

Transcript of the Testimony of **10-6-11 Hearing**

Date: October 6, 2011

Volume: I

Case: Bat World v. Cummins

Printed On: October 12, 2011

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REPORTER'S RECORD

CAUSE NO. 352-248169-10

BAT WORLD SANCTUARY, ET AL.* IN THE DISTRICT COURT
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VS. * 352ND DISTRICT COURT
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 *
MARY CUMMINS * TARRANT COUNTY, TEXAS

MOTION TO WITHDRAW AS COUNSEL FOR DEFENDANT

On the 6th day of October, 2011, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Bonnie Sudderth, Judge Presiding, held in Tarrant County, Texas.

Proceedings reported by machine shorthand.

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Deputy Official Reporter
352nd District Court
Tarrant County, Texas

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EXHIBITS

EXHIBIT

NO.	DESCRIPTION	OFFERED	ADMITTED
	None		

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1 PROCEEDINGS

2 (Thursday, October 6, 2011, 10:38 a.m.)

3 THE COURT: You can be seated. Okay. We
4 have a motion here on -- for withdrawal of counsel. And
5 who is opposed to the motion? Are you opposed to the
6 motion?

7 MR. TURNER: No, Your Honor, we don't
8 oppose the motion.

9 THE COURT: So is it --

10 MS. CUMMINS: I am opposed to it.

11 THE COURT: Okay. Then I will -- I will
12 hear from counsel first and I will let your client speak
13 to the court directly.

14 MR. CALLAWAY: Thank you, Your Honor.

15 THE COURT: Uh-huh.

16 MR. CALLAWAY: Do you wish for me to use
17 the podium?

18 THE COURT: I can hear you fine.

19 Can you hear him fine?

20 THE REPORTER: Uh-huh.

21 THE COURT: That's fine. You can stay
22 there, or you can use the podium, whichever you're more
23 comfortable with.

24 MR. CALLAWAY: Okay. Thank you, Your
25 Honor. Judge, I'm sorry I've had to file this motion.

1 I entered an appearance back on June 22nd in this case
2 to represent the defendant, Mary Cummins. We had a
3 deposition in August, I believe on August 25th.
4 Ms. Cummins gave her deposition, and then in
5 September -- on September 22nd, I got an e-mail from
6 Mr. Turner, who represents the plaintiffs, informing me
7 that my client had posted on her Animal Advocates
8 website a statement that during the deposition while
9 Mr. Turner was examining her, a tattoo on her hand, that
10 he had massaged and rubbed her hand in a very
11 inappropriate way in which -- and she considered it to
12 be an assault, which she said in this statement. It's
13 attached to my motion.

14 You know, I advised her to withdraw that
15 posting from her website, because I was at the
16 deposition and it clearly did not happen. Mr. Turner
17 did not touch her hand or massage it or in any way
18 commit an assault against her. I -- When I -- When I
19 advised her to remove the post, she responded and
20 informed me that it had occurred in the deposition while
21 I was asleep, that basically, Mr. Turner had noticed
22 that I was asleep, took advantage of the situation, and
23 did this to her hand.

24 I mean, clearly I was not asleep at the
25 deposition. I have never fallen asleep in a deposition

1 in 23 years of practice. Mr. Turner did not touch, rub,
2 massage her hand.

3 Ms. Cummins also has complained to the
4 Bar Association about me, which -- I mean, that's her
5 right, but it just further reinforces in my mind that
6 there is clearly a conflict here between my representing
7 her and defending myself against these allegations that
8 I was asleep in a deposition. Furthermore, I am a
9 witness to the fact that Mr. Turner did not do what she
10 says Mr. Turner did.

11 She's also alleged that I forgot or lost
12 some exhibits. I don't know what that's about. We have
13 only had one hearing -- or I have only been involved in
14 one hearing in this case, and I don't recall forgetting
15 exhibits. But anyway, I just think we have an
16 irreparable conflict. I don't know what else to do but
17 to -- to ask the Court to leave -- to withdraw. I'm
18 sorry.

19 THE COURT: Ms. Cummins, do you want to
20 respond?

21 MS. CUMMINS: Yes. Mr. Callaway did
22 forward Mr. Turner's e-mail to me on September 22nd, and
23 I removed the item. At that time I asked for a video of
24 the deposition. Mr. Turner is the one who originally
25 requested that the deposition be videotaped. At the end

1 of the deposition, Mr. Callaway requested a copy of the
2 video and Mr. Turner said we would get it.

3 It's now been five weeks and I still
4 haven't received a copy of the video. I have recently
5 been informed that if I want it I'm going to have to
6 file a motion to compel. In the meantime, the
7 complainants have had no problem within three days of --
8 now she has over 25 different movies of me from the
9 deposition all edited just to try to make me look as bad
10 as possible. I think we could at least get one copy of
11 the deposition by now.

12 I did -- I did indeed contact the Bar
13 about -- I believe about something else. But while I
14 was speaking with them, I asked them how they vetted
15 their lawyers. I specifically asked the Tarrant County
16 Bar Association for a lawyer that specializes in freedom
17 of speech and animal law who is not Randy Turner and who
18 can go up against Randy Turner. And after putting me on
19 hold for a few minutes, they referred me to
20 Mr. Callaway.

21 I was e-mailing and I was sending Rankin
22 of the Tarrant County Bar Association, and I
23 specifically told her in writing a few times, I am not
24 making a complaint against Mr. Callaway. I don't want
25 her to contact him. I brought the e-mails with me here.

1 I have shared some of them with Mr. Callaway. I said,
2 My attorney is a really nice guy, but I'm concerned
3 whether or not he can fully represent me.

4 I told her that during the six-hour
5 deposition he only made one objection and that was to my
6 home address, which we had agreed upon. During the
7 deposition, Turner was asking me compound questions,
8 leading questions, harassing questions, repeat
9 questions. He was asking me for legal definitions and I
10 kept telling him I'm not an attorney.

11 During that entire time Mr. Callaway -- I
12 mean, I read the minutes, 242 pages, I read it twice, he
13 made one objection. And I also do believe that my
14 lawyer did nod off during the deposition a couple of
15 times.

16 And let me preface it by saying that the
17 deposition was extremely slow and boring most of the
18 time, and I almost fell asleep and I had to take a
19 break. But again, Mr. Turner is refusing to give me a
20 video of the deposition, so I can't prove it until then.

21 And at the last motion that you oversaw
22 it was to protect as to my home address. Before that
23 hearing, I had given Mr. Callaway exhibits and evidence
24 to show, you know, that I must have my home address
25 protected. And he didn't present them at the hearing.

1 And for that reason I believe that's why we lost and why
2 we had to reschedule it for today.

3 And I told Ms. Rankin that for those
4 reasons Mr. Callaway would not be representing me after
5 October 6th. And Ms. Rankin, without my permission and
6 completely against my wishes, shared that e-mail with
7 Mr. Callaway. Instantly afterwards, Mr. Callaway for
8 retaliation, I don't know what, he wrote the motion to
9 be dismissed September 27th.

10 He even mentioned my e-mail to the Bar.
11 And after that I asked Ms. Rankin, Did you share my
12 e-mail in writing? She says, No. Well, obviously
13 that's not the truth. Now, after apologizing profusely
14 to Mr. Callaway, I begged him and pleaded with him if he
15 could just be my attorney for this hearing today. And I
16 told him if he would do that, I would get another
17 attorney within a week.

18 And this was just a week before my
19 hearing. I'm pretty desperate. I can't go up against
20 Mr. Turner as a pro se. He said, No. And then I -- I
21 then showed him the e-mails showing that I did not
22 report him, I specifically said I did not want to. And
23 a couple of days ago I asked him if he would withdraw
24 this motion, I would get a new attorney within a week
25 and release him. And he again said no.

1 Now, as you saw me as a pro se against
2 Mr. Turner, I am absolutely no match. He would run
3 circles around me in the hearing. I fear if I am -- do
4 not have an attorney for even a week or two, Mr. Turner
5 will take advantage of the opportunity.

6 In fact, just yesterday, he filed all
7 these new things just trying to paper me to death in
8 this lawsuit, so I would like to ask, Your Honor, if
9 there is any way you can ask him or order him, I don't
10 know how to word it, if he can be my attorney for a
11 week, then I will -- or a week and a half at least, I
12 will get another attorney.

13 THE COURT: Is there -- Is there anything
14 pending before the court as far as hearings are
15 concerned on this case for the next week and a half?

16 MR. TURNER: No, Your Honor.

17 THE COURT: Okay. Nothing? Well, it
18 sounds to me like that there is a conflict between the
19 client and the attorney that would support the attorney
20 withdrawing from the case. It sounds to me like it's a
21 mutual conflict, and so that -- although it saddens the
22 Court for any party to appear pro se, at least, for any
23 given length of time, I think in this case it's
24 justified from both sides.

25 So I will allow the withdrawal, but I

1 will also stay the case for the next -- until Friday a
2 week, so no filings, no setting hearings, just until --
3 let's see. This is -- This is Thursday the 6th, so
4 Friday the 14th, until the end of that day, so starting
5 then again on Monday the 17th then you can file whatever
6 you want or set whatever you want at that point.

7 That will give you, Ms. Cummins, an
8 opportunity then to use your week, week and a half to
9 hire a new attorney and let them make an appearance
10 before anything is done in the interim. That will
11 protect your interests during that period of time so
12 that you don't have to appear in court or respond to
13 pleadings or motions until you have had your opportunity
14 to get the attorney that you want to get.

15 MS. CUMMINS: Okay. Thank you.

16 THE COURT: Okay. Do you have an order?

17 MR. CALLAWAY: Yes, ma'am.

18 THE COURT: Now, I have put the -- I have
19 put my rulings as far as staying the proceedings on the
20 record. I don't think I need a written order on that.

21 MR. TURNER: No.

22 THE COURT: So it's on the record and
23 everybody understands it.

24 (Proceedings concluded at 10:47 a.m.)

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STATE OF TEXAS)
COUNTY OF TARRANT)

I, Carolyn Hawks-Gayaldo, Deputy Official Reporter in and for the 352nd District Court of Tarrant County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

I further certify that the total cost for the preparation of this Reporter's Record is _____ and has been paid by Ms. Mary Cummins.

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WITNESS MY OFFICIAL HAND on this the _____ day
of October, 2011.

CAROLYN H. GAYALDO CSR 7181
EXPIRATION DATE 12/31/11
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