

**APPELLANT REQUESTS
ORAL ARGUMENT**

2:21-cv-04671-AB

IN APPEAL IN THE
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MARY CUMMINS,
Defendant and Appellant,

v.

KONSTANTIN KHIONIDI, as Trustee of the COBBS TRUST
Plaintiff and Appellee

Appeal from Order of US Bankruptcy Court Adverse Proceeding
Central District of California
Case Nos. 2:18-ap-01066-RK, 2:17-bk-24993-RK Honorable Robert Kwan

APPELLANT'S REPLY BRIEF

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INDEX OF AUTHORITIES

Cases

Century Bank v. St. Paul Fire & Marine Ins. Co. (1971) 4 Cal. 3d 319, 321-322 [93 Cal. Rptr. 569, 482 P.2d 193]

Generes v. Justice Court (1980) 106 Cal. App. 3d 678, 682 [165 Cal. Rptr. 222]

People v. Porter (1955) 136 Cal. App. 2d 461, 467 [288 P.2d 561]

People v. Sturm, supra, 37 Cal.4th at p. 1243

Pratt v. Pratt (1903) 141 Cal. 247, 252

Santiago v. EW Bliss Co., 941 N.E.2d 275 (Ill. App. Ct. 2010)

United States v. 936.71 Acres of Land, 418 F.2d 551, 556 (5th Cir.1969).

Wieburg v. GTE Southwest Inc., 272 F.3d 302, 306 (5th Cir.2001)

Statutes and Rules

Federal Rules of Civil Procedure 17(a)

Federal Rules of Civil Procedure 41(b)

Constitutional Provisions

US Constitution 7th Amendment

Other

California Penal Code Section 529

California Penal Code section 470

INTRODUCTION AND SUMMARY OF ARGUMENT

Appellee does not exist and for that reason cannot legally file a legal complaint per F.R.C.P. 17(a)(1). For the same reason Appellee cannot reply to a legal complaint which they filed, specifically, Appellee's Reply Brief. This is evidence of fraud upon the Court and unclean hands. For this reason Appellee's Adversary Proceeding and Reply Brief should be stricken and the Adversary Proceeding dismissed per F.R.C.P. 41(b).

Appellant now replies to the four points raised by Appellee in their Summary of the Argument. Appellant also raises the point that Appellee's attorney of record Philip Stillman lied in their reply and has repeatedly committed perjury to smear Appellant and obfuscate the facts and issues on appeal.

I. Jurisdictional Statement

Appellant included in Appellant's Opening Brief a Jurisdictional Statement, i.e. "Defendant, Appellant Mary Cummins ("Cummins") appeals from a March 18, 2021 order (Docs #202, #203 2:18-ap-01066-RK, Appendix 1) denying Defendant's Motion to Dismiss Adversary Proceeding (Doc #198) and April 27, 2021 order (Doc #208, Appendix 2) denying Defendant's Motion to Rehear Motion to Dismiss (Doc #206)." The Appeal was timely taken.

II. Reference to Court Record

Appellant cited and referred to the Court Record in Appellant's Opening Brief. The real Plaintiff Amanda Lollar stated to Appellant at a hearing with the alleged Russian Konstantin Khionidi that the Russian does not exist "Did you see the look on her face? She was so shocked to realize the Russian is just us." (Doc #91) Appellee has never denied this. Appellant cited the record repeatedly.

III. Proper Appendix

Appellant has provided a proper Appendix with a Table of Contents and the Court Orders, Judgment, Trust Agreement and Transcript.

Because of Appellee's harassment, defamation, judgment and improper debt collection ignoring filed exemptions Appellant is unable to afford an attorney and

is a pro se party. While a pro se party must follow the rules of the Court the Court has been instructed to “(make) sure that the self-represented obtain access to justice.”¹ Appellant asks the Court to freely and openly interpret Appellant’s Briefs, narrative, arguments in the name of justice and fairness. If the Brief is technically lacking in any respect, Appellant respectfully asks the Court to be told what is lacking so Appellant may cure any defects.

IV. Res Judicata and Prior Court Order

The Court has never had a hearing or allowed motions, evidence on the issue of whether or not Appellee exists as a real person. The Motion to Dismiss under Appeal was never heard. There is no evidence which shows Appellee exists. There is no court order which states that Appellee exists as a real person and has the legal right to file a complaint. While Appellant requested proof of the existence of Appellee many times through Discovery Requests for Documents, Interrogatories and Hearings, Appellee never provided that proof to Appellant.

V. Appellee’s Repeated Lies to the Court

Appellee lied about Appellant’s Request for deposition and passport of alleged Appellee Konstantin Khionidi in their Reply Brief. Appellant requested all identifying information of Khionidi in Discovery Requests for Documents and Interrogatories, Doc #47 Motion to Compel Discovery, Response to Interrogatories, February 4, 2019. At one discovery hearing February 26, 2019 Appellant again requested Khionidi’s passport and to depose Khionidi. As expected Judge Kwan stated Khionidi is over 100 miles away and can’t be deposed for this reason. Nonetheless the Court ordered Appellee to provide the trust agreement and passport. Appellee only provided the trust agreement March 19, 2019. The trust agreement is yet another very poorly made forgery. Why would a wealthy person in Russia use a free online California probate agreement to create a trust for a \$10,000,000 judgment in Texas? They obviously wouldn’t.

¹ California Court Judge Pro Se Reference Guide
<https://www.courts.ca.gov/partners/documents/ReachingOutOverreaching.pdf>

It's just another forged document. This was all argued with ample evidence in the Motion to Dismiss.

Appellee's original reply to Interrogatories was not under oath. Judge Kwan ruled on Appellant's Motion to Compel Discovery, Order Doc #81 May 24, 2019 ordering Appellee to re-reply to interrogatories under oath. The real Appellee just forged yet another signature "under oath" without a notary or witness. That means absolutely nothing. A fake person cannot sign anything let alone sign something "under oath." Avoiding discovery, legal responsibility and legal liability is the purpose of the fake Appellee in Russia. Appellee is free to commit forgery, perjury, and fraud upon the Court. Based on this legal logic Appellant could assign the debt instrument, i.e. the judgment, to a "person" who lives in an igloo in Siberia with no address. This is why only a real person can file a lawsuit. If everyone could use fake Plaintiffs, criminals from all over the world would be flocking to the Courtrooms of Judge Robert Kwan and Judge Andre Birot so they could sue people with impunity.

The real Plaintiff Amanda Lollar intentionally made up the fake Russian to avoid discovery and try to protect Lollar from their illegal, despicable and disgusting actions. The Russian's signature even looks identical to all the other many forgeries made by Lollar. Amanda Lollar who did not go past grade school of [Bat World Sanctuary](#) is a known narcissist who uses "flying monkeys" to do her illegal evil bidding. Many times the flying monkeys are allegedly anonymous people or maybe an unknown volunteer which are really just Amanda Lollar. Other times Lollar uses Dottie Hyatt or just uses Dottie's name on documents. Lollar also uses anonymous online personas such as "Rachel Thompson" to defame, harass and even threaten to kill Appellant and others. "Rachel Thompson" even made child pornography and photoshopped Appellant's face onto the child pornography. That shows how severely mentally ill the real Appellant aka Amanda Lollar truly is. Appellant will gladly provide the evidence of child pornography to the Court but will not attach it to this public brief.

Appellee's attorney Philip Stillman has lied repeatedly in this case. One insane example is Stillman's Request to Vacate the September 8, 2020 Motion for Contempt hearing. The hearing was against Stillman for refusing to give Appellant \$35 for a Court Call fee when Stillman missed a hearing with no notice. Stillman stated in his request September 7, 2021 Doc #185 PLAINTIFF'S SUPPLEMENTAL DECLARATION IN SUPPORT OF OPPOSITION TO MOTION FOR CONTEMPT pg 2 item 5 line 20 (Exhibit 1) that his father was "on his death bed" and he requested that the hearing be vacated. Stillman never gave a copy of this document to Appellant! Thankfully Appellant is very familiar with Appellee's forging documents, forging signatures and faking service so Appellant checks the docket incessantly. Appellant instantly filed a reply Doc #186 (Exhibit 2) with evidence which proved beyond a shadow of a doubt that Stillman's father died April 22, 2013. There is clearly no lie big enough for Stillman to make.

Stillman has done much worse than just commit perjury to the Court. Still has repeatedly threatened to have Appellant destroyed, sanctioned and named a "vexatious litigant" if Appellant didn't retract Motions in this case which Appellant won. Plaintiff filed a Motion for Vexatious Litigant years ago and lost because Appellant does not meet even the bare minimum requirements of a vexatious litigant. For starters Appellant is the Defendant in this case and not the Plaintiff. Stillman has also intentionally given Defendant and the Court false legal advice and fake case citations. Appellant ultimately realized that every time Stillman threatens that Appellant will lose a motion if they don't retract it Appellant will win that motion. Appellee should not be allowed to use the court system to harass and attack people with impunity.

ARGUMENT

Federal Rule of Civil Procedure 17(a)(1) requires that an action "must be prosecuted in the name of the real party in interest." "The real party in interest is the person holding the substantive right sought to be enforced." *Wieburg v. GTE Southwest Inc.*, 272 F.3d

302, 306 (5th Cir.2001). A plaintiff that does not possess a right under the substantive law is not the real party in interest with respect to that right and may not assert it. *United States v. 936.71 Acres of Land*, 418 F.2d 551, 556 (5th Cir.1969).

A fictitious party further makes any contract, agreement, assignment of and the actual judgment null and void, "Conveyance to a fictitious person is a nullity."

Per Federal Rules 41(b) the Court has the power to dismiss a case that does not comply with the Federal Rules, "Involuntary Dismissal; Effect. If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it." Defendant moves to dismiss this action.

In *Santiago v. EW Bliss Co.*, 941 N.E.2d 275 (Ill. App. Ct. 2010) the opinion stated the "court has discretion, as a matter of law, to dismiss a complaint with prejudice when brought by a plaintiff using a fictitious name without leave of court." In that case the Plaintiff admitted they used a different name other than the person's legal name for a real person and tried to refile with the corrected legal name. In this case Plaintiff's attorney has sworn that the Plaintiff is a real person and the only Plaintiff. Stillman did not try to refile the case in the name of "Amanda Lollar" or anyone else. Stillman told the Court they would transfer the judgment back to Lollar but never did because they could never get a notarized signature from Khionidi because Khionidi does not exist.

Whoever signed the Trust Agreement as Khionidi has committed forgery, i.e. Penal Code section 470. That section provides, "Every person who, with intent to defraud, signs the name of another person, or of a fictitious person, knowing that he has no authority so to do, to, ... [any] deed ... or utters, publishes, passes, or attempts to pass, as true and genuine, any of the above-named false, ... forged, ... matters, ... with intent to defraud, ... is guilty of forgery." [2] In *People v. Porter* (1955) 136 Cal. App. 2d 461, 467 [288 P.2d 561], this court stated that in order to establish forgery three essential facts must be proven: "(1) Intent to defraud, (2) making a false instrument by signing another's name without authority or the name of a fictitious person, or knowingly uttering same, and (3) the instrument on its face be capable of defrauding someone who might act upon it as genuine or the person in whose name it is forged." More succinctly, forgery is a "writing

which falsely purports to be the writing of another, ..." (*Generes v. Justice Court (1980)* 106 Cal. App. 3d 678, 682 [165 Cal. Rptr. 222]; see also *Century Bank v. St. Paul Fire & Marine Ins. Co. (1971)* 4 Cal. 3d 319, 321-322 [93 Cal. Rptr. 569, 482 P.2d 193].)

CONCLUSION

Appellant never defamed Plaintiff Amanda Lollar the real Appellee in this case and the Plaintiff in the underlying judgment. Plaintiff never even stated what they felt was defamatory pre trial, during the trial or post trial. Plaintiff admitted under oath in trial they had no proof of any damages or proof of causation of anything by Appellant. Plaintiff's Texas attorney Randy Turner bragged in Court to Appellant "I've known this judge for many years. He'll sign anything I put in front of him." The Judge signed a judgment without any evidence of defamation, causation or damages. Good ole boy judicial corruption is exactly what happened in this case in Texas. The Texas judgment is the underlying sister state judgment in this case. Texas is one of the top states for false criminal convictions in the nation due to this type of judicial corruption. The rate of false civil case outcomes is even higher for the same reasons.

Plaintiff sued Appellant a second time for the same alleged defamation in a copy/paste lawsuit in 2015. Because Appellant never defamed Plaintiff and the Texas Defamation Act passed since the filing of the first case making it mandatory for Plaintiffs to show evidence of defamation, Plaintiff forged their exhibits and submitted perjured testimony stating the exhibits were true and correct copies of the originals which was false. The Appeals Court stated that the forgery and perjury should have been handled in the trial court. The second identical case was dismissed in the trial court because Plaintiff committed forgery, perjury, fraud and had unclean hands. The criminal investigation against Plaintiff continues.

For all of these reasons Appellant will never stop fighting for justice regarding this corrupt judgment. The case began in 2010 and continues 11 years later. Appellant will be fighting for justice every day for their rest of Appellant's life if need be.

Appellant submits the totality of the evidence does not support the trial court's false conclusion that Appellee exists as a real person and has legal standing in this case. Even

though Appellant requested and demanded evidence that Appellee exists and Appellee through their attorney of record swore to the Court they would submit such evidence, Appellee never submitted any evidence that Appellee exists. There was never a hearing in which any evidence was provided to prove Appellee exists. The orders in question do not state that Appellee exists. On the contrary Appellee's attorney has submitted evidence which shows that Appellee does not exist. Appellant also submitted evidence to show Appellee does not exist including a statement by the real Plaintiff admitting that Appellee does not exist and they are Appellee. Because Appellee does not exist it is impossible for there to be a legal contract or agreement as there must be two legal parties in a contract. This also means there was no valid trust, no valid assignment of the judgment, Appellee has no legal standing in the case and Appellee does not have the legal right to file a legal complaint, i.e. the Adverse Proceeding. Appellee has committed fraud upon the Court by using an assumed name without the Court's permission, impersonating a non-existent party for the purpose of evading discovery and legal liability, forging the signature of someone who does not exist and using these court proceedings to further harass and harm Appellant. This is further evidence of unclean hands and fraud upon the Court. Appellee's case should be dismissed for these reasons. Appellant respectfully asks that this Court reverse the decision of the trial court and dismiss the Adversary Proceeding in its entirety.

Respectfully submitted,



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October 1, 2021

CERTIFICATE OF COMPLIANCE

Pursuant to California Rule of Court 8.204(c)(1)

Pursuant to California Rule of Court 8.204(a) and (c)(1), I certify that the text of this brief is less than the maximum per mandate and is 2,394 words. In so certifying, I am relying on the word count of Microsoft Word, the computer program used to prepare this brief.

DATED: October 1, 2021

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Cummins". The signature is written in black ink and is positioned below the text "Respectfully submitted,".

By _____

Mary Cummins
Appellant in Pro Per

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. #110140, 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 REPLY 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. #110140, Los Angeles, CA 90015-1640 and/or by filing via ECF.

Philip Stillman
Stillman & Associates

Judge Robert Kwan
US Bankruptcy Court

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

Executed this day, October 1, 2021, at Los Angeles, California.

Respectfully submitted,



Mary Cummins
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