

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

MARY CUMMINS	§	
Plaintiff pro se	§	
	§	
vs.	§	CIVIL ACTION NO. 4:12-cv-00560-Y
	§	
BAT WORLD SANCTUARY and	§	
AMANDA LOLLAR,	§	
Defendants	§	

DEFENDANT’S OBJECTIONS AND RESPONSE TO MOTION FOR STAY

NOW COMES Defendant, Amanda Lollar, and makes and files this, her Objections and Response to Motion for Stay, and in support thereof would show unto the Court as follows:

**I.
OBJECTIONS**

1. In support of Plaintiff’s Motion for Stay, she has included a “Declaration,” included as pp. 3-4 of the Motion. Defendant objects to portions of this Declaration as follows:

- a. Defendant objects to paragraph 9 of Plaintiff’s Declaration, which purports to state what certain medical providers told her (“My GP and pain specialists both stated that I will need surgery no matter what.”), for the reason that same amounts to improper hearsay.
- b. Defendant objects to paragraph 10 of Plaintiff’s Declaration, wherein Plaintiff purports to describe the medical treatment she allegedly needs (“I need two more epidurals then will need a new MRI, two appointments with surgeon then will need to schedule surgery...”), for the reason that to the extent Plaintiff herself avers this need, she has not established herself as qualified to render an opinion as to the medical necessity of such treatments; and to the extent to which she is purportedly relaying what her treating physicians have told her regarding same, such amounts to improper hearsay.
- c. Defendant objects to paragraph 11 of Plaintiff’s Declaration, which purports to state what certain medical providers told her (“I have been told

I will need at least four weeks to heal post surgery.”), for the reason that same amounts to improper hearsay.

2. Defendant therefore requests that the offending paragraphs noted above be stricken in their entirety.

II. **ARGUMENT & AUTHORITIES**

3. Plaintiff seeks a stay of the present matter, a case which has lingered on the docket of this honorable Court for almost three years.¹ It is alleged that this need is based upon a “medical emergency.” *See* Motion, p. 1. Glaringly absent from her Motion and attendant evidence, however, is an opinion from any medical professional that such an “emergency” exists.²

4. In any event, the evidence contradicts her proclaimed need for a stay. In this regard, Plaintiff suggests that her alleged ongoing back issues “has caused Plaintiff the inability to sit or stand more than a few minutes at a time.” Motion, p. 1. It is further alleged that because of these injuries, she is unable to “write her own legal documents, respond to discovery and sit for depositions.” *Id.* Interestingly, outside of the context of this lawsuit, these alleged injuries do not appear to have a similarly limiting effect upon her personal life and volunteer work.

5. By way of example, little more than three months ago, Plaintiff was posting on her animal rescue organization’s Facebook page³ that she “wake[s] up every morning, feed/clean cats, get coffee, feed/clean all outdoor all outdoor enclosures, feed/clean ICU/nursery all before 9:00 a.m.” *See* Appendix 000001. As this post notes, this work is a daily matter for her, and on

¹ The present case was filed on or about June 5, 2012. *See* Doc. No. 1.

² Plaintiff, in her Declaration, contends that she is in need of certain medical treatment. *See* Motion, pp. 3-4. As noted *Supra*, Section I, Plaintiff is not qualified to render any opinion as to medical necessity, and to the extent to which she purports to be relaying matters told to her by her medical treators, same amounts to impermissible hearsay.

³ Plaintiff is the president of an organization known as “Animal Advocates.”

February 22, 2015 she again posts: “I had to put on my rain boots and jacket to go feed, clean outdoor animals because it’s raining.” Appendix 000006. And on March 28, 2015, little more than two weeks before filing her Motion for Stay, Plaintiff posted: “Time for another round of feeding, cleaning, medicating animals.” Appendix 000010.

6. The same day, just weeks before claiming a need to stay this case, she posts how busy she is, stating “It must be a lovely day outside for people to be walking around finding ill, injured and orphaned wildlife...I’ve been on the phone, computer all day giving advice, referring, reuniting babies...”. *Id.* Just weeks before that she was engaged in all of the physical tasks associated with this herself: “Huge local wind in my area last night knocked bird and squirrel nests out of trees. Spent all day reuniting baby squirrels and getting birds nest back up into trees.” Appendix 000011.

7. Just because Plaintiff is so busy with the physical and administrative duties associated with her rescue organization does not mean she doesn’t spare any time for fun. Plaintiff was able to drive around Los Angeles in February of 2015, posting photos of author Ray Bradbury’s house, and talking about the visit she made to a local studio that day. *See* Appendix, 000007.

8. Plaintiff takes an intense interest in other ongoing legal matters, both those in which she is a party, and those to which she is a stranger. Plaintiff, for example, posted on February 19, 2015 that she had “sat through quite a few of the proceedings” in the Los Angeles area trial of billionaire Gary Michelson that was then underway. Sometimes, however, such as the January 2015 trial for the murder of Xinran Ji, she posted that she was “glad I was too busy to attend yesterday. I probably would have had to leave the room [because of ‘gory autopsy pic’ being shown].”

9. But of course, a decent segment of Plaintiff's time is devoted to her ongoing attempts to defame this Defendant on the internet, and in the legal work associated with the resulting lawsuits. Defendant, of course, holds a roughly six million (\$6,000,000.00) Judgment against Plaintiff for such defamation. Despite all of the time Plaintiff has devoted to the appeal of this Judgment recently, same was upheld on appeal by Texas' Second District Court of Appeals subsequent to the filing of the present Motion, on April 9, 2015. *See* Appendix 12-87. Plaintiff took this opportunity to compose and post blog after blog criticizing this decision in general, and taking special pains to attack Justice Lee Ann Dauphinot, whom she posts "committed perjury in her opinion" (Appendix 000090), and "flat out lied in her opinion" (*Id.*). She posts about the Justice's campaign contributions (Appendix 000094), posts a link to her resume (appendix 000092), opines that she is suffering from lapses of judgment in advance of Alzheimer's (Appendix 000094), and alleges she is lying as to her age on the internet (based upon Plaintiff's assertion that she has been able to view the Justice's birth certificate – Appendix 000094). After her Motion for Rehearing was denied just days ago by the Second District Court of Appeals, she renewed these attacks, seeking to post about the alleged criminal history of Justice Dauphinot's son (Appendix 000095-000097) and posting copies of the Justice's Nuptial Agreement. *See* Appendix 000098. Of note is the fact that the young man whose criminal history she reveals is not Justice Dauphinot's son, simply someone with the same name. And of course, none of this extensive research and blogging takes away from Plaintiff's time devoted to defaming this Defendant and others both through blog posts (*See e.g.* Appendix 000100-000118) and Twitter posts (*See e.g.* Appendix 000119-256).

10. If Plaintiff is capable of undertaking the physical labors associated with working her animal rescue organization, can sit through legal proceedings and trials that interest her, and

can research, write, and post almost ceaselessly on the internet against any who displease her, she is more than capable of fulfilling her obligations in the present lawsuit, an obligation which is enshrined in the very first of the Federal Rules of Civil Procedure, which in its current iteration, provides: “These rules govern the procedure in all civil actions and proceedings in the United States district courts...they should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1 (emphasis added).

11. Thus, for example, in the case of *Williams v. Johanns*, 518 F. Supp. 2d 205 (D.D.C. 2007), a litigant’s attorney sought a stay in part because of alleged “medical condition.” *Williams*, 518 F. Supp. 2d at 206. The attorney had a note from his physician which purported to require “strict medical leave” for the counsel in question. The evidence, however, showed that the attorney in question “makes numerous phone calls and sends numerous emails to attorneys,” made a “statement to the Dallas Morning News criticizing a federal City Hall corruption probe involving his client,” filed a new lawsuit in another court, and was in the news for disrupting a city council meeting. *Id.* at p. 210-211. The Court held, despite a note from a medical professional attesting to the need for a stay, that:

These activities are simply inconsistent with the actions of a person whose medical condition prevents him from performing his obligations to this Court and to his clients. If Mr. Myart can make public appearances, engage in civil protest, provide statements to the media, file papers in other cases, and engage in daily and even hourly contact with opposing counsel via phone and email, he clearly has enough energy and wherewithal to perform his obligations in the instant proceedings. For these reasons, Mr. Myart's motion for a stay or continuance is not justified by his medical condition.

Id. at 211.

12. As in *Williams*, Plaintiff’s self-proclaimed activities make it clear that she is more than capable of attending to her duties in the present case. If she can wake early, to clean pens

and feed animals, and can sit through legal proceedings in cases which interest her, she can attend depositions and trial in this case. If she can research and post ceaselessly about her enemies and friends alike, she can undertake the research and drafting to litigate this case. The matter has been allowed by her to linger on this Court's docket for almost three years through her constant obstructionism as to the most mundane of matters. Only the barest of discovery has taken place thus far, some of which still has not been responded to adequately, if at all. Of note is the fact that the first mention that was made by her of staying this case was when an attorney with this office inquired of her as to dates for her deposition.

13. Defendant asks that this matter be allowed to proceed apace, and would suggest that if just a fraction of the energies expended by Plaintiff to her hobbies and interests were devoted to moving this case forward, the matter would likely have already been concluded. Defendant asks that the near-constant delaying tactics employed in this case cease, and that the Court allow no more than the Rules require – a just and speedy resolution of the case against her.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff's Motion for Stay be in all things DENIED. Defendant further prays for such other and further relief, general or special, at law or in equity, to which she may be justly entitled.

DATED: May 3, 2015

BY: /s/ Randall E. Turner
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CERTIFICATE OF SERVICE

This will certify that on this the 3rd day of May, 2015, I electronically filed the foregoing document with the Clerk of Court for the United States District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the following attorney(s) of record who have consented in writing to accept this Notice as service of this document by electronic means:

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