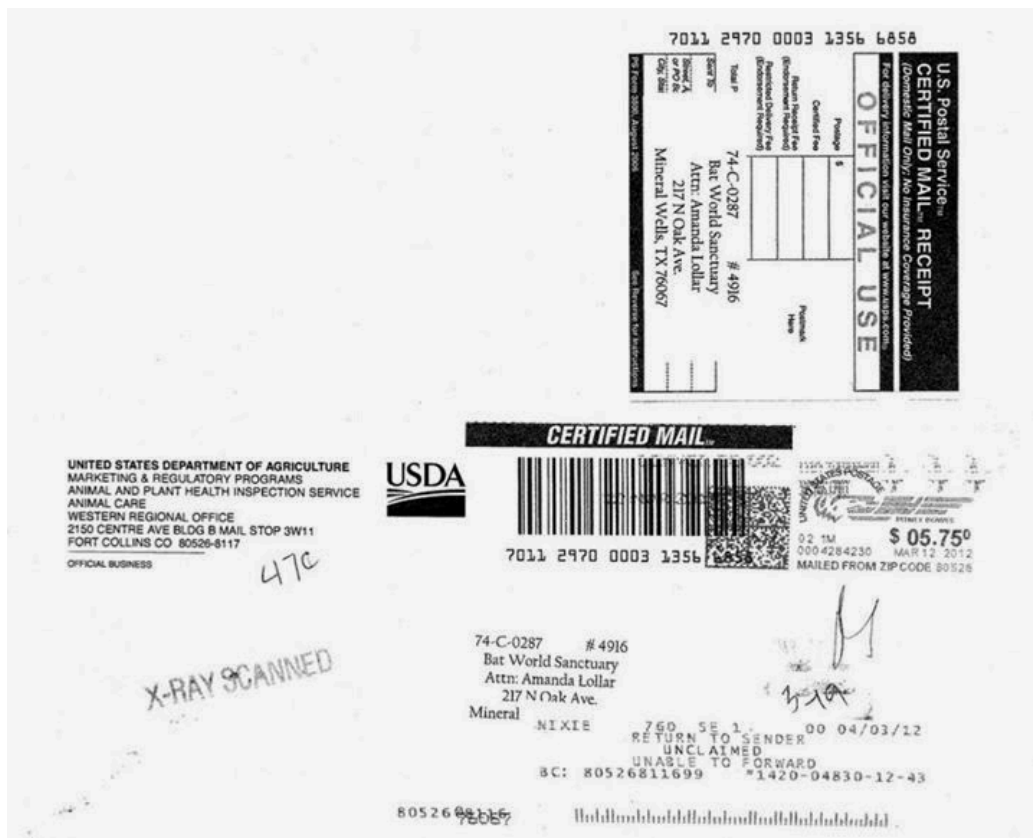
Laurie J. Gage, D.V.M., Dipl. ACZM
USDA APHIS Large Cat Specialist

Amanda Lollar of Bat World Sanctuary had her USDA permit cancelled. Amanda Lollar refused the certified mail. Her USDA inspector emails USDA stating “I can promise you she knows she’s cancelled. Not happy with us and very glad to be rid of us.”

From: Digesualdo, Cynthia L - APHIS
Sent: Tuesday, April 10, 2012 02:05 PM
To: Ridenour, Randall - APHIS
Cc: McFadden, Gloria S - APHIS
Subject: RE: Returned Certified Mail (Cancel Letter)

Can we send this regular mail? She’s a little far for me to hand deliver. Anyway, I can promise you she knows she’s cancelled. Not happy with us and very glad to be rid of us.

Below is a copy of the rejected certified mail envelope. Amanda Lollar of Bat World Sanctuary refused the mail.



Proof that her USDA permit was cancelled March 12, 2012.

A.C.I.S. SEARCH TOOL - Animal Care Information System Search Tool

Basic Search | Advanced Search | FAQ | Visitor Statistics

Search

bat world sanctuary
 Name, Customer Number, USDA Certificate Number, Licensee/Registrant Address
 Search Clear Search

Results

Licensee/Registrant Information | Inspection Information | Research Annual Report Information

Licensee/Registrant Information

Customer Number [dropdown] Apply Sort

Licensee/Registrant Information	Address
Legal Name (DBA): BAT WORLD SANCTUARY Customer No: 4916 Certificate No: 74-C-0287 Certificate Status: CANCELLED Status Date: Mar 12, 2012	217 N OAK AVE MINERAL WELLS , TX 76067 COUNTY: PALO PINTO

Click this icon to export this data into an excel spreadsheet format