

Before the Presiding Judge
Of the Eighth Administrative Judicial Region of Texas

CAUSE NO.352-248169-10

BAT WORLD SANCTURARY AND
AMANDA LOLLAR, Plaintiffs

IN THE DISTRICT COURT

Vs

OF TARRANT COUNTYI, TEXAS

MARY CUMMINS, Defendant Pro Se

352ND JUDICIAL DISTRICT

ORDER DENYING MOTION TO RECUSE

On the 17th day of August, 2012, came on for hearing Defendant's Motion to Recuse the Honorable William Brigham. Movant appeared pro se. Plaintiff Bat World Sanctuary et al appeared through their attorney.

Having considered the evidence and arguments presented, it is found that the Motion should be, and it is hereby, DENIED.

Further, it is found that Rule 18a(h)(1) sanctions are justified by the evidence and arguments presented, and it is, therefore, ordered that Movant Mary Cummins pay to Attorney Randall Turner, within 30 days of this order, the sum of \$500.00 as reasonable attorney fees and expenses.

SIGNED this 20th day of August, 2012.


JEFF WALKER, Presiding Judge

MAILED COPY TO ALL ATTORNEYS
AND PRO SE PARTIES OF RECORD

8/21/12

JB

Court's Minutes
Transaction #

207 AA



**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

We have considered appellant's Motion for Telephonic Hearing and Motion to Recuse Judge William Brigham.

Because this appeal is currently abated for the trial court to hold a hearing on the contests to appellant's affidavit of indigency, appellant's motions to recuse and for a telephonic hearing are also remanded to the trial court so that the trial judge may take appropriate action in accordance with rule of civil procedure

18a(f). Tex. R. Civ. P. 18a(f); *see also id.* 18a(e) (requiring clerk to forward recusal motion to trial judge and regional presiding judge immediately upon filing).

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 regional presiding judge, the trial court clerk, and the court reporter.

DATED October 11, 2012.

PER CURIAM

RECEIVED

OCT 11 2012

**COURT OF APPEALS
SECOND DISTRICT OF TEXAS
DEBRA SPISAK, CLERK**

**IN THE COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH, TEXAS**

MARY CUMMINS

Appellant,

vs.

Appeal 02-12-00285-CV

BAT WORLD SANCTUARY, AMANDA

LOLLAR,

Appellees

18-10-12 18:07

APPELLANT'S MOTION FOR TELEPHONIC HEARING

TO THE HONORABLE JUDGE OF SAID COURT;

Mary Cummins, Appellant Pro se, files this Motion for Telephonic Hearing, and in support shows the following:

1.

The hearing is for MOTION TO RECUSE JUDGE WILLIAM BRIGHAM in the above styled cause filed October _____, 2012. Hearing date has not yet been set.

2.

Appellant resides in Los Angeles County, California and their appearance by telephone would be the most expedient method of resolving the issues for all parties involved. Appellant does not have the money to pay for airfare, motel to/from Texas. Appellant has no job or no assets. Appellant had to borrow money to pay the \$175 filing fee via a money order in the Appeals Court Case 02-12-00285-CV. Because of Appellee's defamation against Appellant on the Internet, Appellant cannot get work or a job. Appellant is currently suing Appellees in California Federal court for defamation for

1 this reason, Case # CV-11 08081. If Appellant is denied telephonic appearance, she will
2 not be able to appear. Her right to due process of law will be denied.

3
4 3.

5 No party in this action will suffer any prejudice if Appellant appears telephonically. A
6 previous hearing was already heard telephonically.

7 WHEREFORE, Appellant respectfully requests that the Court grant this Motion for
8 Telephonic Hearing.

9
10 Respectfully submitted,

11 Mary Cummins, Appellant Pro se
12 645 W 9th St, #110-140
13 Los Angeles, CA 90015-1640
14 Phone 310-877-4770
15 Email: mmmarvinla@aol.com
16 October 10, 2012

17 By: 
18 Mary Cummins, Appellant Pro Se

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CERTIFICATE OF SERVICE

I, Mary Cummins, hereby certify that a TRUE COPY of the above MOTION FOR TELEPHONIC HEARING was served on the Appellees' Attorney of record by FAX and by FIRST CLASS MAIL at

RANDY TURNER
Bailey & Galyen
1901 W. Airport Fwy
Bedford, Texas 76021
Fax: 817-545-3677
this 10th Day of October, 2012

Mary Cummins

Mary Cummins, Appellant Pro se
645 W 9th St, #110-140
Los Angeles, CA 90015-1640
Phone 310-877-4770
Email: mmmaryinla@aol.com

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IN THE COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH, TEXAS

MARY CUMMINS

Appellant,

vs.

BAT WORLD SANCTUARY, AMANDA

LOLLAR,

Appellees

Appeal 02-12-00285-CV

FIAT

Appellant's MOTION FOR TELEPHONIC HEARING was filed on October ____, 2012.

Appellant 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

RECEIVED
COURT OF APPEALS
SECOND DISTRICT **IN THE COURT OF APPEALS**
SECOND DISTRICT OF TEXAS
2012 OCT 11 AM 5:43 FORT WORTH, TEXAS

FORT WORTH, TEXAS
DEBRA SPISAK, CLERK
MARY CUMMINS

Appellant,

vs.

Appeal 02-12-00285-CV

BAT WORLD SANCTUARY, AMANDA

LOLLAR,

Appellees

10-11-12 13:03

APPELLANT'S MOTION TO RECUSE JUDGE WILLIAM BRIGHAM

TO THE HONORABLE JUDGE OF SAID COURT.

Comes now Appellant, Mary Cummins, and files this motion for Judge William Brigham to disqualify or recuse himself from this hearing, and would show the following:

INTRODUCTION

Appellant was notified via email only Friday, October 5, 2012 midday that there would be a telephonic hearing on contests of her affidavit of indigence on Monday, October 8, 2012 at 1:30 pm Texas time. Appellant resides in California which is two hours behind. Appellant asked the court which Judge would preside over that hearing (Exhibit 1). No one responded.

Appellant was notified via email only October 8, 2012 at 11:00 a.m. Texas time that Judge Brigham would preside over the October 8, 2012 hearing. Appellant replied via email 20 minutes later that there was a definite bias and conflict of interest with Judge Brigham. Appellant asked for leave to file a motion to recuse (Exhibit 2). Appellant also sent a fax to Ouida Stevens (Exhibit 3) cc'd to Linda Blair court coordinator for 352nd District court. Judge Walker's court coordinator Ouida Stevens replied via voice mail stating that they can do nothing without a motion to recuse. Appellant instantly wrote,

APPELLANT'S MOTION TO RECUSE JUDGE WILLIAM BRIGHAM

1 emailed and faxed a motion to recuse at 12:57 a.m. Texas time to the Court, Ouida
2 Stevens, appellees and others (Exhibit 4).

3 During the 1:30 p.m. hearing Judge Brigham acknowledged receipt of Appellant's
4 email stating Appellant wished to recuse the Judge if Appellant legally could. The email
5 also requested leave to file a proper motion to recuse. Judge Brigham granted Appellant
6 leave to file this motion to recuse until end of day October 12, 2012.

7 CONFLICT OF INTEREST, BIAS

8 Judge Brigham has a conflict of interest with Appellant. Judge Brigham presided over
9 Appellant's (Defendant's) trial and ruled against Appellant. Even though Plaintiffs did not
10 show elements of defamation, breach of contract, any financial damages or causation,
11 Judge Brigham ruled against Defendant signing an order against Appellant for
12 \$6,200,000. The order also stated Appellant must remove alleged "defamatory" items
13 from the Internet. These items were written by government agencies, Appellee/Plaintiff,
14 were about parties other than Plaintiffs, were statements made by Appellee/Plaintiff and
15 were 100% the truth. Not one of the 45 statements was defamatory!

16 Judge Brigham cannot fairly preside over Appellant especially over the hearing
17 contesting Appellant's affidavit of indigence. Judge Brigham would obviously not want
18 Appellant to be able to appeal his decision. If Appellant is denied indigence standing,
19 Appellant cannot afford to pay for the minutes. Appellant's appeal would automatically
20 be denied. Appellant would be denied due process by an impartial and disinterested
21 tribunal.

22 Judge Brigham also has a bias against Appellant. During Appellant's (Defendant's)
23 trial attorney for Plaintiffs/Appellees Randy Turner showed Judge Brigham motorcycles
24 once owned by Appellant. Turner also showed the Judge photos of Appellant hiking in
25 various places around the world. Turner was trying to falsely convince the Judge that

1 Appellant has money as evidenced by the motorcycles and vacation photos. Turner
2 knew through deposition and discovery that Appellant does not currently own any
3 motorcycles, one of the motorcycles was a gift, the vacation photos were from five years
4 previous and Appellant did not pay for the vacations. Appellees know that Appellant has
5 no money and have admitted as such. They have even posted this on the Internet to try
6 to embarrass Appellant.

7 ARGUMENTS AND AUTHORITIES

8 The due process clauses of both the Texas and the United States Constitutions
9 guarantees a party an impartial and disinterested tribunal in civil cases. Marshall v.
10 Jerrico, Inc., 446 U.S. 238, 242, 100 S.Ct. 1610, 1613 (1980); Metzger v. Sebek, 892
11 S.W.2d 20, 37 (Tex. App. Houston [1st Dist.] 1994, writ denied).

12 In this case, the personal interest and bias of the judge of the court has deprived and
13 will deprive Appellant of a fair trial in violation of the due process clauses of both the
14 Texas and the United States Constitutions and in violation of Texas Rule of Civil
15 Procedure 18b because the judge's impartiality might reasonably be questioned. Tex. R.
16 Civ. P. 18b(2)(a); Dunn v. County of Dallas, 794 S.W.2d 560, 562 (Tex. App. Dallas
17 1990, no writ). In this case, it is reasonable to question the impartiality of Judge William
18 Brigham because of the facts stated herein. Another impartial Judge should oversee this
19 hearing.

20 Appellant is entitled to this objection because the presiding judge did not give timely
21 notice of the assignment of this case to the visiting judge. See Tex. Gov't Code §74.053
22 (a); Tivoli Corp. v. Jewelers Mut. Ins. Co., 932 S.W.2d 704, 709 (Tex. App. - San
23 Antonio 1996, writ denied). It is reasonable and practical for the Court to give notice to
24 give Appellant the opportunity to check the qualifications of the visiting judge. Had
25 Appellant known that Judge William Brigham would oversee the hearing, Appellant

1 would have been able to object and file a motion to recuse the Judge within the ten day
2 limit before hearing. As it was Appellant only received less than a business day notice of
3 the hearing, only two actual days' notice. Appellant even specifically asked which Judge
4 would preside over the hearing but was not notified until two hours before the hearing.
5 Appellant's rights were denied.

6 CONCLUSION

7 Judge William Brigham has demonstrated prejudice against Appellant and has a
8 conflict of interest in this hearing. He should be removed from overseeing this hearing.

9 PRAYER

10 WHEREFORE, the Appellant prays that the Judge of this Court immediately
11 request the Presiding Judge of this administrative district to assign another judge to
12 hear this motion, and that upon such hearing Judge William Brigham be disqualified or
13 recuse himself from presiding in this hearing.

14 Respectfully submitted,

15
16 Mary Cummins, Appellant Pro se
17 645 W 9th St, #110-140
18 Los Angeles, CA 90015-1640
19 October 10, 2012
20 Phone 310-877-4770
21 Email: mmmarvinla@aol.com

22 By: 
23 Mary Cummins, Appellant Pro Se
24
25

Fax from :

18-18-12 19:02

Pg: 5

VERIFICATION

STATE OF CALIFORNIA

§ 1709.1

COUNTY OF LOS ANGELES

BEFORE ME, the undersigned authority, on this day personally appeared MARY CUMMINS, known to me to be the person whose name is subscribed below, and on oath, deposed and stated:

"My name is Mary Cummins. I am Defendant pro se in the case styled Bat World Sanctuary and Amanda Lollar, v. Mary Cummins, which is on file in 352nd Judicial District Court, Tarrant County, Texas, bearing Cause No. 352-248169-10. Appellant

02-11-025-11
02-11-025-11

"I have read the foregoing Verified Motion to Reconsider Motion to Recuse Judge William Brigham and Rule 18 Sanctions. The facts set forth therein are true and correct and are within my personal knowledge."

Further, Affiant sayeth not.

Mary Cummins
MARY CUMMINS

SUBSCRIBED AND SWORN TO BEFORE ME on this ___ day of August 2012, to certify which witness my hand and official seal of office.

See Attached.

Notary Public, State of California

Fax from :

18-18-12 18:02

Pg: 6

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- X See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-5 to be completed only by document signers, not Notary)

[A large diagonal line is drawn across the signature area, indicating that the attached document should be used instead of this form.]

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

State of California

County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this

10th day of October, 2012 by

(1) MARY CUMMINS

proved to me on the basis of satisfactory evidence to be the person who appeared before me (.) (.)

(and

(2) _____

Name of Signer

proved to me on the basis of satisfactory evidence to be the person who appeared before me.)

Signature

[Signature]

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

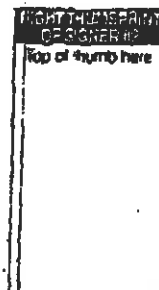
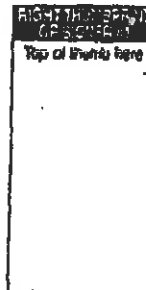
Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document

Further Description of Any Attached Document

Title or Type of Document: Verification

Document Date: _____ Number of Pages: _____

Signer(s) Other than Named Above: Mary Cummins



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CERTIFICATE OF SERVICE

I, Mary Cummins, hereby certify that a TRUE COPY of the above APPELLANT'S MOTION TO RESCUE JUDGE WILLIAM BRIGHAM was served on the Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at

Randy Turner
Bailey & Galyen
1901 W. Airport Freeway
Bedford, TX 76021
Fax: 817-545-3677
this 10th Day of October, 2012



Mary Cummins, Defendant Pro se
645 W 9th St, #110-140
Los Angeles, CA 90015-1640
Phone 310-877-4770
Email: jmmmarvinia@aol.com

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IN THE COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH, TEXAS

MARY CUMMINS

Appellant,

vs.

Appeal 02-12-00285-CV

BAT WORLD SANCTUARY, AMANDA

LOLLAR,

Appellees

FIAT

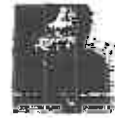
Appellant's APPELLANT'S MOTION TO RECUSE JUDGE WILLIAM BRIGHAM was
filed on October ____, 2012. Appellant requests that the foregoing be set for hearing.

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

From: Mary Cummins <mmmaryinla@aol.com>
 Subject: Re: 352-248189-10 Bar World, etal v Mary Cummins
 Date: October 5, 2012 12:02:05 PM PDT
 To: Linda Blair <LBlair@TarrantCounty.com>
 Cc: "Turner@galyen.com" <tturner@galyen.com>, "kbozeman@galyen.com" <kbozeman@galyen.com>, Monica Willenburg <MJWillenburg@TarrantCounty.com>, "Michael L. Higgins" <MLHiggins@TarrantCounty.com>, "Lisa A. Adams" <LAAdams@TarrantCounty.com>, "Kimberly Y. Krumland" <kykrumland@TarrantCounty.com>, "John R. Lively, Jr." <jrlively@livelylp.com>, "Sandy R. Carter" <SRCarter@TarrantCounty.com>
 1 Attachment, 5.4 KB



I would like to appear telephonically. What is the number?

I wanted to send in a written reply to the contests but I only received the contests from the clerk and appellee. I received the one from appellee just two days ago. I was waiting for the one from the court reporter so I could reply in one document. They finally emailed me yesterday that the minutes are \$4,000 which I obviously do not have. The hearing is 10/8 which is Monday. Do I have enough time to reply in writing as well? What appellee wrote in their contest is wrong and misleading. I'd like the truth in the written record. They want me to lose the hearing because they know I cannot afford the minutes and would automatically lose the appeal. Randy Turner was intentionally filing motion after motion in the hopes that I would not be able to afford to reply and lose by default. I blew through every cent I had and then some just replying. I really need this improper ruling appealed.

Who are all of these other people cc'd on this email? Who will be the Judge?

I am a pro se. I don't have an attorney. While you are not allowed to give me legal advice, the court must advise me of my rights. Please, advise me of my rights. Thank you.

Mary Cummins
 Appellant Pro se
 (310) 877-4770

On Oct 5, 2012, at 12:19 PM, Linda Blair wrote:

The Contest to the Affidavit of Indigence filed September 18, 2012 will be heard in the 352nd District Court, Monday, October 8th, 2012 at 1:30 pm Any party may appear telephonically. If a party wishes to appear telephonically contact me.

***Thank you,
 Linda***

Linda Blair
 Court Coordinator
 352nd District Court
 401 W. Belknap
 Fort Worth, TX 76198
 817-884-2730

Mary Cummins
 MMARYINLA@AOL.COM

Exhibit 1

Fax from :

10-10-12 18:04

Pg: 10

From: Mary Cummins <mmmaryinla@aol.com>
 Subject: Re: 352-248169-10 Bat World, etal v Mary Cummins
 Date: October 8, 2012 9:24:23 AM PDT
 To: Linda Blair <LBlair@TarrantCounty.com>
 1 Attachment, 5.4 KB



I asked who would be the Judge last week and no one told me. This is the first that I have heard that Judge Brigham will be the judge for this hearing. I would like to request leave to file a motion to recuse Judge Brigham from this hearing. Please, advise me of my rights. Judge Brigham has a definite bias against me. I do not feel that I will receive fair treatment in this hearing. I believe there is a conflict of interest because he was the trial judge who ruled against me. Of course he would not want me to appeal his decision. I also worry that his hearing issues will make a conference call difficult. If I am forced to have Judge Brigham oversee this hearing and lose, I will be forced to appeal this hearing. I am a pro se. I am not an attorney. I do not have an attorney. I do not have the money to hire an attorney. I am requesting pro-bono legal aid. Thank you.

Appellant pro se
 Mary Cummins
 310 877 4770

On Oct 8, 2012, at 8:58 AM, Linda Blair wrote:

Good Morning. The conference call is set to begin at 1:30pm. Please call 817-338-1030 and announce that you are calling regarding the Bat World conference call. Then enter PIN 5555. Shortly after 1:30 the Court Reporter, Monica Willenburg will join followed by Judge Brigham. If you have any questions feel free to contact me and I will be here through the lunch hour.
 Linda.

From: Linda Blair
 Sent: Friday, October 05, 2012 2:19 PM
 To: Mary Cummins (mmmaryinla@aol.com); turner@galven.com; khosman@galven.com; Monica Willenburg; Michael L. Higgins; Lisa A. Adams; Kimberly Y. Krumland; John R. Iively, Jr. (jr.iively@tarrantcounty.com); Sandy R. Carter
 Subject: 352-248169-10 Bat World, etal v Mary Cummins

The Contest to the Affidavit of Indigence filed September 18, 2012 will be heard in the 352nd District Court, Monday, October 8th, 2012 at 1:30 pm. Any party may appear telephonically. If a party wishes to appear telephonically contact me.
 Thank you,
 Linda

Linda Blair
 Court Coordinator
 352nd District Court
 401 W. Belknap
 Fort Worth, TX 76196
 817-884-2730

Mary Cummins
 MMARYINLA@AOL.COM

Exhibit 2

Mary Cummins
645 W. 9th St. #110-140
Los Angeles, CA 90015-1640
(310) 877-4770
mmmaryinla@aol.com

October 8, 2012

As per telefax: (817) 884-1560
Ouida Stevens
c/o Judge Jeff Walker
Tarrant County Justice Center
401 W. Belknap 5th Fl
Fort Worth, TX 76196

RE: *Bat World Sanctuary v Mary Cummins - 352-248169-10 - Appeal 02-12-00285-CV*

Ouida Stevens:

I am Appellant in case 02-12-00285-CV. There will be a telephonic hearing today in 352nd court at 1:30 pm (817) 338 1030 PIN 5555 on contests to my affidavit of indigence. I was notified of this hearing 10/5 Friday. I asked them who would be the Judge but no one replied to me. I was just told that Judge Brigham will be the Judge for the hearing. I sent an email to the court coordinator (attached) asking for leave to file a motion to recuse Judge Brigham. Not only is he biased against me but there is a major conflict of interest. He was the Judge in my trial who ruled against me. Of course he would rule against me in this hearing because he doesn't want me to appeal his ruling. If I am denied my appeal because I can't afford the minutes, I will be denied my right to a fair trial. There will be grave financial damages. The court order was for \$6,200,000. I must appeal this unjust ruling. Please, advise me of my legal rights. Thank you.

Sincerely,



Mary Cummins

cc: Linda Blair

Exhibit 3

From: Mary Cummins <mmmaryins@aol.com>
 Subject: Re: 352-248169-10 Bat World, etal v Mary Cummins
 Date: ~~October 8, 2012 10:57:46 AM PDT~~
 To: Mary Cummins <mmmaryins@aol.com>
 Cc: Linda Blair <LABlair@TarrantCounty.com>, Randy Turner <rturner@galyen.com>, "kbozeman@galyen.com Bozeman" <kbozeman@galyen.com>, Monica Willenburg <MJWillenburg@TarrantCounty.com>, "Michael L. Higgins" <MLHiggins@TarrantCounty.com>, "Lisa A. Adams" <LAAdams@TarrantCounty.com>, "Kimberly Y. Krumland" <kykrumland@TarrantCounty.com>, "Jr. (j.r.lively@livelylp.com) John R. Lively" <jr.lively@livelylp.com>, "Sandy R. Carter" <SR.Carter@TarrantCounty.com>
 1 Attachment, 121 KB



Attached please find Appellant's motion to recuse Judge Engham from this hearing. I will also send by fax.

Mary Cummins
 Appellant pro se

appellants motion (121 KB)

Exhibit 4

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RECEIVED
COURT OF APPEALS
SECOND DISTRICT
2012 OCT 11 AM 5:44
FORT WORTH, TEXAS
DEBRA SPISAK, CLERK
MARY CUMMINS

IN THE COURT OF APPEALS
SECOND DISTRICT OF TEXAS
FORT WORTH, TEXAS

Appellant,

vs.

Appeal 02-12-00285-CV

BAT WORLD SANCTUARY, AMANDA

LOLLAR,

Appellees

CONFIDENTIAL

APPELLANT'S MOTION TO RECUSE JUDGE WILLIAM BRIGHAM

TO THE HONORABLE JUDGE OF SAID COURT,

Comes now Appellant, Mary Cummins, and files this motion for Judge William Brigham to disqualify or recuse himself from this hearing, and would show the following:

INTRODUCTION

Even though Appellant asked previously, Appellant was just notified October 8, 2012 that Judge Brigham would preside over the October 8, 2012 telephonic hearing on contests to affidavits of indigence. Appellant requests that Judge Brigham be recused. Judge Brigham is biased against Appellant. There is also a clear conflict of interest. Judge Brigham presided over Appellant's trial and ruled against Appellant. He cannot fairly preside over the hearing contesting Appellant's affidavit of indigence. Judge Brigham would not want Appellant to be able to appeal his decision. If Appellant is denied indigence standing, Appellant cannot afford to pay for the minutes. Appellant's appeal would automatically be denied.

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APPELLANT'S MOTION TO RECUSE JUDGE WILLIAM BRIGHAM

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ARGUMENTS AND AUTHORITIES

The due process clauses of both the Texas and the United States Constitutions guarantees a party an impartial and disinterested tribunal in civil cases. Marshall v. Jerrico, Inc., 446 U.S. 238, 242, 100 S.Ct. 1610, 1613 (1980); Metzger v. Sebak, 892 S.W.2d 20, 37 (Tex. App. Houston [1st Dist.] 1994, writ denied).

In this case, the personal interest and bias of the judge of the court has deprived Appellant of a fair trial in violation of the due process clauses of both the Texas and the United States Constitutions and in violation of Texas Rule of Civil Procedure 18b because the judge's impartiality might reasonably be questioned. Tex. R. Civ. P. 18b(2) (a); Dunn v. County of Dallas, 794 S.W.2d 560, 562 (Tex. App. Dallas 1990, no writ). In this case, it is reasonable to question the impartiality of Judge William Brigham because of the facts stated herein.

Appellant is entitled to this objection because the presiding judge did not give timely notice of the assignment of this case to the visiting judge. See Tex. Gov't Code §74.053 (a); Tivoli Corp. v. Jewelers Mut. Ins. Co., 932 S.W.2d 704, 709 (Tex. App. - San Antonio 1996, writ denied). It is reasonable and practical for the presiding judge to give notice to give Appellant the opportunity to check the qualifications of the visiting judge. Had Appellant known that Judge William Brigham would oversee the hearing, Appellant would have been able to object and file a motion to recuse the Judge within the ten day limit before hearing. Appellant's rights were denied.

Because Appellant was notified of Judge Brigham overseeing today's hearing only an hour or so ago, there was no time to write and notarize an affidavit or sworn motion. Appellant is willing to correct these deficiencies at a later date.

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CONCLUSION

Judge William Brigham has demonstrated prejudice against Appellant and has a conflict of interest in this hearing. He should be removed from overseeing this hearing.

PRAYER

WHEREFORE, the Appellant prays that the Judge of this Court immediately request the Presiding Judge of this administrative district to assign another judge to hear this motion, and that upon such hearing Judge William Brigham be disqualified or recuse himself from presiding in this hearing. Appellant asks for leave to file a sworn and notarized motion to recuse Judge Brigham.

Respectfully submitted,

Mary Cummins, Appellant Pro se
645 W 9th St, #110-140
Los Angeles, CA 90015-1640
October 8, 2012
Phone 310-877-4770
Email: mmmaryinla@aol.com

By: 
Mary Cummins, Defendant Pro Se

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CERTIFICATE OF SERVICE

I, Mary Cummins, hereby certify that a TRUE COPY of the above APPELLANT'S MOTION TO RESCUE JUDGE WILLIAM BRIGHAM was served on the Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at

Randy Turner
Bailey & Galyen
1901 W. Airport Freeway
Bedford, TX 76021
Fax: 817-545-3677
this 8th Day of October, 2012



Mary Cummins, Defendant Pro se
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