

1 MARY CUMMINS  
2 Plaintiff  
3 645 W. 9th St. #110-140  
4 Los Angeles, CA 90015  
5 In Pro Per  
6 Telephone: (310) 877-4770  
7 Email: mmmaryinla@aol.com

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CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES

BY: 

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11 MARY CUMMINS ) Case No. CV12-04902-GHK (MRWx)  
12 Plaintiff )  
13 v. ) PLAINTIFF'S AMENDED  
14 ) OBJECTION TO DEFENDANTS'  
15 AMANDA LOLLAR, BAT WORLD )  
16 SANCTUARY, an unknown business ) SANCTUARY MOTION TO DISMISS  
17 entity, JOHN DOES 1-10 ) FOR IMPROPER VENUE, OR  
18 Defendants ) ALTERNATIVE, TO TRANSFER  
19 ) VENUE; MEMORANDUM OF  
20 ) POINTS AND AUTHORITIES  
21 )  
22 ) [Federal Rule of Civil Procedure 12(b)  
23 ) (3); 28 U.S.C. §1332(a)(1), §1391(1)  
24 ) §1406(a)]

25 Plaintiff Mary Cummins, hereinafter ("Plaintiff") alleges as follows:

26 **INTRODUCTION**

27 For the reasons set forth below, this court is the proper venue for this case. This  
28 case is filed in the Central District of California due to diversity. Plaintiff is suing  
Amanda Lollar, Bat World Sanctuary (BWS) and John Does 1-10. Defendants Amanda  
Lollar and Bat World Sanctuary are located in Texas. Plaintiff recently amended her  
complaint and added the board members of BWS which are located in Texas, Florida  
and New Mexico. Plaintiff also added Rebecca Dmytryk, WildRescue as defendants

PLAINTIFF'S AMENDED OBJECTION TO DEFENDANTS' AMANDA LOLLAR, BAT WORLD SANCTUARY  
MOTION TO DISMISS FOR IMPROPER VENUE, OR ALTERNATIVE, TO TRANSFER VENUE; MEMORANDUM  
OF POINTS AND AUTHORITIES

1 which are located in California. Defendants also include currently unknown John  
2 Does. Plaintiff believes the John Does are located in other states as well.

3 The Complaint alleges that this court has subject matter jurisdiction by virtue of  
4 diversity of citizenship of the parties, 28 U.S.C. § 1332 (a)(1). The complaint further  
5 alleges that this court is proper venue due to 28 U.S.C. § 1391(a) because a substantial  
6 part of the events or omissions giving rise to the damages occurred in this district.

7 While Plaintiff suffered the initial injury in Texas, Plaintiff's witnesses and doctors  
8 are located in California. Plaintiff's financial damages are in California. Plaintiff  
9 suffered injury to her back and has been instructed by doctors not to stand or sit longer  
10 than 20 minutes at a time. Plaintiff is representing herself and would have to travel to  
11 appear in Texas court. That would be overly burdensome to Plaintiff in light of her  
12 medical and financial condition. Other substantial claims have arisen in California  
13 including related harassment and defamation by Defendants. Accordingly, Plaintiff  
14 respectfully requests that the Court deny Defendant's Motion to Dismiss for Improper  
15 Venue or in the alternative, Motion to Transfer Venue.

16 This objection is based on the attached memorandum of points and authorities, the  
17 papers and pleadings on file in this action, affidavit of Plaintiff Mary Cummins, and  
18 upon such further argument and evidence that may be presented at the hearing of this  
19 motion.

20  
21 Respectfully submitted,

22   
23 \_\_\_\_\_  
24 Mary Cummins, Plaintiff

25 Dated: July 16, 2012

26 645 W. 9th St. #110-140

27 Los Angeles, CA 90015

28 In Pro Per

Telephone: (310) 877-4770

**MEMORANDUM OF POINTS AND AUTHORITIES**

**1. Introduction**

As per the amended complaint filed July 9, 2012 this is an action for negligence, negligent interference with prospective economic advantage, negligent infliction of emotional distress, intentional infliction of emotional distress, defamation, defamation per se, intentional interference with business relations, intentional interference with prospective economic advantage and harassment.

Plaintiff filed this action against Amanda Lollar, an individual, Bat World Sanctuary, an unknown business entity, BWS Board member Denise Tomlinson, BWS Board member Dorothy Hyatt, BWS Board member Michelle McCaulley, friend of Amanda Lollar Rebecca Dmytryk, Rebecca Dmytryk aka WildRescue, WildResuce an unknown business entity and John Does 1-10.

While Defendants Amanda Lollar, Dorothy Hyatt, Bat World Sanctuary are residents of Texas, board member Denise Tomlinson is a resident of Florida, board member Michelle McCaulley is a resident of New Mexico, Rebecca Dmytryk is a resident of California and WildRescue an unknown business entity is in California. Besides this Plaintiff believes the John Doe Defendants are also residents of states other than California and Texas. Accordingly, Plaintiff respectfully requests that the Court deny Defendant's Motion to Dismiss for Improper Venue or in the alternative, Motion to Transfer Venue.

**2. Statement of Facts**

Plaintiff was injured June 2010 in Bat World Sanctuary. Plaintiff received and continues to receive medical treatment in California. Plaintiff's doctors, witnesses are in California. Plaintiff is a California licensed real estate appraiser. Plaintiff's damages have occurred in California.

1 Plaintiff has been defamed and harassed in California by Defendants. Plaintiff's  
2 business relations have been damaged in California by Defendants. Plaintiff has  
3 suffered emotional distress because of Defendants' actions in California.

4 Defendants Amanda Lollar and Bat World Sanctuary are residents of Texas. The  
5 members of the Board of Directors of Bat World Sanctuary are located in other states,  
6 namely Florida, New Mexico. Plaintiff believes the John Does are also located in states  
7 other than California and Texas.

8 Plaintiff injured her back. Her doctors have instructed her not to stand or sit longer  
9 than 20 minutes at a time. As she is representing herself in this case, travel to Texas  
10 would be overly burdensome.

11 Because of Defendants' actions Plaintiff's finances have been seriously damaged.  
12 Plaintiff is representing herself and cannot afford to fly back and forth to Texas for this  
13 case. Texas district court does not allow phone appearance for evidentiary motions.  
14 Plaintiff was recently involved in a case in Texas with Defendants Lollar and Bat  
15 World Sanctuary. Their pro bono Texas attorney Randy Turner abused the judicial  
16 process by filing motion after motion in order to cause Plaintiff to not be able to afford  
17 to respond to the case. Plaintiff spent over \$17,000 as a pro se in that case. Most of that  
18 expense was airfare, rental cars, taxis and hotel rooms. In writing Defendants' Texas  
19 attorney said that if Plaintiff did not sign an impossible overly broad injunction against  
20 herself, "the lawsuit will crank up into high gear again with endless hearings,  
21 depositions, motions and, eventually, a trial. I am fine doing that. I litigate for a  
22 living."

23 Plaintiff cannot afford to fly her witnesses to Texas. Transferring the case to Texas  
24 would be unduly burdensome on Plaintiff.

25 In a separate case Plaintiff sued Defendants Amanda Lollar, aka Bat World  
26 Sanctuary an individual, Bat World Sanctuary an unknown business entity, and John  
27 Does 1-10 in Federal court September 29, 2010 for libel, defamation Case # CV-11

1 08081. Defendants tried to dismiss or transfer venue in that case as well. Plaintiff  
2 objected to their motion to dismiss or transfer for the same reasons Plaintiff is  
3 objecting to this motion to dismiss or transfer. Judge Gee denied Defendants' motion to  
4 dismiss or transfer.

5 **3. Legal Argument - Venue in this case is only proper in California**

6 a. This court has subject matter jurisdiction based on complete diversity of citizenship  
7 pursuant to 28 U.S.C. § 1332.

8 b. Venue in this district is proper under 28 U.S.C. § 1391(a) because a substantial part  
9 of the events or omissions giving rise to the damages occurred in this district and  
10 Cummins is a resident of Los Angeles County, California.

11 c. Venue is proper in this Court because at least four of the witnesses are residents of  
12 Los Angeles County, California.

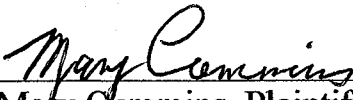
13 d. Cummins was approached by Amanda Lollar, Bat World Sanctuary via email sent to  
14 her in Los Angeles County, California.

15 e. Cummins was first introduced to Bat World Sanctuary via their California location.

16 **4. Conclusion**

17 Accordingly, and based on the foregoing, Plaintiff respectfully requests that this  
18 Court deny Defendants motion to either dismiss this action, or transfer this case to the  
19 Northern District of Texas.

20  
21 Respectfully submitted,

22 

23 Mary Cummins, Plaintiff

24 Dated: July 16, 2012

25 645 W. 9th St. #110-140

26 Los Angeles, CA 90015

27 In Pro Per

28 Telephone: (310) 877-4770

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**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:

**PLAINTIFF'S AMENDED OBJECTION TO DEFENDANTS AMANDA LOLLAR, BAT WORLD SANCTUARY MOTION TO DISMISS FOR IMPROPER VENUE, OR ALTERNATIVE, TO TRANSFER VENUE; MEMORANDUM OF POINTS AND AUTHORITIES**

on the following interested 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 E. BURKE**  
10982 Roebling Avenue #553  
Los Angeles, CA 90024

Also sent by Fax: (818) 347-2148

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

Executed this day, July 16, 2012, at Los Angeles, California

Respectfully submitted,

  
Mary Cummins, Plaintiff

Dated: July 5, 2012  
645 W. 9th St. #110-140  
Los Angeles, CA 90015  
In Pro Per  
Telephone: (310) 877-4770

**DECLARATION OF PLAINTIFF MARY CUMMINS**

I, MARY CUMMINS, declare as follows:

1. I am Mary Cummins Plaintiff in pro per. I make this declaration on my personal knowledge of the facts set forth herein.
2. I injured my head and back at Bat World Sanctuary (BWS) in June 2010.
3. I received care from and continue to receive care from Doctors, Chiropractors and Physical Therapists located and licensed in California.
4. My orthopedic surgeon and physical therapists have instructed me not to stand or sit longer than 20 minutes at a time. Standing or sitting longer than this causes great pain. Having to travel to Texas would be overly burdensome besides expensive.
5. I am a resident of Los Angeles County, California.
6. I was first introduced to BWS through their California location in San Diego.
7. I was sent an email from BWS to me in California inviting me to Bat World.
8. I am a licensed real estate appraiser in California. This is my main source of income.
9. My financial and other damages in this case have occurred in California.
10. My Doctors, Chiropractors, Physical Therapists, witnesses are located in California.
11. Defendants Amanda Lollar, Dottie Hyatt, Bat World Sanctuary are located in Texas.
12. Defendant Denise Tomlinson is a resident of Florida.
13. Defendant Michelle McCaulley is a resident of New Mexico.
14. Defendant Rebecca Dmytryk is a resident of California.
15. Defendant WildRescue an unknown business entity is in California.

1 16. Defendants' actions were directed to me in California. They have damaged me in  
2 California.

3 17. Defendants have harassed me in California.

4 18. Defendants' actions have caused me emotional distress in California.

5 19. I was involved in a lawsuit with Defendants Amanda Lollar and Bat World  
6 Sanctuary in Texas. Their attorney abused the judicial process by filing motion  
7 after motion, scheduling hearing after hearing in the hopes that I could not afford  
8 to reply. I spent over \$17,000 in that case as a pro se. Most of that was spent on  
9 travel to and from Texas. If this case were to be transferred to Texas, I'm sure he  
10 would again abuse the judicial process.

11 20. December 2011 Texas attorney Randy Turner sent me an email which said that if  
12 I don't sign an impossible injunction against myself, "the lawsuit will crank up  
13 into high gear again with endless hearings, depositions, motions and, eventually,  
14 a trial. I am fine doing that. I litigate for a living."

15 21. I sent my initial objection to Defendant's motion to dismiss before I saw the  
16 Judge's minutes in chambers giving me 12 days to respond. I have amended my  
17 objection in light of the Judge's orders.

18 22. I filed an amended complaint adding new defendants and other claims July 9,  
19 2012.

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

22 Executed on July 16, 2012 at Los Angeles, California.

23 By: Mary Cummins  
24 MARY CUMMINS