

BAT WORLD SANCTUARY and
AMANDA LOLLAR,

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

**DEFENDANT'S VERIFIED MOTION TO RECONSIDER MOTION TO RECUSE JUDGE
AND RULE 18 SANCTIONS**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Mary Cummins, Defendant Pro se who files this Verified Motion to Reconsider Motion to Recuse Judge William Brigham, Rule 18 Sanctions, and would respectfully show the Court the following:

I.

Judge Jeffrey Walker heard Defendant's Motion to Recuse Judge William Brigham and Plaintiffs' motion for Rule 13 sanctions August 17, 2012. Judge Walker denied Defendant's motion to recuse and Plaintiffs' motion for Rule 13 sanctions. Judge Walker imposed a \$500 sanction against Defendant under Rule 18 (a)(h). Defendant pro se requests this motion to reconsider as there was a manifest error of law and facts and there are new material facts.

II.

Judge Walker stated that Defendant did not file her initial motion to recuse Judge William Brigham in a timely manner according to Tex. R. Civ. P. 18 (a) "At least ten days before the date set for trial or other hearing in any court other than the Supreme Court,

1 the Court of Criminal Appeals or the court of appeals, any party may file with the clerk of
2 the court a motion stating grounds why the judge before whom the case is pending
3 should not sit in the case.” Defendant did indeed file her motion to recuse in a timely
4 manner. Defendant asked the court July 12, 2012 if Judge Brigham would oversee her
5 hearing on her motion for new trial and objections to court order. Defendant was notified
6 by the court July 13, 2012 (Exhibit 1) that Judge Brigham would oversee that motion.
7 Defendant instantly filed the motion to recuse Judge Brigham. That hearing date has not
8 yet been set. Therefore Defendant’s motion filed July 13, 2012 was timely.

9 Judge Walker stated that Defendant did not file a “verified motion” according to
10 TRCP 18 (a). Defendant filed a motion with a notarized affidavit. Defendant is a pro se
11 litigant and did not know that the motion must be verified. Defendant hereby corrects
12 this technical error and files this verified motion.

13 Judge Walker stated that Defendant did not mention a request to recuse Judge
14 Brigham for constitutional reasons in her motion to recuse. Defendant did indeed state
15 she requested recusal and disqualification for constitutional reasons (Defendant’s
16 Motion to Recuse, page 5, lines 5-23).

17 Judge Walker denied Plaintiffs’ motion for Rule 13 sanctions stating that Defendant
18 believed she made her motion with due cause. It was not groundless or filed it bad faith.
19 It was not made for purposes of harassment or delay. Judge Walker imposed a \$500
20 sanction against Defendant for supposed Rule 18 (a)(h) violations. Judge Walker stated
21 that posts supposedly made by Defendant on the Internet were “harassment.” Plaintiffs
22 did not authenticate the posts in question in their motion or at the hearing. Defendant
23 did not make the posts in question. Defendant never posted “old white man” anywhere.
24 Defendant also did not make the statement which Plaintiffs stated she made in regard to
25 the term “good ole boy.” Defendant could not verify this at the hearing because she had

1 no access to the Internet to see what was posted or to read Rule 18. Defendant is a pro
2 se litigant.

3 Even if Defendant had posted these things, they would not be sanctionable. Rule 18
4 (h) states "If a party files a motion to recuse under this rule and it is determined by the
5 presiding judge or the judge designated by him at the hearing and on motion of the
6 opposite party, that the motion to recuse is brought solely for the purpose of delay and
7 without sufficient cause, the judge hearing the motion may, in the interest of justice,
8 impose any sanction authorized by Rule 215(2)(b)."

9 Judge Walker previously stated that Defendant believed she brought her motion in
10 good faith with cause. Additionally Defendant did not post those items on the Internet.
11 They are not included in her motion. Posts made on the Internet would not be
12 considered a Rule 18 violation which only deals with the act of bringing forth the motion
13 to recuse. Defendant indeed has legal grounds to recuse Judge Brigham. Besides this
14 Rule 18 sanctions were not brought "by motion of the opposite party." Plaintiffs did not
15 request Rule 18 sanctions in their motion or at the hearing.

16 Besides all of the reasons Defendant stated in her previous Motion to Recuse Judge
17 Brigham, Defendant also believes there is specific bias against Defendant. Plaintiffs'
18 attorney Randy Turner stated in court that he has indeed known Judge Brigham for
19 years. He stated that he meets with him regularly at Bar events. Defendant believes this
20 further proves there is a pre-existing bias by Judge Brigham against Defendant. It also
21 supports Defendant's statement that Plaintiffs' attorney Randy Turner told her "I've know
22 this Judge for years."

23 Defendant stated in court that she believed Judge Brigham did not read the items in
24 Exhibits 17 and 18 presented at trial. It was his duty to read these items in order to give
25 Defendant a fair trial. These exhibits were extremely lengthy. They were approximately

1 one to two inch thick folders. They included items which were not written by Defendant,
2 had nothing to do with Plaintiff and had nothing to do with the case in general. Plaintiffs
3 at trial stated that only the items highlighted in yellow did they believe to be defamatory.
4 That would only be some phrases in the exhibits. Plaintiffs stated that they were not
5 seeking the removal of the results of information act requests which were complaints
6 against Plaintiffs written by government agencies and members of the public which
7 were included in the exhibits. Plaintiffs stated some items in the exhibits were in there
8 by accident. Even though Plaintiffs stated that only some parts of the exhibits were
9 defamatory, Judge Brigham's court order stated that ALL items in Exhibits 17 and 18
10 were to be permanently removed. Defendant believes this proves that Judge Brigham
11 was not paying attention to courtroom testimony.

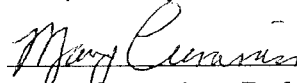
12 Defendant stated she also did not believe that Judge Brigham read the temporary
13 injunction before signing it. The temporary injunction contained prior restraint which is
14 unconstitutional. It was against third parties which is against Fed. R.Civ. P. 65 (d). A
15 bond was not posted. The trial date was not on the order. Defendant believes that
16 Judge Brigham was not paying attention to court room testimony. He also did not look at
17 all of the exhibits or the temporary order written by Plaintiffs' attorney before signing it.
18 Defendant believes for these reasons that Judge Brigham is not fit to sit the bench in
19 Defendant's hearings and trial. Defendant did not receive a fair and impartial trial which
20 is a violation of the due process clauses of both the Texas and the United States
21 Constitutions .

22 III.

23 WHEREFORE, PREMISES CONSIDERED, Defendant prays that Judge Jeffrey
24 Walker reconsiders Defendant's Motion to Recuse Judge William Brigham and Rule 18
25 sanctions. Defendant prays that the court recuses Judge Brigham, voids his orders and

1 revokes Rule 18 sanctions. Defendant is also requesting that this motion be heard
2 telephonically as Defendant is a resident of California. A motion for telephonic hearing
3 with proof of service and FIAT is attached and incorporated herein. If a telephonic
4 hearing is not allowed, Defendant will fly to Texas to hear this motion in person.

5 Respectfully submitted,

6 

7 Mary Cummins, Defendant Pro se
8 645 W 9th St, #110-140
9 August 20, 2012
10 Los Angeles, CA 90015-1640
11 Phone (310) 877-4770
12 Email: mmmaryinla@aol.com

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By:

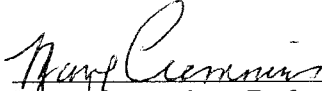


Mary Cummins, Defendant Pro Se

CERTIFICATE OF SERVICE

I, Mary Cummins, hereby certify that a TRUE COPY of the above DEFENDANT'S VERIFIED MOTION TO RECONSIDER MOTION TO RECUSE JUDGE AND RULE 18 SANCTIONS was served on the Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at

Randy Turner
Bailey & Galyen
1901 Airport Freeway
Bedford, Texas 76021
Fax: 817 276-6336
this 20th Day of August 2012


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

1 **VERIFICATION**


2 **STATE OF CALIFORNIA** §
3 **COUNTY OF LOS ANGELES** §
4 _____

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

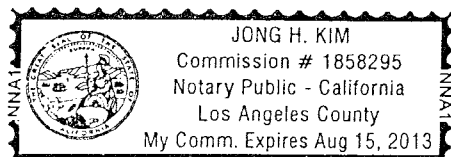
8 "My name is Mary Cummins. I am Defendant pro se in the case styled Bat World
9 Sanctuary and Amanda Lollar, v. Mary Cummins, which is on file in 352nd Judicial
10 District Court, Tarrant County, Texas, bearing Cause No. 352-248169-10.

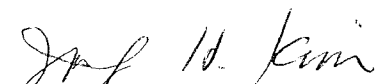
11 "I have read the foregoing Verified Motion to Reconsider Motion to Recuse Judge
12 William Brigham and Rule 18 Sanctions. The facts set forth therein are true and correct
13 and are within my personal knowledge."

14 Further, Affiant sayeth not.

15 
16 _____
17 MARY CUMMINS

18 SUBSCRIBED AND SWORN TO BEFORE ME on this 20th day of August 2012, to
19 certify which witness my hand and official seal of office.



22 
23 _____
24 Notary Public, State of California

BAT WORLD SANCTUARY and
AMANDA LOLLAR,

Plaintiffs,

vs.

MARY CUMMINS,

Defendant Pro se

§ IN THE DISTRICT COURT

§ TARRANT COUNTY, TEXAS

§ 352nd JUDICIAL DISTRICT

FIAT

Defendant's DEFENDANT'S VERIFIED MOTION TO RECONSIDER MOTION TO
RECUSE JUDGE AND RULE 18 SANCTIONS was filed on August ____, 2012.

Defendant 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: Linda Blair <LABlair@TarrantCounty.com>
To: 'Mary Cummins' <mmmaryinla@aol.com>
Subject: RE: Judge Sudderth Response to M.Cummins email of 7/12/12
Date: Fri, Jul 13, 2012 12:21 pm

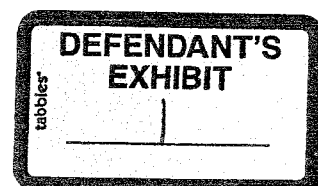
Judge Brigham will continue to preside over this case.

From: Mary Cummins [<mailto:mmmaryinla@aol.com>]
Sent: Thursday, July 12, 2012 6:50 PM
To: Linda Blair
Subject: Re: Judge Sudderth Response to M.Cummins email of 7/12/12

Which Judge deals with my motion for new trial, objections to order? Brigham or Sudderth? Will a hearing be set or can the Judge just say "no?" Thanks.

Mary Cummins

MMMARYinLA@AOL.COM



BAT WORLD SANCTUARY and
AMANDA LOLLAR,

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vs.

MARY CUMMINS,

Defendant Pro se

§ IN THE DISTRICT COURT

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TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

DEFENDANT'S MOTION FOR TELEPHONIC HEARING

TO THE HONORABLE JUDGE OF SAID COURT:

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

I.

The hearing is for DEFENDANT'S VERIFIED MOTION TO RECONSIDER MOTION TO RECUSE JUDGE AND RULE 18 SANCTIONS in the above styled cause filed August 21, 2012. Hearing date has not yet been set.

II.

Defendant 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.

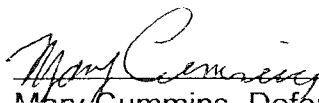
III.

No party in this action will suffer any prejudice if Defendant appears telephonically.

1 WHEREFORE, Defendant respectfully requests that the Court grant this Motion for
2 Telephonic Hearing.

3 Respectfully submitted,

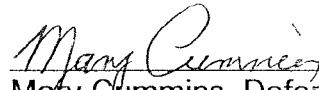
4
5 Mary Cummins, Defendant Pro se
6 645 W 9th St, #110-140
7 Los Angeles, CA 90015-1640
8 Phone 310-877-4770
9 Email: mmmaryinla@aol.com

10 By: 
11 Mary Cummins, Defendant 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 Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at
Randy Turner
Bailey & Galyen
1901 Airport Freeway
Bedford, Texas 76021
Fax: 817 276-6336
this 20th Day of August 2012



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

BAT WORLD SANCTUARY and
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§ IN THE DISTRICT COURT

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TARRANT COUNTY, TEXAS

352nd JUDICIAL DISTRICT

FIAT

Defendant's DEFENDANT'S MOTION FOR TELEPHONIC HEARING was filed on August ____, 2012. Defendant 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