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**Appeal No. 02-16-00165-CV
County Court Case No. 2015-002259-3**

AMANDA LOLLAR,

COUNTY COURT 3

Plaintiff,

vs.

TARRANT COUNTY, TEXAS

MARY CUMMINS,

Defendant Pro se

DEFENDANT'S NOTICE OF APPEAL INDIGENCE

Defendant, Mary Cummins desires to appeal from the oral order by the Court on July 11, 2016 1:00 p.m. Texas time to the Second District Court of Appeals of Texas. The oral order was a denial of indigence for Defendant. Judge Hrabal stated the indigence was denied as no Affidavit of Indigence was filed which was sworn before a notary. Judge Hrabal also stated it is not possible to have an evidentiary hearing telephonically on the indigence even if a notarized affidavit was filed. As of today Judge Mike Hrabal who presides over Tarrant County Court 3 has not signed, filed or served a written order. The current appeal is case 02-16-00165-CV¹.

Defendant filed an Affidavit of Indigence with the Second Court of Appeals and County Court 3 June 8, 2016. Defendant stated in the affidavit that Defendant cannot afford a notary. Defendant is also disabled and unable to get to a notary. To order a notary to go to Defendant would cost over \$100.

¹ Mary Cummins v Amanda Lollar <http://www.search.txcourts.gov/Case.aspx?cn=02-16-00165-CV&coa=coa02>

1 In the previous identical case 352-248169-10, appeal 02-12-00285-CV² Defendant
2 filed an affidavit of indigence. That affidavit also was not sworn. The trial court and
3 appeals court accepted that affidavit. This Court has previously accepted unsworn
4 documents. This Court has previously had telephonic evidentiary hearing for the motion
5 to dismiss.

6 In the previous identical copy/paste case Judge Brigham refused to allow Defendant
7 to appear telephonically for the indigence hearing. Judge Brigham also refused to allow
8 Defendant to appear by brief which was filed. Defendant appealed that denial of
9 indigence to the Second Court of Appeals. The Second Court of Appeals court reversed
10 that order and remanded the case to be heard telephonically in the trial court. The
11 Appeals Court did not demand that Defendant notarize the affidavit (Exhibit 1, Appeals
12 Court order³).

13 From that order,
14 "The purpose of Rule 20.1 of the Texas Rules of Appellate Procedure is to permit
15 parties to proceed without paying filing fees if they are unable to do so, and we construe
16 the rules liberally in favor of preserving appellate rights." "This court's order abating the
17 contests to the trial court stated that "[t]he trial court may arrange for appearances by
18 telephone conference or other alternate means if necessary."

19 "If the affidavit provides sufficient information to prove by a preponderance of
20 evidence that the party is unable to pay costs on appeal, the affidavit is sufficient, even
21 if information on each of the twelve items is not included."

22
23
24 ² Appeal Mary Cummins v Amanda Lollar, Bat World Sanctuary
<http://www.search.txcourts.gov/Case.aspx?cn=02-12-00285-CV&coa=coa02>

25 ³ Appeals Court Reverses Order Indigence Hearing.
http://www.animaladvocates.us/mary_cummins_appeals_bat_world_sanctuary/appeals_court_reversed_order.pdf

1 "Indigency provisions, like other appellate rules, have long been liberally construed in
2 favor of a right to appeal." "The indigency rules are rooted in the principle that "[c]ourts
3 should be open to all, including those who cannot afford the costs of admission."
4

5 "To require a pro se out-of-state resident asserting indigence to physically appear at
6 a contest hearing to prove the allegations in her affidavit, without reasonably
7 accommodating that party by means such as a telephonic hearing, undercuts the
8 purpose and spirit of rule 20.1."

9 "To require a pro se party to object to a late-filed contest to an affidavit of indigence
10 in order to preserve error--something the party is not likely to know to do--is to
11 eviscerate the protection Rule 20.1 (f) is intended to afford."

12 "Accordingly, we reverse the trial court's ruling on the contests to appellant's affidavit
13 of indigency and remand that issue to the trial court for a new hearing in which appellant
14 is allowed to appear telephonically to attempt to prove her alleged indigence."

15 Defendant gave written notice that Defendant would audio record the hearing. The
16 hearing was also audio recorded by the court reporter. Defendant audio recorded the
17 hearing and can provide a copy to the court. The hearing had to be audio recorded in
18 order to preserve the court record for appeal. Defendant requested that the court
19 reporter be present at the hearing. The court reporter has refused to give Defendant the
20 transcripts without paying first. Defendant is indigent and can't afford to pay for a notary,
21 transcript or court record. Defendant filed an Affidavit of Indigence in the County Court 3
22 case. The contest by Plaintiff was never heard. Defendant's indigence is thereby
23 affirmed. Defendant asked Judge Hrabal to sign and file an order but Judge Hrabal
24 refused.
25

1 The contests filed in this case were not heard per Tex. R. App. P. 20.1(h)(4). "Notice
2 shall be given and the hearing shall be held within the deadlines set out in the rules of
3 appellate procedure. See *id.* R. 20.1(i)(1) (trial court must set hearing and notify parties
4 and court reporter), (2) (hearing must be held *within ten days* of date trial court receives
5 referral of contest), (3) (trial court may extend time for hearing for up to twenty days), (4)
6 (contest is deemed overruled unless trial court signs order sustaining contest within
7 period set for hearing)."

8 The contests have therefore been over ruled. Defendant notified the Appeals Court
9 and County Court 3 about this last week.

10 This case 2015-002259-3 is an identical copy/paste of case 352-248169-10. It even
11 includes the claims which were reversed in the Appeals Court. The reversed claims
12 were included by Plaintiff so the forum would be Texas per their forged contract. Texas
13 has no jurisdiction in this case as proper jurisdiction is California or Federal Court due to
14 diversity. Plaintiff has stated many times on the record that Defendant allegedly
15 defamed Plaintiff only while in California. Defendant has never defamed Plaintiff ever.
16 Every word has been the absolute truth supported by physical evidence from
17 government agencies.

18 This case should be dismissed due to res judicata as it has already been
19 adjudicated in 2015. This case was filed in order to get an unconstitutional injunction
20 against Defendant identical to the one the Second Court of Appeals over turned as
21 unconstitutional. Plaintiff and her attorney Randy Turner merely want to remove
22 confirmed evidence of Plaintiff's animal cruelty from the Internet. The main USDA
23 veterinarian stated in 2011 that Plaintiff Lollar caused "bats pain, suffering and death,"
24
25

1 “violated the Animal Welfare Act.”⁴ Here is the video which is privileged as Plaintiff
2 ordered Defendant to take this video of Plaintiff trying to perform an episiotomy on a
3 bat⁵. Defendant also had written approved via the Intern Rules document filed.

4 This case should be dismissed as Plaintiff Lollar and her attorney Randy Turner
5 forged the evidence in their reply to Defendant’s Motion to Dismiss. As Defendant has
6 never defamed Plaintiff, Plaintiff had to create forged “evidence.” Plaintiff defamed
7 herself then sued Defendant for that defamation! Here is but one of the forged exhibits.
8 They were all exactly like this. Defendant did not write the article or any of the
9 comments. The article was made in 2013 outside of the statute of limitations. Plaintiff
10 could have subpoena’d the website to get the identities of the actual posters. They did
11 not as it’s easier to hog tie and beat indigent, disabled, pro se, out of state Defendant
12 Cummins to get an order to remove a truthful article which merely embarrasses Plaintiff
13 Lollar written by other unknown people. Amanda Lollar's forged Exhibit 5⁶. The actual
14 Exhibit 5 in Defendant’s brief⁷. The actual Exhibit 5 online⁸.

15 For unknown reasons Plaintiff Lollar and Plaintiff’s attorney Randy Turner are
16 obsessed with destroying Defendant. Defendant merely reported Plaintiff for animal
17 cruelty and violations. Plaintiff was investigated, violations were found and Plaintiff lost
18 her USDA permit. Randy Turner made this obsessive ihatemary page in his business
19 website talking about the size of Defendant’s breasts when she was 11⁹. Plaintiff Lollar
20

21 ⁴ Amanda Lollar caused “bats pain, suffering, and death.”
http://www.marycummins.com/amanda_lollar_bat_world_sactuary_usda_cancelled.pdf

22 ⁵ Amanda Lollar tries to perform episiotomy on a bat (video)
<https://www.youtube.com/watch?v=t8n509HcfHY>

23 ⁶ Amanda Lollar forged Exhibit 5 <http://animaladvocates.us/exhibit%205.pdf>

24 ⁷ Defendant Exhibit 5 filed http://animaladvocates.us/def_exhibit_5.pdf

25 ⁸ Public Exhibit 5 online
<https://www.indybay.org/newsitems/2013/02/21/18732538.php>

⁹ Randy Turner’s business website ihatemary page
<http://web.archive.org/web/20141222203948/http://www.randyturner.com/index.php/randys-cyber-stalker>

1 has made over 400 websites, blogs, Facebook pages devoted to Defendant. Here is but
2 one where Plaintiff Lollar made a child porn image of Defendant.¹⁰

3
4 Plaintiff Amanda Lollar and her attorney Randy Turner are making a complete
5 mockery of the judicial system with these two identical cases. They have both now
6 committed the crimes of forgery, perjury and fraud. In the 352-248169-10 case Plaintiff
7 never told Defendant what they thought was allegedly defamatory. Plaintiff admitted
8 they had no evidence of any loss. Before a hearing Plaintiff's attorney Randy Turner
9 came up to Defendant in the court room and stated "I've known this judge for many
10 years. He'll sign anything I put in front of him." Judge Brigham did just that. 84 year old
11 visiting Judge William Brigham ruled in favor of Plaintiffs for \$3,000,000 in
12 compensatory damages, \$3,000,000 in exemplary damages, \$166,000 in legal fees,
13 \$10,000 liquidated damages against an indigent Defendant. Randy Turner then wrote
14 the Facts & Findings which Judge Brigham signed unedited.

15 In appeal Justice Dauphinot stated Plaintiff did not have to tell Defendant what they
16 thought was defamatory. It was allegedly Defendant's job to demand a list of the alleged
17 defamatory statements. Justice Dauphinot stated that "defamation is assumed and
18 doesn't have to be proven." The Appeals Court took 18 months to write this 76 page
19 opinion¹¹ which has been written about by University Freedom of Speech Law
20 Professors as a travesty of justice. Two amicus briefs were written on behalf of
21 Defendant one by David Casselman the number one Animal Rights attorney in the

22
23 ¹⁰ Amanda Lollar makes child porn image of Defendant
<http://web.archive.org/web/20141029012316/http://mary-cummins.co/2014/10/28/is-mary-cummins-obsessed-with-pedophilia/>

24 ¹¹ Opinion 02-12-00285-CV
<http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=34bb645a-7096-4f9c-9cbf-a38ebd8b82ef&coa=coa02&DT=Opinion&MediaID=6a9e0c21-7681-4bd2-9331-ba9e76be484c>

1 US¹², the other by Paul Alan Levy a freedom of speech attorney for over 40 years with
2 Public Citizen¹³. Worse than this is the fact that an attorney from Randy Turner's office
3 contacted these two attorneys, defamed Defendant to them and demanded that they
4 retract their amicus briefs. They refused.

5 Defendant sent notice via eFileTexas.gov asking if any other documents or
6 information was needed. Second Court of Appeals stated Defendant would be notified if
7 anything was needed. Appeals Court never requested that Defendant find a way to
8 notarize the notice of indigence. It would be a Catch 22 to demand a disabled, indigent
9 person to pay money to prove they are indigent when they have no money and are
10 indigent.

11 Defendant again respectfully requests the court record for this case for appeal
12 without charge. If Defendant is forced to pay, Defendant cannot appeal. Defendant will
13 be denied a fair trial.

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15 Respectfully submitted.

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Mary Cummins, Defendant Pro se
20 645 W 9th St, #110-140
21 Los Angeles, CA 90015-1640
22 Direct: 310 877 4770
23 July 11, 2016
24 Fax: 310 494 9395
25 Email: mmmaryinla@aol.com

24 ¹² David Casselman amicus brief
[http://www.animaladvocates.us/mary_cummins_v_bat_world_sanctuary_amicus_lette
r.pdf](http://www.animaladvocates.us/mary_cummins_v_bat_world_sanctuary_amicus_letter.pdf)

25 ¹³ Paul Alan Levy, Public Citizen, amicus brief
http://www.animaladvocates.us/cummins_amicus_brief.pdf

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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, Clerk of Tarrant County by eFileTexas.gov.

Randy Turner
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rturner@galyen.com

Mary Louise Garcia
Deputy Robbie Arbor
County Clerk
County Courts at Law 3 of Tarrant County
100 W. Weatherford
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Fax: 817-884-3295
robbiearbor@tarrantcounty.com
This 11th Day of June 2016



Mary Cummins, Defendant Pro se
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**COURT OF APPEALS
SECOND DISTRICT OF TEXAS**

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FORT WORTH, TEXAS 76196

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JUSTICES
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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