

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](mailto:mmmaryinla@aol.com)

8 UNITED STATES DISTRICT COURT  
9  
10 CENTRAL DISTRICT OF CALIFORNIA  
11  
12 WESTERN DIVISION

11 MARY CUMMINS  
12 *Plaintiff*

13 v.

14 AMANDA LOLLAR aka BAT  
15 WORLD SANCTUARY an individual  
16 person, BAT WORLD SANCTUARY  
17 an unknown business entity, JOHN  
18 DOES 1-10  
19 *Defendants*

) Case No. CV11 08081 DMG (MANx)  
)  
) **PLAINTIFF'S MOTION TO**  
) **QUASH DEFENDANTS' AMANDA**  
) **LOLLAR, BAT WORLD**  
) **SANCTUARY SUBPOENA FOR**  
) **DEPOSITION OF SUDDENLINK,**  
) **DECLARATION OF MARY**  
) **CUMMINS**  
) ***DISCOVERY MATTER***  
)  
) Complaint Filed: September 29, 2011  
) Discovery Cut off: September 3, 2012  
) Pretrial Conf. Date: TBS  
) Trial Date: TBS  
) Hearing Date:

21  
22 Plaintiff Mary Cummins ("Plaintiff") hereby opposes Defendants' Amanda Lollar  
23 and Bat World Sanctuary subpoena for deposition of Suddenlink.

24 **I. INTRODUCTION**

25 Plaintiff sued Defendants Amanda Lollar, Bat World Sanctuary and John Does 1-10,  
26 asserting claims for defamation, defamation per se, interference with business  
27 relations, interference with prospective economic advantage and infliction of  
28 emotional distress.

PLAINTIFF'S MOTION TO QUASH DEFENDANTS AMANDA LOLLAR, BAT WORLD SANCTUARY  
SUBPOENAS FOR DEPOSITION OF SUDDENLINK

1 Defendants Amanda Lollar, Bat World Sanctuary sent subpoena to Suddenlink on  
2 August 24, 2012 (Exhibits 1).

3 Defendants' subpoena is defective as subpoena was not served in person, deposition  
4 site is over 100 miles from deposed, subpoena is not timely and no attendance or  
5 mileage fee was included (Declaration of Mary Cummins Exhibit 2).

## 6 **II. FACTUAL BACKGROUND**

7 Plaintiff attended an internship at Bat World Sanctuary June 2010 (Exhibit 2,  
8 Declaration of Plaintiff Mary Cummins). Plaintiff witnessed Defendant Amanda Lollar  
9 commit animal cruelty, animal neglect, violate the health department regulations,  
10 violate the Animal Welfare Act, violate the Texas Parks & Wildlife Department  
11 regulations and other disturbing things.

12 Plaintiff left the internship early, returned to California and reported Defendant to  
13 authorities. In retaliation Defendant Amanda Lollar and John Does defamed and  
14 libeled Plaintiff on the Internet.

15 September 29, 2011 Plaintiff filed suit against Defendants for claims of defamation,  
16 defamation per se, interference with business relations, interference with prospective  
17 economic advantage and infliction of emotional distress.

## 18 **III. LEGAL ANALYSIS**

### 19 **A. Defendants' subpoena is defective**

20 (1) As per Federal Rules of Civil Procedure Rule 45 it must be served in person. It was  
21 not served in person.

22 (2) As per Federal Rules of Civil Procedure Rule 45(c)(3)(A)(ii)(B) the deposition site  
23 cannot be more than 100 miles from the address of the non-party. The deposition site is  
24 over 100 miles from the non-party to be deposed. It is unduly burdensome.

25 (3) As per Federal Rules of Civil Procedure 32 (A) you must give 14 days notice of  
26 deposition. The last day of discovery is September 3, 2012. They would have had to  
27 depose Suddenlink before September 3, 2012. They would have had to give notice at  
28

1 the very latest by August 20, 2012. They gave notice August 24, 2012 for a deposition  
2 on September 4, 2012. They are too late to take this deposition as this is not an expert  
3 witness. They are too late to ask for the documents in discovery because of time  
4 restrictions. There is no way Plaintiff can afford to fly to Texas to cross-examine this  
5 witness at this late notice and date.

6 (4) As per Federal Rules of Civil Procedure Rule 45 an attendance and mileage fee  
7 must be included for a non-party. No fees were attached to the subpoena.

#### 8 **IV. CONCLUSION**

9 Based on the foregoing, Plaintiff respectfully requests that the Court strike's  
10 Defendants' subpoena for deposition of Suddenlink. Plaintiff also requests sanctions  
11 against Defendants. As per Federal Rules of Civil Procedure 45 a party or attorney  
12 responsible for issuing and serving a subpoena must take reasonable steps to avoid  
13 imposing undue burden or expense on a person subject to the subpoena. The issuing  
14 court must enforce this duty and impose an appropriate sanction—which may include  
15 lost earnings and reasonable attorney's fees—on a party or attorney who fails to  
16 comply. Plaintiff has lost earnings due to having to write this motion to quash  
17 subpoena. Plaintiff also incurred courier fees to file this motion.

18  
19  
20 Respectfully submitted,

21 /s/ Mary Cummins

22 Mary Cummins, Plaintiff

23 Dated: August 29, 2012

24 645 W. 9th St. #110-140

25 Los Angeles, CA 90015

26 In Pro Per

27 Direct: (310) 877-4770

28 Direct Fax: (310) 494-9395

Email: [mmmaryinla@aol.com](mailto:mmmaryinla@aol.com)

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

5 I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles,  
6 California 90015-1640. I am over the age of eighteen years.

7 I further declare that on the date hereof I served a copy of:

8 **PLAINTIFF'S MOTION TO QUASH DEFENDANTS AMANDA LOLLAR,  
9 BAT WORLD SANCTUARY SUBPOENAS FOR DEPOSITION OF  
10 SUDDENLINK**

11 on the following by placing a true copy thereof enclosed in a sealed envelope  
12 addressed as follows for collection and mailing at 645 W. 9th St. #110-140, Los  
13 Angeles, CA 90015-1640.

14 **Dean A. Rocco**  
15 Jackson Lewis LLP  
16 725 South Figueroa, Suite 2500  
17 Los Angeles, CA 90017

18 I also emailed a copy to Dean Rocco at RoccoD@jacksonlewis.com  
19 I also faxed a copy to Dean Rocco at (213) 689-0430.

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 this day, August 29, 2012, at Los Angeles, California

23 Respectfully submitted,

24 /s/ Mary Cummins  
25 Mary Cummins, Plaintiff  
26 Dated: August 29, 2012  
27 645 W. 9th St. #110-140  
28 Los Angeles, CA 90015  
In Pro Per

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**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. Attached as Exhibit 1 is a true and correct copy of an email, notice of subpoena and subpoena sent to me August 24, 2012 a Friday at 4:52 p.m. by Defendants' attorney's assistant Karina Ramirez.
3. The next business day August 27, 2012 a Monday at 9:00 a.m. I faxed a letter to Suddenlink Legal Compliance via NeuStar Inc their agent stating that I object to the subpoena and will be filing a motion to quash.
4. Attached as Exhibit 3 is a true and correct copy of my fax to Suddenlink/NeuStar.
5. August 27, 2012 I sent an email to Defendants' attorney Dean Rocco at 10:10 a.m. stating that I object to this subpoena and sent a letter to Suddenlink/NeuStar which I attached.
6. Attached as Exhibit 4 is a true and correct copy of my email to Dean Rocco and the attached letter to Suddenlink/NeuStar. I requested a "meet and confer" at that time.
7. Attached as Exhibit 5 is a true and correct copy of an email from Dean Rocco to me in response to my email to him. He stated he was out of the office but would respond shortly. He has not gotten back to me about our "meet and confer" on this issue. I was forced to file this motion to quash subpoena.
8. I calculated the exact distance between the deposed and the deposition site using Google maps. It is over 100 miles.
9. No attendance or mileage fee was included with the subpoena.
10. No proof of service of deposition was sent to me.

1 11. August 20, 2012 I injured my big toe. I am in a temporary “boot” and cannot  
2 walk easily. I could not drive to court to file this in person. I am a pro se am not  
3 allowed to file digitally. I had to overnight mail it. Therefore I could not write in  
4 a hearing date.

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

7 Executed on August 29, 2012 at Los Angeles, California.

8 By: \_\_\_\_\_

9 MARY CUMMINS