

FILED

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

2012 AUG -2 PM 1:59

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

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

11 MARY CUMMINS)	Case No. CV12-04902-GHK (MRWx)
12 <i>Plaintiff</i>)	
13 v.)	
14 AMANDA LOLLAR, BAT WORLD)	PLAINTIFF'S RESPONSE TO
15 SANCTUARY, an unknown business)	ORDER TO SHOW CAUSE
16 entity, DENISE TOMLINSON,)	
17 DOROTHY HYATT, MICHELLE)	[Federal Rule of Civil Procedure 12(b)
18 MCCAULLEY, REBECCA)	(3); 28 U.S.C. §1332(a)(1), §1391(1)
19 DMYTRYK, REBECCA DMYTRYK)	§1406(a)]
20 aka WILDRESCUE, WILDRESCUE an)	
21 unknown entity, JOHN DOES 1-10)	Date: August 13, 2012
22 <i>Defendants</i>)	Time: 9:30 a.m.
)	Ctrl.: 650

23 By order filed July 30, 2012, this Court directed Plaintiff to show cause "why the
24 new claims and factual allegations should not be dismissed" [Document 16,
25 CV-12-04902-GHK (MRWx) page ID 135 and 136 (Exhibit 1)].

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FACTUAL BACKGROUND

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June 5, 2012 Plaintiff filed suit against Defendants AMANDA LOLLAR, BAT WORLD SANCTUARY an unknown business entity and John Does 1-10 for NEGLIGENCE; NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE; and NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS stemming from a personal injury claim [Declaration of Plaintiff Mary Cummins (Exhibit 2)].

July 9, 2012 Plaintiff filed her first amended complaint against AMANDA LOLLAR, DENISE TOMLINSON, DOROTHY HYATT, MICHELLE MCCAULLEY, BAT WORLD SANCTUARY an unknown business entity, REBECCA DMYTRYK, REBECCA DMYTRYK aka WILDRESCUE, WILDRESCUE an unknown business entity, JOHN DOES 1-10 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 always intended to add the board of directors of Bat World Sanctuary as Defendants. Plaintiff did not have all their names and addresses at the time of the initial filing so they were added when the complaint was amended. Bat World Sanctuary only became incorporated more recently. Previously it was a non-profit “group” with the same board of directors.

Plaintiff originally filed claims for “negligent” actions by Defendants. Plaintiff later realized that some of the actions were “intentional” so Plaintiff added the “intentional” claims.

1 Since Plaintiff first alleged these claims publicly Defendants have also defamed
2 Plaintiff in relation to these specific claims. Defendants have also been harassing
3 Plaintiff about these specific claims. Defendants have been defaming and harassing
4 Plaintiff in California where Plaintiff resides and works. Therefore Plaintiff added
5 claims for defamation, defamation per se and harassment to the complaint.

6 Plaintiff filed on September 29, 2011 a complaint for "Defamation, Defamation per
7 se, Interference with Business Relations, Interference with Prospective Economic
8 Advantage, Infliction of Emotional Distress" against Defendants Amanda Lollar,
9 Amanda Lollar aka Bat World Sanctuary, Bat World Sanctuary an unknown business
10 entity and John Does 1-10 CV-11 080811-DMG-MANx. The main claim is
11 defamation.

12 Defendants posted on the Internet that Plaintiff "has a criminal record," was
13 "convicted" of "theft of property, forged name on credit card," is a "cyberstalker,"
14 "cybersquatter," was "picked up by police," "hacked into our website" and "email
15 list," was "picked up by the LAPD anti-terrorism task force," "posts pornography in
16 children's chat rooms," "commits animal cruelty," "tortures animals," and is a "whore."

17 The causes of action in the current case CV12-04902-GHK (MRWx) are completely
18 different than the causes of action in case CV11-080811-DMG (MANx). Honorable
19 Judge Dolly M. Gee just signed a "Declination" to "Order RE Transfer case to General
20 Order 08-05 (Related Cases)" on July 30, 2012 (Exhibit 3) posted to Pacer August 2,
21 2012. The order states "The two cases do not arise from related transactions or events
22 and not call for determination of the same or substantially related or similar questions
23 of law and fact."

24 The factual issues for each of the defendants and each of the claims is actually quite
25 different. The defamation claims in this current suit are all related to the main personal
26 injury claim. Defendants have stated that Plaintiff merely bumped her head and was

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1 not injured. Defendants stated that Plaintiff demanded money for her injuries from
2 Defendant but Defendants refused. That is not true. These defamation claims are
3 related to the personal injury claim.

4 There have also been intervening developments. Defendants are also harassing
5 Plaintiff. Plaintiff believes Defendants signed Plaintiff up for singles websites for
6 senior citizens, African Americans, Jewish and Asian singles. Plaintiff also believes
7 that Defendants signed her up for insurance quotes for car insurance. Plaintiff received
8 so many quotes that they filled up her phone and email account. Plaintiff also received
9 spam email for hair replacement, weight loss, wrinkle removal and bankruptcy filings
10 mailed to "Mary Cumstain" and "Mary Cumbucket" from companies located in Los
11 Angeles, California. Plaintiff believes that Defendants made personal ads in her name.
12 Plaintiff is now receiving lewd messages and photos from male strangers. All of this
13 happened when Plaintiff publicly made her claim of personal injury. None of these
14 specific claims of defamation are included in the other case CV-11-08081.

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16 **CONCLUSION**

17 Plaintiff did not amend her First Amended Complaint in "bad faith" in an effort to
18 establish venue in this action. This court has subject matter jurisdiction based on
19 complete diversity of citizenship pursuant to 28 U.S.C. § 1332. Defendants are located
20 in Texas, Florida, California and New Mexico. John Doe defendants may be located in
21 other states. Damages resulting from the matter exceed \$75,000 exclusive of costs.
22 Plaintiff requests exemplary and punitive damages in the amount of \$500,000.

23 Venue in this district is proper under 28 U.S.C. § 1391(a) because a substantial part
24 of the events or omissions giving rise to the damages occurred in this district and
25 Cummins is a resident of Los Angeles County, California. Plaintiff has been harassed,
26 defamed, emotionally and financially damaged in California.


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Plaintiff is a pro se litigant and not an attorney. If Plaintiff were an attorney, she would have known to add all the parties and claims originally and would have needed to amend her complaint.

NOT
MC

For the reasons stated, this Court should not dismiss the new claims and factual allegations in Plaintiff's first amended complaint.

Respectfully submitted,


Mary Cummins, Plaintiff
Dated: August 2, 2012
645 W. 9th St. #110-140
Los Angeles, CA 90015
In Pro Per
Telephone: (310) 877-4770

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 12-4902-GHK (MRWx)

Date July 30, 2012

Title *Mary Cummins v. Amanda Lollar, et al.*

Presiding: The Honorable

GEORGE H. KING, U. S. DISTRICT JUDGE

Beatrice Herrera

N/A

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None

None

Proceedings: (In Chambers) Order to Show Cause

On June 5, 2012, Plaintiff Mary Cummins ("Plaintiff") filed this Complaint asserting claims for negligence, negligent interference with prospective economic advantage, and negligent infliction of emotional distress against Defendants Amanda Lollar ("Lollar") and Bat World Sanctuary ("Bat World" and, collectively, "Defendants"). The claims are based on Plaintiff's allegations that while an intern at Bat World in Mineral Wells, Texas, Plaintiff hit her head on a piece of wood, fell, and injured her head and back. On July 6, 2012, we issued an Order to Show Cause ("OSC") why this action should not be dismissed or transferred for improper venue.

On July 9, 2012, Plaintiff filed a First Amended Complaint ("FAC").¹ In addition to the claims asserted in the first Complaint, Plaintiff's FAC now also asserts claims for negligent infliction of emotional distress, defamation, defamation per se, intentional interference with business relations, intentional interference with prospective economic advantage, and harassment. These additional claims are based on a different factual predicate – Plaintiff's allegations that after she returned to California, Defendants harassed and ridiculed her on the internet. The FAC also now asserts that venue is proper because "Plaintiff has been harassed, defamed and financially damages in California." (FAC ¶ 22).

The claims Plaintiff adds in the FAC – the only claims in the FAC that appear to be tethered to this venue – and the factual predicate for those claims appear to be identical to claims already pending in this district before Judge Dolly M. Gee. *See Mary Cumms v. Amanda Lollar, et al.*, CV 11-8081, Dkt. No. 21. Accordingly, it appears that Plaintiff filed her FAC in bad faith – in an effort to establish venue in this action over Plaintiff's claims arising out of her injuries that occurred at Bat World in Mineral Wells, Texas. We view such tactics with disfavor. Accordingly, Plaintiff is hereby **ORDERED TO SHOW CAUSE**, in writing, **within seven (7) days hereof**, why the new claims and factual allegations asserted in the FAC should not be dismissed. Plaintiff's failure to timely and adequately show cause

¹ Plaintiff's FAC was filed as a matter of course under Federal Rule of Civil Procedure 15(a)(1)(B), because it was filed within twenty-one days of Defendants' Motion to Dismiss or Transfer for Improper Venue.

Exhibit 1 6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No	CV 12-4902-GHK (MRWx)	Date	July 30, 2012
Title	<i>Mary Cummins v. Amanda Lollar, et al.</i>		

will be deemed her admission that these claims were improperly added. In that event, we will dismiss these claims, without prejudice, and transfer this action to the U.S. District Court for the Northern District of Texas.

IT IS SO ORDERED.

Initials of Deputy Clerk

Bea

DECLARATION OF PLAINTIFF MARY CUMMINS

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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. Defendants have defamed and harassed me in California in regard to my personal injury claim.
4. Defendants have stated that my personal injury claim is false which is not true.
5. I believe Defendants have been signing me up for phone and email spam for dating sites, single's ads, wrinkle removal, weight loss, bankruptcy filings, hair replacement and auto insurance.
6. Defendants have stated on the Internet that I am fat, wrinkly, balding, am actually a male, am mentally ill and other harassing things.
7. The board members of Bat World Sanctuary which owned the building where I was injured are in Florida, New Mexico and different counties in Texas.
8. Defendant Rebecca Dmytryk, WildRescue are located in California.
9. I have filed another suit against only Amanda Lollar, Bat World Sanctuary and John Does in California September 2011. That suit is for defamation which is not related to these current causes of action.

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

Executed on August 2, 2012 at Los Angeles, California.

By: Mary Cummins
MARY CUMMINS

Exhibit 2

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Mary Cummins

Plaintiff(s),

v.

Armanda Lollar et al

Defendant(s).

CASE NUMBER:

CV 12-04902 GHK(MRWx)

ORDER RE TRANSFER PURSUANT
TO GENERAL ORDER 08-05
(Related Cases)

CONSENT

I hereby consent to the transfer of the above-entitled case to my calendar, pursuant to General Order 08-05.

Dolly M. Gee

United States District Judge

Date

DECLINATION

I hereby decline to transfer the above-entitled case to my calendar for the reasons set forth:

The two cases do not arise from related transactions or events and do not call for determination of the same or substantially related or similar questions of law and fact.

7/30/12
Date

Dolly M. Gee
United States District Judge

REASON FOR TRANSFER AS INDICATED BY COUNSEL

Case CV 11-08081 DMG(MANx) and the present case:

- A. Arise from the same or closely related transactions, happenings or events; or
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.
- E. Involve one or more defendants from the criminal case in common, and would entail substantial duplication of labor if heard by different judges (applicable only on civil forfeiture action).

NOTICE TO COUNSEL FROM CLERK

Pursuant to the above transfer, any discovery matters that are or may be referred to a Magistrate Judge are hereby transferred from Magistrate Judge Wilner to Magistrate Judge Nagle.

On all documents subsequently filed in this case, please substitute the initials DMG(MANx) after the case number in place of the initials of the prior judge, so that the case number will read CV 11-08081 DMG(MANx). This is very important because documents are routed to the assigned judges by means of these initials. The case file, under seal documents, exhibits, docket, transcripts or depositions may be viewed at the Western Southern Eastern Division.

Traditionally filed subsequent documents must be filed at the Western Southern Eastern Division. Failure to file at the proper location will result in your documents being returned to you.

cc: Previous Judge Statistics Clerk

CV-34 (05/08)

ORDER RE TRANSFER PURSUANT TO GENERAL ORDER 08-05 (Related Cases)

Exhibit 3 9

PROOF OF SERVICE BY MAIL
(FRCivP 5 (b)) or
(CCP 1013a, 2015.5) or
(FRAP 25 (d))

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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 RESPONSE TO ORDER TO SHOW CAUSE

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.

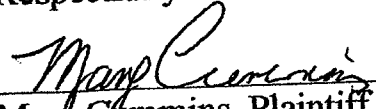
DAVID E. BURKE
10982 Roebling Avenue #553
Los Angeles, CA 90024

Also sent by email:

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

Executed this day, August 2, 2012, at Los Angeles, California

Respectfully submitted,


Mary Cummins, Plaintiff

Dated: August 2, 2012
645 W. 9th St. #110-140
Los Angeles, CA 90015
In Pro Per
Telephone: (310) 877-4770