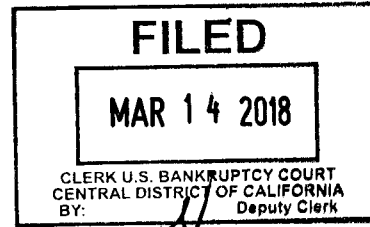


1 MARY CUMMINS
2 Debtor, Defendant
3 645 W. 9th St. #110-140
4 Los Angeles, CA 90015
5 In Pro Per
6 Telephone: (310) 877-4770
7 Email: mmmmaryinla@aol.com



8 **UNITED STATES BANKRUPTCY COURT FOR THE**
9 **CENTRAL DISTRICT OF CALIFORNIA**

<p>10 In re:</p> <p>11 MARY CUMMINS-COBB,</p> <p>12 Debtor</p> <hr/> <p>14 KONSTANTIN KHIONIDI, as Trustee</p> <p>15 Of the COBBS TRUST,</p> <p>16 Plaintiff,</p> <p>17 vs.</p> <p>18 MARY CUMMINS-COBB</p> <p>19 Defendant.</p>	<p>) Case No. 2:17-bk-24993-RK</p> <p>) Chapter 7</p> <p>) Adv. Proc. No. 2:18-ap-01066-RK</p> <p>) MOTION TO STRIKE PLAINTIFF'S</p> <p>) OBJECTION TO DISCHARGE;</p> <p>) MEMORANDUM OF POINTS AND</p> <p>) AUTHORITIES</p> <p>) Judge: Honorable Robert N. Kwan</p> <p>) Courtroom: 1675</p> <p>) Edward R. Roybal Federal Building</p> <p>) 255 E. Temple St, Suite 1682</p> <p>) Los Angeles, CA 90012</p>
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21 Debtor/Defendant MARY CUMMINS, (hereinafter "Defendant") files this Motion
22 to Strike Creditor and Plaintiff KONSTANTIN KHIONIDI's Complaint to Deny
23 Debtors' Discharge and to Determine Non-dischargeability of debts. In support thereof
24 Defendant files this Memorandum of Points and Authorities. This is not Defendant's
25 reply to Plaintiff's Complaint. Defendant will be making a timely reply if the
26 Complaint is not stricken.
27
28

1 **Memorandum of Points and Authorities**

2 **INTRODUCTION**

3
4 PLAINTIFF allegedly filed a Complaint to Deny Debtors' Discharge and to
5 Determine Non-dischargeability of debts Doc #13 March 10, 2018. The Complaint was
6 written, signed and filed by Miami, Florida attorney Philip Stillman who is not the
7 attorney of record for the case. No substitution of attorney was filed.

8 **ARGUMENT**

9
10 **FIRST CLAIM FOR RELIEF**
11 **CCP § 128.7(a)**

12 Per CCP § 128.7(a) "Every pleading, petition, written notice of motion, or other
13 similar paper shall be signed by at least one attorney of record in the attorney's
14 individual name, or, if the party is not represented by an attorney, shall be signed by
15 the party."

16 The Complaint filed in Case 2:17-bk-24993-RK Doc #13 on March 10, 2018
17 was signed by Philip Stillman an attorney in Florida. Stillman is not the attorney of
18 record. The attorney of record is James J Little, Bar #123373.

19 **SECOND CLAIM FOR RELIEF**
20 **CCP §285**

21 Per CCP §285 "When an attorney is changed, as provided in the last section,
22 written notice of the change and of the substitution of a new attorney, or of the
23 appearance of the party in person, must be given to the adverse party. Until then he
24 must recognize the former attorney."

25 No substitution of attorney was filed. Stillman is not the attorney of record.
26 Defendant asked Stillman if he was the attorney of record and Stillman did not reply.
27
28

1 **THIRD CLAIM FOR RELIEF**
2 **CCP §286**

3 Per CCP §286 “When an attorney dies, or is removed or suspended, or ceases to
4 act as such, a party to an action, for whom he was acting as attorney, must, before any
5 further proceedings are had against him, be required by the adverse party, by written
6 notice, to appoint another attorney, or to appear in person.”

7 Plaintiff knew attorney James J Little’s died January 13, 2018 mere days after
8 the meeting of creditors. There was plenty of time for Plaintiff to sign and file a
9 substitution of attorney as they had done twice previously within a day. No substitution
10 of attorney was filed in this case. Stillman therefore does not legally represent Plaintiff.
11 The complaint filed March 10, 2018 should be stricken for this reason.

12 **FOURTH CLAIM FOR RELIEF**
13 **CCP §727(a)(8), (a)(9), §341(a), Bankruptcy Rule 4007(c)**

14 “In a chapter 7 case, a complaint, or a motion under §727(a)(8) or (a)(9) of the
15 Code, objecting to the debtor's discharge shall be filed no later than 60 days after the
16 first date set for the meeting of creditors under §341(a).” Philip Stillman is not the
17 attorney of record for this case. His complaint should be stricken. Any complaint filed
18 in the future would be time barred. No motion for extension of time was filed before
19 March 10, 2018. An objection to discharge had to be filed before March 10, 2018
20 which is 60 days after the meeting of creditors January 10, 2018. An objection by the
21 attorney of record or party was not filed before this date. Plaintiff also had 30 days
22 from January 10, 2018 to object to the exemptions. No objection was made.

23 The result of the meeting of creditors was as follows,
24

25 “Chapter 7 Trustee's Report of No Distribution: I, Peter J Mastan (TR), having
26 been appointed trustee of the estate of the above-named debtor(s), report that I have
27 neither received any property nor paid any money on account of this estate; that I have
28 made a diligent inquiry into the financial affairs of the debtor(s) and the location of the

1 property belonging to the estate; and that there is no property available for distribution
2 from the estate over and above that exempted by law. Pursuant to Fed R Bank P 5009,
3 I hereby certify that the estate of the above-named debtor(s) has been fully
4 administered. I request that I be discharged from any further duties as trustee. Key
5 information about this case as reported in schedules filed by the debtor(s) or otherwise
6 found in the case record: This case was pending for 1 months. Assets Abandoned
7 (without deducting any secured claims): \$ 3900.00, Assets Exempt: Not Available,
8 Claims Scheduled: \$ 10020925.21, Claims Asserted: Not Applicable, Claims
9 scheduled to be discharged without payment (without deducting the value of collateral
10 or debts excepted from discharge): \$ 10020925.21. . (Mastan (TR), Peter) (Entered:
11 01/11/2018)”

12 There are no assets. Plaintiff’s meritless \$10,000,000 unsecured non-priority
13 claim would receive nothing one way or the other. This complaint objecting to
14 discharge is only for harassment purposes.

15 Stillman was accepted to the Massachusetts bar in 1990 and California bar in
16 1991. Stillman has 28 years of experience as a bankruptcy attorney. Stillman waited
17 until the very last second to file the complaint for psychological effect against
18 Defendant. Stillman knew the deadlines and the law.

20 CONCLUSION

21 Defendant requests that the March 10, 2018 filed complaint be stricken due to
22 non-compliance with CCP 128.7(a), 285, 286, 727(a) and Bankruptcy Rule 4007(c).

23 Such other relief as the Court may deem just and proper.

24 Respectfully submitted,

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26 _____
27 Mary Cummins, Defendant

28 Dated: March 13, 2018

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PROOF OF SERVICE
(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:

MOTION TO STRIKE

on the following interested parties by emailing this document to the following and filing with the Court.

Philip H. Stillman
Stillman & Associates
3015 North Bay Road, Suite B
Miami Beach, Florida 33140
Fax (888) 235-4279
pstillman@stillmanassociates.com

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

Executed this day, March 13, 2018, at Los Angeles, California.

Respectfully submitted,



Mary Cummins, Defendant
Dated: March 13, 2018
645 W. 9th St. #110-140
Los Angeles, CA 90015