

**APPELLANT REQUESTS  
ORAL ARGUMENT**

**B251854**

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IN THE COURT OF APPEAL  
OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE

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MARY CUMMINS,  
Plaintiff and Appellant,

v.

AMANDA LOLLAR,  
Defendant and Appellee

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Appeal from Order of Los Angeles Superior Court  
Case No. BS143169, Honorable Carol Boas Goodson

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**APPELLANT'S LETTER BRIEF**

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Mary Cummins  
Petitioner, Plaintiff, Appellant In Pro Per  
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Mary Cummins  
645 W 9th St. #110-140  
Los Angeles, CA 90015

November 25, 2014

Second District Court of Appeals, Div 3  
300 S Spring St 2nd Fl  
Los Angeles, CA 90013

RE: *Mary Cummins v. Amanda Lollar*  
Court of Appeal Case No B251854

Presiding Justice and Associate Justices of the Court of Appeal:

November 24, 2014 the Court posted to the docket:

“Parties, Pursuant to Government Code section 68081 the parties are advised as follows: Although appellant's briefs broadly attack the trial court's various rulings, the notice of appeal filed September 30, 2013, solely specified the July 1, 2013 order. As a consequence, are the issues reviewable on appeal limited to said order, and are the trial court's rulings made subsequent to July 1, 2013, beyond the scope of this appeal? Supplemental letter briefs limited to this issue may be filed no later than December 4, 2014.”

Due to possible rioting Appellant has not gone to her mailbox to retrieve the letter. This letter brief is in response to the docket note alone.

Short Answer

Appellant Mary Cummins is a pro se party who did not receive any legal advice from anyone as she cannot afford an attorney and she could not find a pro bono attorney to take the case. Consequently Appellant did her best to use the Internet to try to understand the California appeals process, fill out the forms properly and reply accordingly. It is possible that Appellant

may have made a small technical mistake filling out the appeal forms or in her brief, reply brief.

Appellant meant to appeal the “denial of her request for restraining order and award of attorney’s fees.” Appellant did not know she could, should have listed both the July 1, 2013 order denying restraining order and the August 16, 2013 order denying motion to reconsider denial of restraining order on the notice of appeal form. Appellant thought she was appealing, meant to appeal the “entire denial of her restraining order and award of legal fees.”

Appellant “appeals from a judgment (order(s)) of the Los Angeles Superior Court Department 75 denying her petition under Code of Civil Procedure § 527.6 for an injunction preventing harassment against her by Defendant. Cummins further appeals the award of attorney fees to Appellee” (Appellant’s opening brief page 1, paragraph 1). Appellant added “(order(s))” for clarification.

Appellee in their reply brief argue about the order on the petition for writ of mandate case B251678. Appellant did not appeal the order on the writ of mandate as she didn’t think it was necessary based on her research. Appellant only replied to Appellee’s argument about the writ of mandate because Appellant thought she had to reply to all of their points. Better safe than sorry.

### Analysis

Appellant may have inadvertently filed the appeal from only one court order and not both or all relevant court orders. The court can construe that this appeal was filed from both or all relevant orders to the “denial of her restraining order, award of legal fees” instead of just the July 1, 2013 order. (*Nelson v Gaunt* (1981) 125 Cal.App. 3d 624)

While courts must abide by the “same treatment” rules in regard to pro se verses lawyers, the courts have some leeway in order to ensure there is no “miscarriage of justice through inadvertence.” “It has always been the policy of the courts in California to resolve a dispute on the merits of the case rather than allowing a dismissal on technicality. *Harding v Collazo*, 177

Cap.App.3d 1044, 1061, 223 Cal. Rrt. 329 (1986) (Acting P.J. Liu, dissenting). The trial judge has the “duty to see that a miscarriage of justice does not occur through inadvertence.” *Lonmbardi v. Citizens Nat. Trust etc. Bank*, 137 Cal.App.2d 206, 09, 289 P. 2d 8231 (1951).

Conclusion

For all of the forgoing reasons and points of law, Appellant prays this Court reverses the denial of restraining order, award of legal fees and the matter remanded to the superior court for a new trial before a different judge.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Cummins". The signature is written in black ink and is positioned above a horizontal line.

Mary Cummins  
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November 25, 2014

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

I am Plaintiff in pro per whose address is 645 W. 9th St. #110-140, Los Angeles, California 90015-1640. I am over the age of eighteen years. I further declare that on the date hereof I served a copy of:

**APPELLANT'S LETTER BRIEF**

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

**Dean Rocco**

Wilson Elser Moskowitz Edelman & Dicker LLP  
555 S. Flower Street - Suite 2900  
Los Angeles, CA 90071-2407

**Los Angeles County Superior Court**

Judge Carol Boas Goodson, Dept 75  
111 North Hill St.  
Los Angeles, CA 90012

**Second District Court of Appeals**

300 S. Spring Street  
2nd Floor, North Tower  
Los Angeles, CA 90013

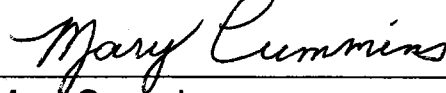
**Supreme Court**

350 McAllister St  
San Francisco, CA 94102

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

Executed this day, November 25, 2014, at Los Angeles, California.

Respectfully submitted,



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Mary Cummins

Appellant in Pro Per

Dated: November 25, 2014

645 W. 9th St. #110-140

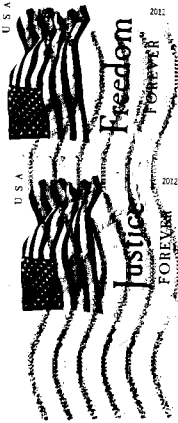
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