

BAT WORLD SANCTUARY and  
AMANDA LOLLAR,

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

**MOTION FOR MALICIOUS PROSECUTION, ABUSE OF PROCESS**

INTRODUCTION

September 2010 Plaintiffs Amanda Lollar and Bat World Sanctuary filed suit against Defendant Mary Cummins for breach of contract and defamation. Defendant did not breach a contract or defame Plaintiffs. Plaintiffs had absolutely no legal basis for suing Defendant. Defendant was sued with malice in retaliation for reporting Plaintiffs to authorities.

June 11, 2012 trial will begin in the cause Amanda Lollar, Bat World Sanctuary v Mary Cummins. Defendant Cummins believes she will prevail in this matter and submits this motion to be heard at the end of the trial.

Cause of Action 1 - Malicious Prosecution

The essential elements of a claim for malicious prosecution are: (1) the institution of proceedings against the plaintiff; (2) by or at the insistence of the defendant; (3) malice in the commencement of the proceeding; (4) lack of probable cause for the proceeding; (5) termination of the proceeding in plaintiff's favor; and (6) damages to the plaintiff.

Tex. Beef Cattle Co. v. Green, 921 S.W.2d 203, 207 (Tex.1996).

1 Plaintiffs Amanda Lollar, Bat World Sanctuary instituted this cause of action with  
2 malice. Their case lacked probable cause which caused financial and other damage to  
3 Defendant Cummins.

4 Cause of Action 2 - Abuse of Process

5 The essential elements of a claim for the tort of abuse of process are  
6 (1) There was an illegal, improper, or perverted use of the legal process, neither  
7 warranted nor authorized by the legal process, (2) There was an ulterior motive or  
8 purpose in exercising such use, and (3) There was damage as a result of the illegal  
9 act. Graham v. Mary Kay, Inc., 25 S.W.3d 749, 756 (Tex.App.-Houston [14th Dist.] 2000,  
10 pet denied). Abuse of process is the malicious misuse or misapplication of legal  
11 process in order to accomplish an ulterior purpose. Baubles & Beads v. Louis Vuitton,  
12 S.A., 766 S.W.2d 377, 378 (Tex.App.- Texarkana 1989, no writ).

13 Plaintiffs Amanda Lollar, Bat World Sanctuary instituted this cause of action. This  
14 cause of action was illegal, improper, not warranted or authorized by the legal process.  
15 The ulterior motive was malicious retaliation for Defendant reporting Plaintiffs to  
16 authorities. Defendant has been damaged as a result of this illegal act.

17 Plaintiffs' attorney Randy Turner of Bailey and Galyen abused the judicial process by  
18 filing motion after motion, scheduling hearing after hearing in order to cause Defendant  
19 to expend considerable finances in the hopes that Defendant would not be able to afford  
20 to defend herself and lose by default.

21 **CONCLUSION**

22 Plaintiffs filed suit against Defendant. This suit was frivolous, meritless and  
23 malicious. It was malicious prosecution and abuse of process.

24 ///

25 ///

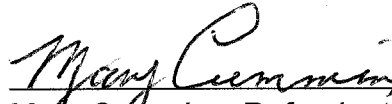
1 PRAYER

2 WHEREFORE, PREMISES CONSIDERED, Defendant requests that this court rule  
3 in its favor, and order Plaintiffs to pay all travel expenses, attorney's fees, associated  
4 costs (\$17,000 as of June 6, 2012) and for such other and further relief as may be  
5 equitable in law or in equity.

6 Respectfully submitted,

7  
8 Mary Cummins, Defendant Pro se  
9 645 W 9<sup>th</sup> St, #110-140  
10 Los Angeles, CA 90015-1640  
11 Phone 310-877-4770  
12 Email: [mmmaryinla@aol.com](mailto:mmmaryinla@aol.com)

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
By:

  
Mary Cummins, Defendant Pro Se

1 **CERTIFICATE OF SERVICE**

2 I, Mary Cummins, hereby certify that a TRUE COPY of the above **MOTION FOR**  
3 **MALICIOUS PROSECUTION, ABUSE OF PROCESS** was served on the Plaintiffs'  
4 Attorney of record by FAX and by FIRST CLASS MAIL at  
5 Randy Turner  
6 Bailey & Galyen  
7 1901 W. Airport Freeway  
8 Bedford, TX 76021  
9 Fax: 817-545-3677  
10 this 18<sup>th</sup> Day of April, 2012

11 

12 \_\_\_\_\_  
13 Mary Cummins, Defendant Pro se  
14 645 W 9<sup>th</sup> St, #110-140  
15 Los Angeles, CA 90015-1640  
16 Phone 310-877-4770  
17 Email: [mmmaryinla@aol.com](mailto:mmmaryinla@aol.com)

BAT WORLD SANCTUARY and  
AMANDA LOLLAR,

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

§ IN THE DISTRICT COURT

§ TARRANT COUNTY, TEXAS

§ 352nd JUDICIAL DISTRICT

FIAT

Defendant's MOTION FOR MALICIOUS PROSECUTION, ABUSE OF PROCESS  
was filed on <sup>June 6, 2012</sup> ~~April 18, 2012~~. Defendant requests that the foregoing be set for hearing.

IT IS THEREFORE ORDERED that a hearing before this court on said Motion be set  
for the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in the 352nd  
District Court of Tarrant County, Fort Worth, Texas.

Date \_\_\_\_\_.

\_\_\_\_\_  
Judge Presiding