

1 Appellant loses the hearing of indigence, Appellant cannot afford the minutes and would
2 not be able to appeal this ruling. Appellant would lose by default. Appellant would be
3 denied due process of law.

4 Not only does Appellant feel that Judge Brigham is biased against her but Appellant
5 believes that Judge Brigham was either not listening to the testimony and/or not reading
6 the exhibits. For example Appellee proudly bragged in the trial and all over her website
7 that “animals breed in my facility.” Appellees’ attorney wrote the final court order which
8 Judge Brigham signed without making one change. That order stated that Appellant
9 must remove this supposed “defamatory” phrase, “animals breed in her facility.” This is
10 a 100% truthful statement uttered and posted by Appellee. Appellant merely repeated it.
11 Judge Brigham also ordered Appellant to remove reports made by government
12 agencies. Reports made by government agencies could not possibly be Appellant’s
13 defamation. Judge Brigham also ordered Appellant to remove Appellees’ non-
14 copyrighted 1994 manual. Appellant did not write Appellees’ manual. It could never be
15 Appellant’s defamation. Judge Brigham also ordered Appellant to remove a phrase
16 made about attorney Turner who was not a party to the lawsuit. There is not ONE
17 defamatory item in the entire court order (Exhibit 1). Appellant believes Judge Brigham
18 must not have read the order before he signed it. Appellant believes another impartial
19 Judge who will listen to testimony and read the documents should over see this hearing.

20 **SANCTIONS ARE NOT APPROPRIATE**

21 Appellees did not state under which Rule they ask for sanctions. Appellant’s motion
22 is not groundless, brought in bad faith or for the purpose to delay. Appellant was not
23 notified who would oversee the hearing until two hours before the hearing. Appellant is
24 under the impression that Appellant may recuse a Judge before a hearing if Appellant
25 believes the Judge is biased. Appellant believes Judge Brigham is biased. Appellant

1 also believes that Judge Brigham did not listen to testimony or read court documents in
2 her trial. A new impartial Judge who will listen to testimony and read court documents is
3 in order.

4 Previously Judge Walker oversaw the last motion to recuse Judge Brigham. Judge
5 Walker stated that he believed Appellant did not believe the motion was groundless or
6 brought in bad faith. From the transcript (Exhibit 2, page 6, lines 2 - 14),

7
8 “THE COURT: Mr. Turner, I'm reading Rule 13, and the thing that I think you have
9 a problem with here is -- the opening sentence of that rule says: The signatures of
10 attorneys or parties constitute a certificate by them that they have read the pleadings,
11 motion or other paper that to the best of their knowledge, information and belief formed,
12 after reasonable inquiry, the instrument is not groundless and brought in bad faith or
groundless and brought for purposes of harassment. It's that word "belief" that is, I think,
the problem that you have. From what I've heard from Ms. Cummins, she stated it was
her belief and she stated the basis for her belief. Your motion for Rule 13 sanctions is
denied.”

13 Later Judge Walker sanctioned Appellant under Rule 18a(h). From the transcript
14 (Exhibit 2, page 6, lines 16-25, page 7, lines 1-4, page 11, lines 1-5),

15 “THE COURT: I'm now looking at the sanctions rule contained in Rule 18a, which
16 provides for monetary sanctions in the form of reasonable attorney's fees and
expenses and do not include any of the other sanctions under Rule 215.
17 Rule 18a -- and I'm cutting down to the part that I want to touch on -- after notice of
18 hearing the Judge who hears the motion may order the party or attorney who filed the
19 motion or both to pay a reasonable attorney's fees and expenses incurred by other
20 parties if the Judge determines that the motion was, one, groundless and filed in bad
faith or, for the purposes of harassment; or, two, clearly brought for unnecessary --
clearly brought for unnecessary delay and without sufficient cause.

21 THE COURT: Well, Ms. Cummins, I'm going to sanction you under Rule 18a,
22 Subparagraph H. The sanction is -- I'll make a finding that your motion to recuse was
groundless and filed in bad faith.”

23 Judge Walker previously stated he did not think Appellant thought her motion was
24 groundless or brought in bad faith yet he later ruled it was groundless and brought in
25 bad faith. Appellant is pro se, does not have an attorney, does not have funds to hire an

1 attorney and does not fully understand the intricacies and nuances of Texas law.

2 Appellant believes this motion was brought in good faith for good cause. Appellant filed
3 a motion to reconsider the recusal and Rule 18 sanctions for this reason. Judge Walker
4 ruled against Appellant.

5 CONCLUSION

6 Appellant has no desire to delay the proceedings. Appellant wants to be able to
7 receive pro bono legal aide from the Appeal's Court so she can quickly submit her brief
8 to prove that she did not defame Appellee or breach any contract. Based on Judge
9 Brigham's behavior and rulings, Appellant believe he is biased. Judge Brigham has a
10 conflict of interest in the contests of affidavit of indigence hearing. Judge Brigham would
11 not want Appellant to appeal his decision. He would be biased toward ruling against her
12 so she would not be able to afford to appeal his decision. Appellees' attorney Randy
13 Turner also biased Judge Brigham against Appellant by lying to the Judge in court about
14 items which Appellant did not own and vacations she did not pay for. Judge William
15 Brigham has demonstrated prejudice against Appellant, has a conflict of interest in this
16 hearing and did not listen to or read court testimony/exhibits. He should be removed
17 from overseeing this hearing.

18 PRAYER

19 WHEREFORE, the Appellant prays that the Judge of this Court immediately
20 request the Presiding Judge of this administrative district to assign another judge to
21 hear this motion, and that upon such hearing Judge William Brigham be disqualified or
22 recuse himself from presiding in this hearing. Appellant also prays that this Court does
23 not sanction Appellant. Appellant brought the motion to recuse in good faith. Appellant
24 stated in her Affidavit of Indigence that she had \$700, has no job, no health insurance,
25 no car, no home and no assets of any value. Appellant cannot pay any sanction. As it is

1 Appellant had to borrow \$500 to pay the last sanction. Appellant cannot possibly borrow
2 any more money. This case and Appellees' defamation have caused grave financial
3 damages to Appellant. That is why Appellant is suing Appellee in California Federal
4 court for defamation 2:11 CV-08081.

5 Respectfully submitted,

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7 Mary Cummins, Appellant Pro se
8 645 W 9th St, #110-140
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10 October 11, 2012
11 Phone 310-877-4770
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By: _____

Mary Cummins, Appellant Pro Se

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2 **VERIFICATION**

3 **STATE OF CALIFORNIA**

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4 **COUNTY OF LOS ANGELES**

5 BEFORE ME, the undersigned authority, on this day personally appeared MARY
6 CUMMINS, known to me to be the person whose name is subscribed below, and on
7 oath, deposed and stated:

8 “My name is Mary Cummins. I am Appellant pro se in the case styled Mary Cummins
9 v Bat World Sanctuary, Amanda Lollar which is on file in the Second Court of Appeals,
10 Tarrant County, Texas, bearing Appeal No. **02-12-00285-CV**.

11 “I have read the foregoing Verified Motion to Reconsider Motion to Recuse Judge
12 William Brigham and Rule 18 Sanctions. The facts set forth therein are true and correct
13 and are within my personal knowledge.”

14 Further, Affiant sayeth not.

15
16 _____
17 MARY CUMMINS - Appellant pro se

18 SUBSCRIBED AND SWORN TO BEFORE ME on this _____ day of August 2012, to
19 certify which witness my hand and official seal of office.

20
21
22 _____
23 Notary Public, State of California

1 **CERTIFICATE OF SERVICE**

2 I, Mary Cummins, hereby certify that a TRUE COPY of the above **APPELLANT'S**
3 **RESPONSE TO APPELLEES' RESPONSE TO APPELLANT'S MOTION TO RECUSE**
4 was served on the Plaintiffs' Attorney of record by FAX and by FIRST CLASS MAIL at

5 Randy Turner
6 Bailey & Galyen
7 1901 W. Airport Freeway
8 Bedford, TX 76021
9 Fax: 817-545-3677
10 this 11th Day of October, 2012

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