



Jun 26, 2015

COURT OF APPEAL – SECOND DIST.

FILED

ELECTRONICALLY

Jun 08, 2015

JOSEPH A. LANE, Clerk

KLEWIS Deputy Clerk

Denied. The motions are not attached. There is no indication the procedure for securing a settled statement was followed.

B258027

Jun 26, 2015

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION EIGHT

MARY CUMMINS,
Defendant and Appellant,

v.

AMANDA LOLLAR, BAT WORLD SANCTUARY
Plaintiffs and Appellees

Appeal from Order of Los Angeles Superior Court
Case No. BS140207, Honorable Robert Hess

**APPELLANT'S MOTION FOR JUDICIAL NOTICE OF APPELLANT'S
COURT MOTIONS, DECLARATIONS TO BE SETTLED STATEMENT IN
PLACE OF NONEXISTENT REPORTER'S TRANSCRIPT ON APPEAL**

Mary Cummins
Petitioner, Plaintiff, Appellant In Pro Per
645 W. 9th St. #110-140
Los Angeles, CA 90015-1640
(310) 877-4770
(310) 494-9395 Fax
mmmaryinla@aol.com

MOTION FOR JUDICIAL NOTICE

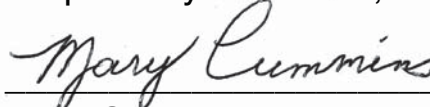
Pursuant to rules 8.137 and 8.346 of the California Rules of Court, Appellant Mary Cummins requests that this Court take judicial notice of Appellant's superior court motions, declarations in lieu of nonexistent reporter's transcript.

There was no court reporter therefore there was reporter's transcript. Appellant pro se was never notified that there was no court reporter and would be no transcript. Appellant requested the court transcript and there was no reply. Appellant contacted Appellees' Counsel to make a joint settled statement and there was no reply.

These documents were presented in the trial court and are already part of the record in this appeal. The documents reflect what was said, what happened during hearings in the Superior Court.

This motion is based on the attached memorandum of points and authorities and the supporting verification/declaration of Appellant Mary Cummins.

Respectfully submitted,



Mary Cummins
Appellant In Pro Per
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CASE BACKGROUND FACTS

Appellant pro se was never notified by the Superior Court that there was no court reporter, there would be no transcript and an Appeal is impossible without a reporter's transcript. Cummins wrote the motions and declarations in the Superior Court case. The motions and declarations reflect what took place, was said in the Superior Court. Appellant took very precise notes during the hearings writing down exactly what Judge Robert Hess stated word for word.

Neither Appellees nor the Superior Court filed motions to strike the documents or refuted what was stated in the documents.

Appellant contacted Counsel for Appellees to request a settled statement. Counsel David Watts never replied.

MEMORANDUM OF POINTS AND AUTHORITIES

A settled statement is required where, as here, the reporter's transcript cannot be obtained because it does not exist.

Rule 8.346(a) of the California Rules of Court provides as follows As soon as a party learns that any portion of the oral proceedings cannot be transcribed, the party may request a settled statement. The application must explain why the oral proceedings cannot be transcribed. (Cal. Rules of Court, rule 8.346(a).)

In this case Appellant included in filed motions and declarations what was stated, happened in the hearings. Neither the Court nor Appellees ever struck the documents or refuted what was stated. Therefore the Court and Appellees have waived their right to refute the statements. They should be admitted as lieu of the missing reporter's record on appeal.

A reporter's transcript would normally be part of the court record. The transcript is missing through no fault of Appellant. Appellant's appeal will be meaningless unless Appellant's motions and declarations are included in lieu of the nonexistent reporter's transcript.

CONCLUSION

Based on the foregoing, Appellant requests that this court grant her request to include Appellant's motions and declarations in lieu of the nonexistent reporter's record where they reflect what was stated, what happened in the hearings. The documents are already part of the Clerk's Transcript and Court Record.

In the alternative Appellant requests an extension to figure out how to get a statement sufficient for the record on appeal.

VERIFICATION

I, Mary Cummins, hereby declare,

I have read the foregoing motion and declaration. I verify that the facts alleged are supported by the record in my appeal.

I contacted the court and requested the reporter's transcript. I never received a reply.

I contacted Appellees' Counsel David Watts to make a joint settled record. Watts did not reply.

There was no court reporter for the hearings.

I was never told there was no court reporter and there would be no reporter's transcript.

I was only recently advised that an appeal is impossible without a reporter's transcript.

I am not an attorney, have received no advice or help from any attorney, and do not have any money for an attorney.

I am indigent, penniless, do not own a car, home, any assets, don't have a job and have no income.

This appeal is vitally important as the subpoena in question would give Appellees private, confidential data, information of other people not a party to this case, not mentioned in the subpoena or served.

I declare under penalty of perjury that the foregoing is true and correct.
Executed at Los Angeles, California, on June 5, 2015.

A handwritten signature in cursive script that reads "Mary Cummins". The signature is written in black ink on a white background.

Mary Cummins, Plaintiff

Dated: June 5, 2015

645 W. 9th St. #110-140

Los Angeles, CA 90015

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:

**APPELLANT'S MOTION FOR JUDICIAL NOTICE OF APPELLANT'S
COURT MOTIONS, DECLARATIONS TO BE SETTLED STATEMENT
IN PLACE OF NONEXISTENT REPORTER'S TRANSCRIPT ON
APPEAL**

on the following 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.

David C Watts

Law Office of David A Martin & Associates
8880 Cal Center Dr, #260
Sacramento, CA 95826
(916) 381 4040
(916) 381 4070 Fax
dwatts@dmartinlaw.com

Los Angeles County Superior Court

Judge Robert Hess, Dept 25
111 North Hill St.
Los Angeles, CA 90012

Second District Court of Appeals

300 S. Spring Street
2nd Floor, North Tower
Los Angeles, CA 90013

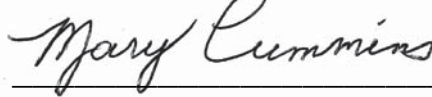
///
///

Supreme Court of California
350 McAllister Street
San Francisco, CA 94102-4783

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

Executed this day, June 5, 2015, at Los Angeles, California.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Cummins". The signature is written in black ink and is positioned above a horizontal line.

Mary Cummins, Plaintiff

Dated: June 5, 2015

645 W. 9th St. #110-140

Los Angeles, CA 90015