

352 248169 10

CAUSE NO. _____

**BAT WORLD SANCTUARY and
AMANDA LOLLAR,
Plaintiffs**

v.

**MARY CUMMINS,
Defendant**

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IN THE DISTRICT COURT

TARRANT COUNTY, TEXAS

_____ **JUDICIAL DISTRICT**

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Bat World Sanctuary and Amanda Lollar, Plaintiffs, file this petition against Mary Cummins, Defendant, and for cause of action would respectfully show as follows:

DISCOVERY LEVEL

1. Discovery in this cause shall be conducted at Level 3 pursuant to Rule 190.4 of the Texas Rules of Civil Procedure.

PARTIES

- 2. Plaintiff, Bat World Sanctuary, is an unincorporated nonprofit association organized under the laws of the State of Texas.
- 3. Plaintiff, Amanda Lollar is an individual residing in Palo Pinto County, Texas. The last three digits of her driver's license number are 000 and the last three digits of her

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TARRANT COUNTY
2010 SEP 15 P 3:08
THOMAS A. WILKER
DISTRICT CLERK

social security number are 481.

4. Defendant, Mary Cummins, is an individual residing in the State of California and may be served with process at 645 West 9th Street, #110-140, Los Angeles, California 90015.

JURISDICTION

5. This court has *in personam* jurisdiction over Defendant because:

a) The Texas long-arm statute authorizes the exercise of jurisdiction because Defendant entered into a contract with Plaintiff, a Texas resident, and one or both parties were to perform the contract in whole or in part in Texas (TEX. CIV. PRAC. & REM. CODE ANN. § 17.042 (Vernon 2008)); and

b) The exercise of jurisdiction over Defendant is consistent with federal and state constitutional due-process guarantees. Specifically, Defendant has established minimum contacts with the Texas, and the assertion of jurisdiction complies with traditional notions of fair play and substantial justice.

FACTS OF THE CASE

6. Bat World Sanctuary is an internationally renowned non-profit organization dedicated to the rescue and rehabilitation of bats. Amanda Lollar is its founder and president. Along with rescuing and rehabilitating bats Bat World Sanctuary has

education programs for children, maintains a sanctuary for wild bats, and operates continuing education internships and workshops for animal care professionals and rehabilitators.

7. Defendant, Mary Cummins, was accepted as an intern into Bat World Sanctuary's internship program. On June 20, 2010 Defendant and Bat World Sanctuary entered into a written contract in which Bat World Sanctuary agreed to train Defendant in the care, treatment and medical management of insectivorous bats. Under the terms of the contract, Defendant agreed that the data, techniques, results, and anecdotal information provided to her during her internship were the property of Bat World Sanctuary and that she would not distribute, share, or publish this information without obtaining prior written permission from Bat World Sanctuary. A copy of the contract is attached hereto as Exhibit A.

8. While Defendant was on the Bat World Sanctuary's premises she videotaped and photographed Bat World's techniques, results, data and anecdotal information, often without the knowledge of Bat World Sanctuary. After leaving the program Defendant began posting these videotapes and photographs on the internet without Bat World Sanctuary's permission, thereby breaching her contract with Bat World Sanctuary. Defendant refuses to remove these videotapes and photographs from the internet where they remain as of the date of the filing of this suit.

9. Defendant has also posted on the internet and You Tube false statements of fact concerning Bat World Sanctuary and Amanda Lollar. These statements are defamatory and injure Amanda Lollar's reputation, thereby exposing her to public hatred, contempt or ridicule, or financial injury. The statements also injure Amanda Lollar in her

profession. Defendant's defamation of Amanda Lollar are proximately causing Amanda Lollar to suffer actual damages.

BREACH OF CONTRACT

10. Defendant's conduct as describe above constitutes breach of contract for which Plaintiffs bring this suit. The breach of contract was a producing cause of actual damages to Plaintiffs.

ATTORNEY'S FEES

11. This is a suit on a contract and Bat World Sanctuary brings this suit to recover reasonable and necessary attorney's fees under Section 38.001(8) of the Texas Civil Practice and Remedies Code.

DEFAMATION

12. Defendant's conduct as described herein constitutes common law defamation and libel under Section 73.001 of the Texas Civil Practice and Remedies Code. The defamation and libel were a proximate cause of actual damages to Plaintiffs.

EXEMPLARY DAMAGES

13. Defendant committed the defamation and libel described above with malice. Therefore, Amanda Lollar brings this action to recover exemplary damages under Section 41.003 of the Texas Civil Practice and Remedies Code.

REQUEST FOR TEMPORARY INJUNCTION

14. The acts and conduct of Defendant have caused and will continue to cause irreparable harm unless Defendant is restrained and enjoined from allowing the videotapes, photographs, and false statements described above to remain on the internet and You Tube. Plaintiffs have no adequate remedy at law and are likely to succeed on the merits of this suit.

15. Plaintiffs request the Court to issue an order temporarily enjoining the Defendant from allowing the videotapes, photographs, and false statements described above to remain on the internet during the pendency of this suit and ordering Defendant to remove the videotapes, photographs, and false statements from the internet and You Tube.

REQUEST FOR PERMANENT INJUNCTION

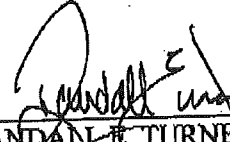
16. Upon final trial of the merits of this cause, Plaintiffs request that this Court enter an order permanently enjoining Defendant from allowing the videotapes, photographs, and false statements described above to remain on the internet and ordering Defendant to remove the videotapes, photographs, and false statements from the internet and You Tube.

PRAYER

17. Plaintiffs pray that this Honorable Court grant their request for a temporary injunction and permanent injunction and enter judgment against the defendant for actual damages and exemplary damages within the jurisdictional limit of this court along with reasonable attorney's fees, court costs, and grant such other relief at law and equity to which Plaintiffs may be justly entitled.

Respectfully submitted,

TURNER & MCKENZIE, PC
1800 Norwood, Suite 100
Hurst, Texas 76054
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Fax: (817) 268-1563
Email: randy@turnermckenzie.com

By: 
RANDALL E. TURNER
State Bar No. 20328310
Attorneys for Plaintiffs

THE STATE OF TEXAS
DISTRICT COURT, TARRANT COUNTY

CITATION

Cause No. 352-248169-10

BAT WORLD SANCTUARY, ET AL
VS.
MARY CUMMINS

TO: MARY CUMMINS

645 W 9TH ST #110-140 LOS ANGELES, CA 90015-

You said DEFENDANT are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof before the 352nd District Court, 401 W BELKNAP, in and for Tarrant County, Texas, at the Courthouse in the City of Fort Worth, Tarrant County, Texas said PLAINTIFF being

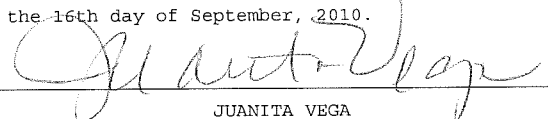
BAT WORLD SANCTUARY, AMANDA LOLLAR

Filed in said Court on September 15th, 2010 Against
MARY CUMMINS

For suit, said suit being numbered 352-248169-10 the nature of which demand is as shown on said PLAINTIFF'S ORIGINAL PETITION a copy of which accompanies this citation.

THOMAS W MCKENZIE
Attorney for BAT WORLD SANCTUARY Phone No. (817)282-3868
Address 1800 N NORWOOD DR STE 100 HURST, TX 76054

Thomas A. Wilder, Clerk of the District Court of Tarrant County, Texas. Given under my hand and the seal of said Court, at office in the City of Fort Worth, this the 16th day of September, 2010.

By  Deputy
JUANITA VEGA

NOTICE: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 AM. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Thomas A. Wilder, Tarrant County District Clerk, 401 W BELKNAP, FORT WORTH TX 76196-0402

OFFICER'S RETURN

Received this Citation on the _____ day of _____, _____ at _____ o'clock ___M; and executed at _____ within the county of _____, State of _____ at _____ o'clock ___M on the _____ day of _____, _____ by delivering to the within named (Def.): _____ defendant(s), a true copy of this Citation together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first endorsed on same the date of delivery.

Authorized Person/Constable/Sheriff: _____
County of _____ State of _____ By _____ Deputy

Fees \$ _____
State of _____ County of _____ (Must be verified if served outside the State of Texas)
Signed and sworn to by the said _____ before me this _____ day of _____, _____
to certify which witness my hand and seal of office
(Seal)

County of _____, State of _____

THE STATE OF TEXAS
DISTRICT COURT, TARRANT COUNTY

COPY

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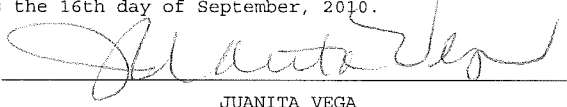
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Authorized Person/Constable/Sheriff: _____

County of _____ State of _____ By _____ Deputy

Fees \$ _____

State of _____ County of _____ (Must be verified if served outside the State of Texas)

Signed and sworn to by the said _____ before me this _____ day of _____, _____

to certify which witness my hand and seal of office

(Seal)

County of _____, State of _____