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6

7 **UNITED STATES COURT FOR THE**  
8 **CENTRAL DISTRICT OF CALIFORNIA**

<p>9 In re:</p> <p>10 MARY CUMMINS-COBB,</p> <p style="text-align: right;">Debtor</p> <hr/> <p>11 KONSTANTIN KHIONIDI, as Trustee of the</p> <p>12 COBBS TRUST,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>13 MARY CUMMINS-COBB,</p> <p style="text-align: right;">Defendant.</p> <hr/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Appeal No. 2:20-cv-02149-AB</p> <p>Bankruptcy Case No. 2:17-bk-24993-RK</p> <p>Adv. Proc. No. 2:18-ap-01066-RK</p> <p>APPELLEE'S OPPOSITION TO CUMMINS'</p> <p>EX PARTE APPLICATION FOR AN</p> <p>EXTENSION OF TIME TO FILE HER</p> <p>OPENING BRIEF</p> <p>Hon. Andre Birrote, Jr.</p>
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## INTRODUCTION

Appellee and plaintiff Konstantin Khionidi, as Trustee of the Cobbs Trust in the above-captioned adversary proceeding case and the Appellee herein (“Appellee”) hereby opposes appellant Mary Cummins-Cobb’s (“Cummins”) Motion for an Extension of Time within which to file her Opening Brief.<sup>1</sup> Appellee has not brought Cummins’ misrepresentations to the attention of the Court previously, figuring that it was not worth the time required to do so. However, at some point, this Court must be made aware of the falsehoods, small and large, that Cummins repeats to this Court to get extensions of time and excuse her ignoring deadlines. That time is now.

Although in the usual appeal, an agreement for a 30 day extension of time is often *pro forma* and a matter of professional courtesy, this is not the usual case. This is a virtually frivolous *pro se* appeal of the Bankruptcy Court’s grant of summary judgment holding that pursuant to 11 U.S.C § 523(a)(6), a prior Texas defamation judgment against Cummins – affirmed in a scathing Texas Court of Appeals decision, *Cummins v. Bat World Sanctuary*, 2015 Tex. App. LEXIS 3472 (Tex. App. Apr. 9, 2015) and the domesticated California judgment based thereon, are nondischargeable. Not only are the Findings of Fact and Conclusions of Law literally dispositive on their face, but in *In re Sicroff*, 401 F.3d 1101, 1106 (9<sup>th</sup> Cir. 2005), holds that defamation judgments are nondischargeable debt under 11 U.S.C. § 523(a)(6). Thus, this appeal is literally frivolous, and no amount of extensions of time will change that result.

Now, Cummins again contends that her pesky computer has prevented her from preparing her Opening Brief for the last 30 days. However, she has had no computer

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<sup>1</sup> Cummins did not confer with opposing counsel and did not obtain Appellee’s position on the Ex Parte Application and therefore did not comply with this Court’s standing order regarding ex parte applications (“the application should advise whether opposing counsel will be filing an opposition. Applications that fail to conform to Local Rule 7-19 and 7-19.1, including a statement of opposing counsel's position, will not be considered.”).

1 problems when filing a 9 page Motion for Contempt over \$35 to harass opposing counsel in  
2 the Bankruptcy court on July 7, 2020, nor did she have any problem filing a Reply in  
3 support of her harassing Motion for Contempt on July 23, 2020, and she had no problem  
4 filing an Extension of Time to File Her Opening Brief on August 6. As set forth below, she  
5 has claimed “computer problems” numerous times, while at the same time having no  
6 problem posting on social media, writing and posting blogs, and of course, harassing  
7 counsel with meritless motions. Cummins claims to be a helpless *pro se* defendant in this  
8 Court, while at the same time bragging online that she always represents herself “and wins”  
9 – over 30 lawsuits. She has filed several state court appeals *pro se*, and has even prepared  
10 and filed a Petition for Certiorari in one of the Texas cases that she lost.

11 In short, and although not the first time that she has used alleged “computer  
12 problems” to excuse her compliance with appellate deadlines in this case, it appears that the  
13 so-called “computer problems” are no impediment when filing something that Cummins  
14 *wants* to file, but is an insurmountable hurdle when she must comply with a deadline with  
15 which she does *not* want to comply. On July 13, 2020, this Court clearly warned Cummins  
16 not to miss any further deadlines or her appeal would be dismissed. “The Court advises  
17 Appellant that further failures to abide by Court procedures or meet Court deadlines may  
18 result in the appeal being dismissed with prejudice without further notice.” She should not  
19 be excused from timely prosecuting what can only be called a frivolous appeal and this  
20 Court should make good on its warning to Cummins and deny her extension and dismiss  
21 the appeal for failure to prosecute.

## 22 ARGUMENT

### 23 I.

#### 24 THE UNDERLYING CASE DEMONSTRATES THE ABJECT LACK OF MERIT 25 OF THIS APPEAL

26 Appellee has a defamation judgment against Cummins, that with interest is now in  
27 excess of \$10 million. After Cummins was required to produce numerous documents in the  
28 state court by the judgment creditor, Cummins filed her Chapter 7 petition. Her stated

1 reason for doing so was to avoid the state court judgment for over \$6 million. See ECF 165  
2 (“This \$10,000,000 judgment is the only reason and judgment Defendant is trying to  
3 discharge.”). A discharge under 11 U.S.C. § 727 does not discharge an individual debtor  
4 from “any debt for willful and malicious injury by the debtor to another entity or to the  
5 property of another entity.” 11 U.S.C. § 523(a)(6). A defamation judgment is just such a  
6 debt. *In re Sicroff*, 401 F.3d 1101, 1106 (9<sup>th</sup> Cir. 2005).

7 Although the facts of the underlying Texas judgment and Texas Court of Appeals  
8 decision affirming that judgment are fully set forth in the Bankruptcy Court’s Findings of  
9 Fact and Conclusions of Law Granting Summary Adjudication of Issues entered on May  
10 24, 2019 (ECF 82)(“SJ Order I”), attached to the Stillman Decl. as Exhibit 1 and in its  
11 Findings of Fact and Conclusions of Law Denying Cummins’ Motion for Summary  
12 Judgment and Entering Summary Judgment for Plaintiff, entered on February 10, 2020  
13 (ECF 118) (“SJ Order II”), attached to the Stillman Decl. as Exhibit 2, those findings will  
14 be briefly summarized here so that the Court gets a full picture of just how meritless this  
15 appeal is.

16 1. **The Texas Trial Court Held That Cummins’ Defamation of Lollar was**  
17 **“Egregious, Malicious As Well As Intentional.”**

18 First, after the bench trial, in making his oral ruling from the bench at the conclusion  
19 of the trial and before the written form of judgment had been prepared, the trial court ruled  
20 that “the plaintiff has clearly proven that a defamation in this case was *egregious* as well as  
21 *malicious* as well as *intentional*.” SJ Order I, Finding of Fact No. 3. In addition, the trial  
22 court included a list of all of the defamatory statements that, as part of the Final Judgment,  
23 Cummins was ordered to take down. *Id.* No. 4.

24 2. **The Texas Court Of Appeal Found The Evidence “Left No Doubt” That**  
25 **Cummins Had A Specific Intent To Cause Substantial Injury.**

26 Second, after reviewing the trial record, the Texas Court of Appeals held that “The  
27 comments she made about Lollar leave no doubt that she had a specific intent to cause  
28 substantial injury or harm to Lollar.” *Cummins v. Bat World Sanctuary*, 2015 Tex. App.  
LEXIS 3472, at p.73 (Tex. App. Apr. 9, 2015); SJ Order I, No. 8. In reviewing the issue of

1 whether sufficient evidence supported that finding, the Texas Court of Appeals stated  
2 “Clear and convincing evidence also supports a finding that Cummins published statements  
3 on the internet with actual malice.” *Cummins v. Bat World Sanctuary*, 2015 Tex. App.  
4 LEXIS 3472, at p. 73 (Tex. App. Apr. 9, 2015); SJ Order I, No. 9. The Texas Court of  
5 Appeals further stated:

6 Cummins posted a flood of statements about Lollar accusing her of all manner  
7 of serious wrongdoings, including crimes, and she published her statements to  
8 as wide of an audience as she could, including to numerous law enforcement  
9 agencies. The statements were designed to ruin Lollar’s professional and  
10 personal reputation locally and nationally. . . . Lollar showed by clear and  
11 convincing evidence that Cummins acted with malice as that term is used in  
12 chapter 41 and with the actual malice required under the First Amendment.  
13 The evidence supports a conclusion that Cummins engaged in a ***persistent, calculated*** attack on Lollar with ***the intention to ruin both Lollar’s life’s work and her credibility and standing in the animal rehabilitation community.*** Cummins posted innumerable derogatory statements about Lollar impugning her honesty and her competency, and she repeatedly and relentlessly reported Lollar to multiple government agencies. The comments she made about Lollar leave no doubt that she had a specific intent to cause substantial injury or harm to Lollar.

14 *Cummins v. Bat World Sanctuary*, 2015 Tex. App. LEXIS 3472 (Tex. App. Apr. 9, 2015),  
15 p. 71. A “persistent, calculated attack on Lollar with the intention to ruin both Lollar’s life’s  
16 work and her credibility and standing in the animal rehabilitation community” made with  
17 actual malice can *only* be consistent with “the actual intent to cause injury” sufficient to  
18 establish the “willfulness” prong of § 523(a)(6).

### 19 3. Exemplary Damages In A Defamation Case Establishes “Actual Malice.”

20 Third, the trial court awarded \$3 million in “exemplary damages.” SJ Order I, No. 14.  
21 As the Court of Appeals held, “We hold that the record supports a finding of malice—both  
22 of the malice required for an award of exemplary damages under Texas law and of actual  
23 malice as required for an award of exemplary damages in defamation actions.” *Cummins v.*  
24 *Bat World Sanctuary*, 2015 Tex. App. LEXIS 3472, at p. 75 (Tex. App. Apr. 9, 2015); SJ  
25 Order I, No. 15. “Malice” in this context means “a specific ***intent*** by the defendant to cause  
26 substantial injury or harm to the claimant.” *Id.* at p. 70, citing Tex. Civ. Prac. & Rem. Code  
27 Ann. § 41.001(7)(defining malice).

28 Since the Final Judgment – affirmed on appeal – determined that Cummins made the

1 defamatory statements with “actual malice,” Plaintiff has established that Cummins’  
2 defamation was intentional and establishes the “willfulness” prong of a § 523(a)(6)  
3 nondischargeability action. SJ Order II, pp. 24-25.

4 **4. Cummins Made Knowingly False Statements About Lollar.**

5 The Court of Appeals’ Opinion exhaustively recounts the intentional smear campaign  
6 by Cummins against Lollar, grouping Cummins’ defamatory *per se* statements into several  
7 categories. “Most of statements fall into one of three categories: allegations that Lollar  
8 committed animal cruelty, allegations that Lollar committed fraud, and allegations that  
9 Lollar violated a law, rule, standard, or regulation.” *Cummins v. Bat World Sanctuary*,  
10 2015 Tex. App. LEXIS 3472, at pp. 33-34 (Tex. App. Apr. 9, 2015); SJ Order I, No. 16. As  
11 to each of the statements, the Court determined that the evidence established that the  
12 statements Cummins made and published on the internet were false. *Id.* at pp. 34-69. SJ  
13 Order I, No. 17.

14 As set forth above, after reviewing the evidence with specificity, the Court of  
15 Appeals concluded that “The evidence supports a conclusion that Cummins engaged in a  
16 persistent, calculated attack on Lollar with the intention to ruin both Lollar's life's work and  
17 her credibility and standing in the animal rehabilitation community.” *Cummins v. Bat*  
18 *World Sanctuary*, 2015 Tex. App. LEXIS 3472, at pp. 71-73 (Tex. App. Apr. 9, 2015); SJ  
19 Order I, No. 12.

20 The trial court also found that Cummins repeatedly lied at trial. SJ Order I, No. 18.  
21 “For example, with regard to Cummins's statements about Lollar's dogs, the evidence  
22 supported a finding that Cummins was not telling the truth.” *Id.* at 73-74; regarding a video  
23 she posted, Cummins “had no basis for asserting as fact what was at best speculation and at  
24 worst total fabrication. But she posted her version as fact, not speculation, and then she  
25 spread her version as far and wide as she possibly could,” *Id.* at p. 74; regarding Lollar’s  
26 allegedly illegal use of an anaesthetic, “the trial court's determination that Cummins was  
27 not credible was a reasonable one . . . Based on these credibility determinations, clear and  
28 convincing evidence supports the trial court's finding that Cummins made statements on



1 these matters with actual malice.” *See* SJ Order I, Nos. 18-19.

2 “Not telling the truth,” “asserting as fact what is at best speculation and at worst a  
3 total fabrication,” and Cummins telling “as many people as she could that Lollar was  
4 illegally obtaining and administering Isoflurane and rabies vaccines and that she made  
5 these representations as facts,” when the trial court found her not credible, all demonstrates  
6 beyond any burden of proof that Cummins acted “willfully.” Her appeal is therefore  
7 frivolous and should be summarily affirmed without requiring Appellee to expend yet more  
8 attorney’s fees to prepare an Answering Brief.

## 9 II.

### 10 CUMMINS HAS A LONG HISTORY OF DELAY

11 Cummins filed a Notice of Appeal on February 17, 2020. Thus, her Designation of  
12 the record on appeal and her Statement of Issues on Appeal were therefore due on February  
13 27. She never explained why she simply didn’t file the required documents with this Court  
14 even as she has filed countless documents in the bankruptcy court. She also fails to explain  
15 why, despite two notices, on April 2 from the bankruptcy court and again on April 9 by this  
16 Court, she literally did *nothing* until Appellee finally requested that the appeal be  
17 dismissed. During the time when she should have filed her Designation of Record and  
18 Statement of Issues on Appeal, and despite claiming problems with her computer, her cell  
19 phone, her printer and problems with ECF filing, a review of the adversary proceeding  
20 docket shows that Cummins has been perfectly able to file documents when she wants to  
21 and indeed, has filed numerous documents between February 27 and June 2, when she  
22 finally filed her (inadequate) Designation of Record in the Bankruptcy Court, showing that  
23 had she wanted to, she could have complied with this Court’s Order. For example,  
24 Cummins filed the following documents in the Adversary Proceeding:

- 25 • February 27 (the day her appellate documents were due), a Reply
- 26 • March 12, an ex parte motion seeking to stay all proceedings,
- 27 • March 17, a second motion for a stay
- 28 • May 1, requesting a 30 day extension from the bankruptcy court.

1 • May 5, a notice objecting to closing the Adversary proceeding, even though  
2 she already appealed the final judgment.

3 Thus, Cummins was perfectly able to file documents in the bankruptcy court where  
4 she is not an ECF filer throughout the entire time she now claims that she was having  
5 problems with ECF filing in this Court.

6 Finally, on June 2, 2020, Cummins filed a completely improper Designation of the  
7 Record, designating every single document filed in the adversary proceeding. Despite the  
8 Bankruptcy Court holding two hearings on the Motions for Summary Judgment, Cummins  
9 failed to order either of the transcripts of those hearings. Thus, as a practical matter, she has  
10 not provided an adequate record on appeal.<sup>2</sup> The record on appeal was certified on July 9,  
11 2020. (ECF 172). Cummins continued to find time to file Motions in the Bankruptcy  
12 Court to harass opposing counsel, write blogs, post on social media and file a Reply on July  
13 22 – those were apparently more important to Cummins than preparing her Opening Brief.

### 14 III.

#### 15 **CUMMINS' REPEATED MISREPRESENTATIONS TO THIS COURT AND THE** 16 **BANKRUPTCY COURT**

##### 17 A. Cummins' Claim to Be "Legally Homeless."

18 In her Declaration of Mary Cummins in Support of Application for an Order  
19 Shortening Time re Ex Parte Application to Stay Case Due to State of Emergency, (ECF  
20 156), ¶ 6, Cummins claimed to be "legally homeless." However, as far back as September  
21 28, 2017, she has resided at 2657 Van Buren Place, Los Angeles. Private Investigator's  
22 Report, attached to the Stillman Declaration as Exhibit 3. She continues to live at that  
23 address to this day. Photograph of Cummin's Prius still parking at the same address with  
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25 <sup>2</sup> Appellants' "decision not to include the transcripts of the two summary judgment  
26 hearings, and their attorney's views concerning the value of the Panel's understanding the  
27 bankruptcy court's reasons for granting the summary judgments, are incompatible with  
28 basic principles of appellate review." *In re Hamel*, 2009 Bankr. LEXIS 4521, at \*20  
(B.A.P. 9<sup>th</sup> Cir. Apr. 16, 2009).

1 Resident’s Permit, attached to the Stillman Decl. as Exhibit 4.

2 B. Cummins’ False Claim Not To Own A Car.

3 Cummins filed a “Motion to Vacate Dismissal” in this Court on June 2, 2020. One of  
4 her excuses for failing to timely prosecute this appeal was that she didn’t own a car and  
5 therefore could not get to her mailbox. However, on her Bankruptcy Schedule A/B, she  
6 states under penalty of perjury that she is the owner of a Toyota Prius. *In re Cummins*, Case  
7 2:17-bk-24993-RK, ECF 1, at p. 13. Moreover, as shown by a Private Investigator’s Report  
8 and photographs, she owns a red Toyota Prius, License Plate No. 7KAA223. Exhibits 3-4.  
9 Another fabrication.

10 C. Cummins’ Purported “Back Injury.”

11 Another excuse that Cummins has offered is that she is suffering from a “back  
12 injury” and therefore has been unable to prepare. *See* Motion to Stay And Requesting 30  
13 Extension to File Opening Brief, p. 6 (ECF 165)(“Defendant has also been ill and awaiting  
14 surgery.”). This is the same “back injury” that she has been using as an excuse since at least  
15 April 23, 2015, where she tried to use the same “back injury” for which she was awaiting  
16 surgery to stay a federal case that she had filed in Texas on the grounds that she could not  
17 access the internet because of her back injury. *Cummins v. Lollar*, Case 4:12-cv-00560-Y  
18 (N.D. Tex. June 16, 2015), Order Denying Motion to Stay Proceedings For Medical  
19 Emergency, attached to the Stillman Decl. As Exhibit 5. The Court found that she  
20 maintained an extensive social media presence and clearly was able to prepare. *Id.*  
21 Cummins used the same excuse to try to reinstate her appeal in *Cummins v. Lollar*, Case  
22 No. B258027 (Cal. 2<sup>nd</sup> District Court of Appeals September 15, 2015), a copy of which is  
23 attached to the Stillman Decl. as Exhibit 6.

24 D. Cummins’ Claim To Be A Mere Lay Person Litigant.

25 In her Motion to Reinstate filed in this Court on May 31, 2020, Cummins argued that  
26 she should be treated leniently because “Appellant, a layperson of the law, should not be  
27 penalized for being ignorant of appellate procedures.” Motion to Reinstate, p.3. She is far  
28 from an inexperienced lay person haplessly trying to navigate the court system and the rules

1 of practice. Below is a list of cases prosecuted by Cummins *pro se*, only against Amanda  
 2 Lollar and Bat World Sanctuary:

CASE #	COURT	DISPOSITION
352-248169-10	<b>District Court</b> Amanda Lollar sues Mary Cummins for Defamation, Cummins is pro se all through trial.	Cummins LOSES
	Mary Cummins Files for the Case to be Reheard.	DENIED
02-12-00285-CV	<b>Court of Appeals, 2<sup>nd</sup></b> District TX	Cummins LOSES
	Mary Cummins Files for a Rehearing with Court of Appeals.	DENIED
15-0459	<b>Supreme Court of Texas</b> Mary Cummins files a Petition for Review	DENIED
BS140207	<b>Superior Court of CA</b> Sister State Judgment Entered, Cummins Files to Vacate Judgment.	Cummins LOSES
B278893	<b>Court of Appeals, 2<sup>nd</sup></b> District CA, Mary Cummins Appeals \$6M domestication of Texas Judgment in the Sister State Case.	Cummins LOSES
2015-2259-3	<b>County District Court at LAW</b> Amanda Lollar sues Mary Cummins for Defamation for reposting that which she was ordered to remove in the 352 <sup>nd</sup> case. Mary Cummins Files to Have the Case Dismissed.	Cummins LOSES
	Mary Cummins Files for the Case to be Reheard.	DENIED
07-16-00337-CV	<b>Court of Appeals, 7<sup>th</sup></b> District TX Mary Cummins files an Appeal	Cummins LOSES
	Mary Cummins Files for the Case to be Reheard.	DENIED
18-0635	<b>Supreme Court of Texas</b> Mary Cummins files a Petition for Review	Cummins LOSES
18-7758	<b>Supreme Court of the United States</b> , Mary Cummins files a Writ of Certiorari	Cummins LOSES
CV11-08081-DMG (C.D.Cal.)	<b>Federal Court</b> Mary Cummins sues Amanda Lollar, Board of Directors of Bat World, Trial Witnesses, an Attorney in CA and a Reporter (who Cummins claims is dead) for Defamation.	Cummins LOSES

13-55340	<b>Court of Appeals, 9<sup>th</sup> Circuit CA,</b> Mary Cummins Appeals the Decision	Cummins LOSES
CV12-04902-GHK (C.D.Cal)	<b>Federal Court</b> Mary Cummins sues Amanda Lollar, Board of Directors of Bat World for Personal Injury in Federal Court CA..	Cummins Case is Transferred to TX because she acted in BAD FAITH, Lacks Jurisdiction
4:12-cv-00560-Y (N.D. Texas)	<b>Federal Court</b> Mary Cummins sues Amanda Lollar, Board of Directors of Bat World for Personal Injury in Federal Court in TX.	Cummins LOSES
BS143169	<b>Superior Court</b> Mary Cummins tries to get a Restraining Order Against Amanda Lollar.	Cummins LOSES
	Mary Cummins Files for Case to be Reheard.	DENIED
B251854	<b>Court of Appeals, 2<sup>nd</sup> District CA</b> Mary Cummins Files for Case to be Reheard.	Cummins LOSES
	Mary Cummins Files for Case to be Reheard.	DENIED
B258027	<b>Court of Appeals,</b> again appealing a decision on subpoenas granted.	Cummins LOSES
S225556	<b>Supreme Court of CA</b> Mary Cummins files a Petition for Review	DENIED
BS140207	<b>Debtor's Court,</b> Cummins is ORDERED to appear. Cummins Files to Vacate Judgment.	Cummins LOSES
2:17-bk-24993	<b>Bankruptcy Court,</b> Cummins Files for Bankruptcy to discharge the \$6M (now \$10M with Interest) Judgment.	Cummins LOSES
2:18-ap-01066	<b>Adversary Proceeding</b>	Cummins LOSES
2:20-cv-02149 (C.D.Cal)	<b>Appeal,</b> District Court CA. Cummins appeals bankruptcy	

Although the above cases only involve Amanda Lollar, the original judgment creditor, <https://www.marycummins-exposed.com/mary-cummins-lawsuits> catalogs the long list of lawsuits in which Cummins has generally been involved, *pro se*.

As for her portrayal as a hapless lay person, Cummins proudly stated online on her alter ego “Animal Advocates” Facebook page: “I represent myself and win.” A copy of the Facebook page is attached to the Stillman Declaration as Exhibit 7. In an email to various Batworld Sanctuary individuals, she proudly proclaimed that “I do my own legal work and have never lost . . . I went up against the Philadelphia mob and the largest law firm in

1 Philadelphia, and won.” *Id.* Thus, her litigation history shows just the opposite – she is a  
2 highly experienced litigator in both the state and federal courts, has represented herself in  
3 trials, and has significant appellate experience, even preparing a Petition for Certiorari to  
4 the U.S. Supreme Court. Although all litigants are required to know and abide by the Rules  
5 of Civil Procedure and the Local Rules, Cummins should be treated as this Court would any  
6 lawyer who constantly misses deadlines, makes up stories, and misrepresents supporting  
7 facts.

8 E. Cummins’ “Broken Computer” Excuse.

9 In her *Ex Parte* Application for a 30 day extension of time to file her Opening Brief  
10 filed on August 7, 2020, Cummins claimed that “Defendant has had multiple computer  
11 crashes with Defendant’s only computer a ten year old notebook.” This is merely the latest  
12 of her motions based on her poor computer “crashing,” a 21<sup>st</sup> century version of the “my  
13 dog ate my homework” excuse.

14 First, Cummins’ magic computer does not give her trouble when she needs to file  
15 something of benefit to her. For example, the preparation of the appellate record was  
16 certified on July 9, 2020. On July 7, 2020, Cummins’ computer was working well enough  
17 for her to file a nine page Motion for Contempt in the closed adversary proceeding over \$35  
18 to harass opposing counsel. (ECF 169). Her computer was apparently working well enough  
19 for her to author a “blog,” posted on July 12, 2020. A copy of the Blog is attached to the  
20 Stillman Decl. as Exhibit 8. Her computer was also working well enough from July 7  
21 through August 4 to make numerous posts on Facebook and Twitter. A copy of some of  
22 these posts are attached to the Stillman Decl. as Exhibit 9. Her computer was also  
23 apparently not “crashing” when she filed a Reply in support of her Motion for Contempt on  
24 July 22. (ECF 175). Instead of writing motions, blogs and posts on social media, Cummins  
25 could have and should have been diligently working on her frivolous appeal.

26 Second, the “computer crashing” excuse – easily made and expensive to disprove --  
27 is apparently always trotted out when Cummins is requesting an extension of time. For  
28 example, on November 20, 2019, Cummins requested an ex parte continuance of the

1 hearing on her own summary judgment motion in order to file a Reply, stating that “My  
2 only computer a ten year old notebook has crashed multiple times recently. I can’t afford a  
3 new one. I was finally able to get the computer restarted in Windows and can now finish  
4 the document to timely file for a December 10, 2019 hearing.” Cummins Declaration in  
5 Support of *Ex Parte* application to Continue Hearing on Summary Judgment, ECF 103 at ¶  
6 1. Yet at the same time that she was representing under oath to the Bankruptcy Court on  
7 November 20, 2019 that she could not prepare a Reply because of her “crashing computer,”  
8 she posted a blog dated November 14, 2019, posted commentary on real estate between  
9 November 12 and November 16, and several posts on social media. Copies of these  
10 documents are attached to the Stillman Declaration as Exhibit 10.<sup>3</sup>

11 In short, Cummins has a history of evading filings when inconvenient, yet magically  
12 being able to surmount her technological impediments when she wants. This Court should  
13 see through her meritless and false excuses and terminate this frivolous appeal.

#### 14 CONCLUSION

15 For the foregoing reasons, plaintiff Konstantin Kionidhi, as Trustee of the Cobbs  
16 Trust, requests that this Court deny appellant’s Ex Parte Application For An Extension Of  
17 Time To File Opening Brief. Moreover, given the facial lack of merit to her appeal, this  
18 Court should issue an Order to Show Cause re Summary Affirmance of the appeal.

19 Respectfully Submitted,

20 STILLMAN & ASSOCIATES

21 

22 Dated: August 9, 2020

23 By: \_\_\_\_\_  
24 Philip H. Stillman, Esq.  
25 *Attorneys for KONSTANTIN KHIONIDI, as Trustee  
of the COBBS TRUST*

26 <sup>3</sup> Cummins’ computer is not the only crashing technology. She has repeatedly  
27 claimed her cell phone “died” as well. *See e.g.*, Motion to Reinstate Appeal, filed in this  
28 Court on May 31, 2020, p.2; Defendant’s Notice to Courts about Requesting Extension,  
filed in the Adversary Proceeding on May 1, 2020, p.4.

**PROOF OF SERVICE**

I, the undersigned, certify under penalty of perjury that on August 9, 2020 or as soon as possible thereafter, copies of the foregoing Opposition to Ex Parte Application for Extension of Time To File Opening Brief was served electronically by the Court’s ECF notice to all persons/entities requesting special notice or otherwise entitled to the same.

By: /s/ Philip H. Stillman  
Attorneys for Appellee Kostantin Khionidi as Trustee  
of the Cobbs Trust.

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