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5 Attorneys for plaintiff KONSTANTIN KHIONIDI, as Trustee of the
COBBS TRUST

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7 **UNITED STATES BANKRUPTCY 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>) Case No. 2:17-bk-24993-RK</p> <p>) Chapter 7</p> <p>) Adv. Proc. No. 2:18-ap-01066-RK</p> <p>) PLAINTIFF'S <i>EX PARTE</i> APPLICATION</p> <p>) STRIKE DEFENDANT'S MOTION TO</p> <p>) DISMISS CURRENTLY SCHEDULED FOR</p> <p>) MARCH 30, 2021</p> <p>) Judge: Honorable Robert N. Kwan</p> <p>) Courtroom: 1675</p> <p>) Edward R. Roybal Federal Building</p> <p>) 255 E. Temple Street, Suite 1682</p> <p>) Los Angeles, CA 90012</p>
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1 Plaintiff Konstantin Khionidi, as Trustee of the Cobbs Trust, hereby requests that this
2 Court strike defendant Mary Cummins-Cobb’s so-called “Motion to Dismiss Adversary
3 Proceeding.”

4 1. When Cummins last filed her motion to dismiss, there was a pending “motion to
5 rehear” in the District Court. That motion was denied. Despite the final judgment, despite the
6 affirmance of that final judgment, Cummins now apparently wants to appeal the District Court’s
7 affirmance back to this Court, expecting this Court to reverse the District Court, reverse its own
8 final judgment, and without any legally cognizable basis, dismiss the adversary proceeding. To
9 simply recite the relief that Cummins expects shows that her motion is frivolous. Simply and
10 concisely put, this adversary proceeding is closed, there is a final judgment entered that
11 determines all issues against Cummins, the District Court has affirmed the final judgment and
12 there is no longer anything to “dismiss.” Thus her Motion to Dismiss – which seeks to relitigate
13 the adversary proceeding – is barred by res judicata and is plainly procedurally improper on its
14 face.

15 2. Plaintiff has conferred with the *pro per* Defendant, who simply cannot understand that
16 the case is over. Cummins indicated that she opposed this *ex parte* application.

17 3. Since Cummins’ Motion is plainly improper, there is no reason why Plaintiff should
18 have to prepare a response to the frivolous motion and spend further attorney’s fees arguing the
19 Motion. Rule 11 sanctions have no effect, which would just be added to the judgment anyway.
20 Accordingly, this *ex parte* Application should be granted.

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CONCLUSION

For the foregoing reasons, Plaintiff Konstantin Khionidi, as Trustee of the Cobbs Trust hereby requests that this Court strike Defendant's Motion to Dismiss filed on February 26, 2021 forthwith.

Respectfully Submitted,

STILLMAN & ASSOCIATES



Dated: February 26, 2021

By: _____

Philip H. Stillman, Esq.
*Attorneys for KONSTANTIN KHIONIDI, as Trustee of
the COBBS TRUST*

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Stillman & Associates
3015 North Bay Road, Suite B
Miami Beach, Florida 33140

A true and correct copy of the foregoing document entitled (*specify*):

EX PARTE APPLICATION TO STRIKE DEFENDANT'S MOTION TO DISMISS

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) March 9, 2021, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Debtor and Defendant *in pro per*, Mary Cummins-Cobb, mmmarycummins@gmail.com (via email by stipulation of the parties)

Hon. Robert Kwan
US Bankruptcy Court, Central District of California, Room 303
255 E. Temple Street, Suite 1682
Los Angeles, CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

03/09/2021 <i>Date</i>	Philip H. Stillman <i>Printed Name</i>	/s/ Philip H. Stillman <i>Signature</i>
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