No. 14-3447
IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

Curtis J. Neeley Jr.

Appellant,

vs

5 Federal Communications Commissioners,
FCC Chairman Tom Wheeler, et. al.,
US Attorney General Eric Holder Esq,
Microsoft Corporation,
Google Inc.

Appellees.

PETITION FOR PANEL REHEARING SEEKING EN BANC HEARING

This civil action will be the **most significant communication case ever pursued** in all history whether quickly resulting in justice or not. The moral, human right* and not the "*American*", legal rite* for exclusively controlling communications disguised as [sic] "internet" or copy[rite]* was before the District Court with a Plaintiff/Appellant seeking only to enforce rules written decades to centuries before wire communications were disguised as [sic] "internet" and called a "[holy] *new medium*" in a FACTUAL error one[1] justice affirming this error in 1997 will now correct.

Wire communications, 47 U.S.C. §153 ¶(59),* include [sic] "internet", email, mobile phones, wi-fi, and all telephones. Distant communications beside two-way radios and some satellite communications are nothing more than wire communications defined in 1934 when the Federal Communications Commission "FCC" was created.

1 Honorable Ruth B. Ginsburg , Honorable Antonin Scalia. and Honorable Clarence Thomas affirmed *Reno v ACLU*, 1997 and remain on the Supreme Court but several will now correct this mistake.

This fact has not yet been realized as newer devices or apparatus began to combine various radio communication apparatus with wire communications. The airwaves of 1978 and the [sic] "internet" of 1997 were never mediums but were simply legal constructs used to make EMF signal propagation more understandable.

I. Ark. Code Ann. 5-41-103* crimes EXEMPTED from §230*

1. When "*alleged*" cached copies of pages are no longer accurate, the results of search queries become **potential** Ark. Code Ann. 5-41-103* computer frauds. Google Inc and Microsoft Corporation each claim to find "Curtis Neeley" in searches of cached pages while also claiming "Curtis Neeley" is not on these same cached pages.

2. Damages are now sought for these recklessly continuing, organized computer crimes. No prosecuting attorney is needed for pursuit of civil damages for violations of Ark. Code Ann. 5-41-103[2]* though mistakenly asserted in open court by fiat.

3. The fiats maintained in Docs.## (22,25,27,35)* were given inappropriate deference by Honorable James B. Loken, Lavenski R. Smith and William D. Benton affirming obvious legal mistakes to further teach Curtis J. Neeley Jr. law.

4. Civil pursuit of damages for this state computer felony is allowed per Ark. Code Ann. 5-41-106.* This criminal act does not require Google Inc or Microsoft Corporation to access this Appellant's computer specifically but "*any part of a computer, computer system, or computer network*". All usage of AR computers has been protected by this law in Arkansas since 1986 and is **EXEMPTED** from 47 U.S.C. §230*.

2 statutes.laws.com/arkansas/title-5/subtitle-4/chapter-41/subchapter-1/5-41-103*

5. The District Court fiat requiring violation of Appellant's own computer in Doc. #22* follows with internal quotations of actual laws replaced with curly brackets. The following legal mistake is judicial modification of Arkansas law by fiat warranting supervision by Honorable James B. Loken, Honorable Lavenski R. Smith and Honorable William D. Benton of this Eighth Circuit Court panel. This duty was not done and is plead reconsidered now for resolution *en banc*.

> *"...Plaintiff must allege that Defendants intentionally accessed **his** computer, computer system network or any part thereof, for the purpose of {devising or executing any scheme or artifice to defraud or extort; or obtaining money, property or service with a false or fraudulent intent, representation, or promise.} Ark. Code Ann. § 5-41-103"* |- legal fiat underlined from Doc. #22*

6. Ark. Code Ann. 5-41-106* gives this Plaintiff/Appellant standing when ANY part of ANY computer, computer system, or computer network is used in Arkansas fraudulently to obtain money like continue recklessly and criminally in this case.

7. Google Inc. offered five-million early to settle but in one of their last conversations the Appellant's mother encouraged pursuit of this claim, "*till the right thing was done*". Despite FCC affirming "*online*" is a common carrier; the recognition of wire communications and radio communications merging is not yet done.

8. The reason Google Inc offered $5,000,000 to stop a "*frivolous lawsuit*" on appeal in "*America*" and the reason Google Inc refused and refuses to simply require indecency searchers authenticate to settle should still be as **unbelievably obvious** to Honorable James B. Loken, Honorable Lavenski R. Smith and Honorable William D. Benton as to most U.S. citizens reading this today.

II. 18 U.S.C.§2511* Crimes EXEMPTED from §230*

1. The "*Progress Clause*" of the constitution authorized Congressional protection of the right to exclusively control privacy of original communications "for a time" but was never done in "*America*" though alleged today.

2. The 1787 "Progress Clause" used only words found in authoritative dictionaries. In 1790, Noah Webster and Congress "*Americanized"* a word coined by Sir William Blackstone circa 1766* but not yet acknowledged by any dictionary in the world.

PROGRESS CLAUSE

> *"To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."*

3. "*Copyright*" was undefined until 1799 in any dictionary but was in the "*1790 Copy[rite] Act*". This intentionally misspelled "*Americanized*" English word was used in the "*Copy[rite] Act of 1790*" with a new "*Americanized*" misspelling of the compounding of copy and rite by an elementary textbook author desiring to create a new language by monopolizing textbooks while disparaging human rights of authors.

4. The moral right to control communications integrity *marginally* allowed U.S. "*Berne Convention Compliance*" from 1990 till Lord Most Honourable Jimm Larry Hendren ruled United States' legal rite, 17 U.S.C. §106A*, does not protect "online".

5. Cris Armenta Esq. will challenge the Title XVII regime in *Garcia v Google Inc*, (12-57302) unless Carol Garcia's human right to protect communications "for a time" remains protected after the pending *en banc* reconsideration of the Ninth Circuit panel decision. This challenge was suggested by Google Inc in the *amicus* brief seeking continued violation of the human right to control communications. A Title XVII regime attack was suggested to Cris Armenta Esq. by telephone by this Plaintiff/Appellant and will follow if common law human rights don't augment *America's* Title XVII regime.

6. This unconstitutional *American* regime misspelled the compounding of "copy" and "rite" with the "*Americanized*" word imported from England of [sic] "copyright". Noah Webster used the "*Copy[rite] Act of 1790*" to re-coin and intentionally misspell or "*Americanize*" the word imported from England on May 31, 1790. *America's* copy[rite] has NEVER protected the human right protected by England's copyright since 1734.

7. Every single aspect of the District Court rulings are unjust and motivated by dishonorable desires to propagate punishment given Curtis J. Neeley Jr. for poor tenor.

8. These injustices are continued by the panel though wildly counter to justice when affirming the District Court's ignorant use of *res judicata* for wholly different though marginally related facts **NOT EXEMPTED** by §230(e)*. The LAST U.S. AMENDMENT will end the risk of fiats like these rendered without recourse.

9. An artist's personal communications, reputation, and honor were marginally protected "*morally*" in the U.S. by 17 U.S.C. §106A* until this ritual was ruled to not protect ANY human right "*online*" by Lord Most Honourable Jimm Larry Hendren.

10. **This mistake was not plead fixed again as alleged and mistakenly affirmed to be *res judicata* but will resolve in *Garcia v Google Inc*, (12-57302) and be addressed without question if common law human rights are denied Ms. Garcia.**

11. 47 U.S.C. §230(e)* exempts 18 U.S.C. §2511*, state laws, and criminal statutes not reassigning responsibility for speech. The organized criminals Google Inc and Microsoft Corporation recklessly violate both after notified of these criminal acts.

12. The absurd, immoral statute, 47 U.S.C. §230(e)*, does not affect criminal laws in ANY WAY despite this legal fiction being propagated by law professors like Eric Goldman Esq.* seeking pervasive misapplications of the *Reno v ACLU* mistake.

13. **The moral ability of "*good Samaritan*" authors of original indecent communications to honorably and exclusively proscribe reception of these indecent communications by minors SHOULD BE protected by 18 U.S.C. §2511* TODAY because interception of communications is criminal regardless of when the speech was made with respect to when this speech is then intercepted. This FACT is clear to Honorable Antonin Scalia and each FCC commissioner today despite allegations of two commissioners ignoring fact.**

14. Eighth Circuit panel affirmed the fiat *sua sponte* asserting "*contemporaneous*" qualifies interception **despite the plain text used to remove this by Congress in 1986**. The relevant portions of the clear law follow. The *secreted* communications intercepted are not naked images but are intercepted despite apparatus used in order to "*contemporaneously*" transmit ONLY when requested by authenticated adult parties in order to keep common carrier wire communications safe and protect from dishonor.

15. Looking online **HERE*** at Google Inc. reveals 18 U.S.C. §2511* interceptions versus public exclusions done at **curtisneeley.deviantart.com*** as intended. These organized communications privacy felonies, **EXEMPTED** from §230,* were obvious to all but the two blind school children surveyed though they understood. Not looking was dishonorable for Honorable James B. Loken, Honorable Lavenski R. Smith and Honorable William D. Benton and will always be and is a permanent dishonorable history plead reconsidered and made a temporary mistake.

16. The secreted graphics are NOT shown to the random public if requested without authentication unless done by Google Inc after criminal interceptions plead herein. Affirmation will haunt Honorable James B. Loken, Honorable Lavenski R. Smith, and Honorable William D. Benton legacies long after death unless reconsidered and then considered *en banc* because history does not use aliases.

18 U.S.C. §2511*

18 U.S. Code §2511* - Interception and disclosure of wire, oral, or electronic communications prohibited

(1) Except as otherwise specifically provided in this chapter any person who—

(a) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(b) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—

(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or...

.... big skip *(c)-(f)*..... ... .

(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

17. Honorable Timothy L. Brooks stretched 18 U.S. Code §2511*(2)(g)(i) out to protect Google Inc. by fiat for criminally revealing communications from this Plaintiff/Appellant's deviantart.com profile which require authentication to view[3]. This fiat is dishonorable because these graphics are not accessible to the "*general public*" using common carrier wire communications disguised as "online" until Google Inc.'s felonious disclosures **EXEMPTED** from §230* caused the errors of law herein.

3 "*And I might also add, Mr. Neeley, that if you look at, I believe it is Subsection (1) (g) of 2511 -- for the record, this is 18 U.S.C. 2511(2)(g), there's an exception for communications that are readily accessible to the general public.*" Taken from transcript of Show Cause Hearing by Honorable Timothy L Brooks on Doc. #13* p13

18. The unauthenticated anonymous "*general public*" never see images thus labeled by "*good Samaritan*" authors like this Plaintiff/Appellant at deviantart.com without organized criminal assistance by Google Inc and Microsoft Corporation assisted now by judges perpetuating anonymous access to private communications like Lord Most Honourable Jimm Larry Hendren, Honorable Erin L Setser, Honorable Timothy L. Brooks, Honorable James B. Loken, Honorable Lavenski R. Smith and Honorable William D. Benton are each doing herein.

19. The dishonorable prior ruling(s) are counter to law and protect these and other organized wire communications privacy crimes and create the attractive nuisance of even labeled "*good Samaritan*" indecencies remaining broadcast today after made clearly illegal on 02/26/2015 without authentication. The pervasive immorality on display in an unregulated common carrier explains why this litigation should have been so impacting to human history evaluating the wholly immoral impact of U.S. Courts for all time.

20. Stretching 18 U.S. Code §2511*(2)(g)(i) by fiat as an immoral defense and allowing interception of private communications labeled as "*not fit for anonymous consumption*" will be immoral for judges herein for all time unless reconsidered.

21. Honorable Timothy L. Brooks asserting only a Prosecuting Attorney[4] may pursue civil damages for communications crimes encouraged the supervisory duties of this Eighth Circuit Court of Appeals to protect justice. Justice was not done *sua sponte* but is plead reconsidered by the Eighth Circuit Panel and then considered *en banc* and not exclusively by three or nine judges unfamiliar with modern common carrier IP wire communications due to the FCC not wholly recognizing these on February 26, 2015.

4 *"And with regard to this notion that Google or anyone else is violating Section 2511, number one, that's the criminal part. You don't have standing to prosecute a crime; this Court doesn't have standing to prosecute a crime. So even if it is a crime, there isn't anything that you or I can do about it. The U.S. attorney is the one that needs to bring those charges."* |--Fiat taken from transcript of Show Cause Hearing by Honorable Timothy L. Brooks on Doc. #13* p13 -

22. The federal statute contradicting this affirmed ruling is 18 USC §2520* and the relevant portion follows with highlighting added but not added to show the bad tenor causing the injustices continued now by Honorable James B. Loken, Honorable Lavenski R. Smith and Honorable William D. Benton.

18 USC §2520*

(a) In General.— Except as provided in section 2511 (2)(a)(ii), **any person** whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity, other than the United States, which engaged in that violation **such relief as may be appropriate**.

(b) Relief.— In an action under this section, appropriate relief includes—

(1) such preliminary and other equitable or declaratory relief as may be appropriate;

(2) damages under subsection (c) and **punitive damages** in **appropriate cases**; and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

23. The FIAT requiring a prosecuting attorney or other licensed lawyer was NOT correct or honorable when made in open court and will NEVER be but is seen in Doc. #13* p13 or footnote #4 above and is wildly contrary to law. Ordering a Summary Judgment of guilt with an Arkansas jury asked to consider the damages awarded during trial and considering mitigating defenses is the ONLY honorable, moral ruling that can follow besides recommending *en banc* consideration so enough justices consider these violations of United States laws to emulate a jury of peers.

24. This Plaintiff/Appellant assisted the AR Attorney General with an *amicus* brief* filed prior to the Appellant's Brief. The *amicus* reply* was done to support the Eighth Circuit Panel only in the Arkansas Act 301 appeal (14-1891)*. These short *amicus* briefs helped the Eighth Circuit honorably end today's legal and political debates concerning abortion. *Edwards v Beck* will soon replace *Roe v Wade* for all time. Plaintiff/Appellant's only "fixation," like once implied is protecting honor of humans including this panel.

25. This Petition has ONE honorable result. Damages awarded by an Arkansas jury should lead to establishment of communications in the wire medium as a unique **new use of the common IP carrier wire and radio medium communications finally merging for safe worldwide human communications** after made safe to view ANYWHERE anonymously world-wide by ANYONE with no filtration after commercial radio stations in *America* become ISP capable like in China today.

26. This technology can be explained by the Plaintiff/Appellant roughly using colored graphics intercepted and revealed to the anonymous public by Defendant/Appellee Google Inc with a release of liability for the "*top-secret*" security clearance required for communications of technology learned during USMC 2831 multichannel microwave troposcatter telecommunications training in 1991.

27. This new usage of two old mediums cannot remain the attractive nuisance for anonymous indulgences in indecency the [sic] "Internet" is today. Communications in the wire/radio medium will ALWAYS contain the most raw and offensive of legal pornography for authenticated consumption only and will become wildly profitable.

28. Indecent free speech consumption may be considered the allowed human right to privately "sin". Private termination of pregnancy was called a fundamental human right accidentally by constitutional Arkansas Act 301 for 12-weeks and many will say this endorsed murder "for a time." The Ninth Amendment human right to free-will for "sins" will be recognized in *Edwards v Beck* replacing *Roe v Wade*, (1973). This Eighth Circuit panel is asked to contact the other panel now composing this ruling because the Ninth Amendment human right to "sin" and exclusively control communications of "sins" are inalienable rights related to the Fifth Amendment right to remain silent and are violated by the fiats affirmed herein allowing dishonorable interception and disclosure crimes.

29. Killing unborn babies was inferred to become "blessed" at a future time by Jesus while approaching Calvary and remembering flooding the Earth and destroying Sodom and Gomorrah and killing all in the first two cities to promote homosexual sex for heterosexuals and making sex as casual as a handshake. The Plaintiff/Appellant feels this time has begun. Homosexual monogamy will soon become common in these end times and is honorable. Article III Courts may call the civil marriage **RITE** a human **RIGHT** instead like was approximated by the copy[rite] regime since 1790 conditioning judges to call established human **RITES** human **RIGHTS** instead for two centuries plus instead of the civil rituals these were and not human rights the "*Copy[rite] Act of 1790"* ignored.

30. Appellant prays the Eighth Circuit panel prevents improper Dismissal with Prejudice and the immoral sanctions levied and order a jury trial to determine damages because Defendant/Appellees Google Inc and Microsoft Corporation violated 18 U.S.C. §2511* and Ark. Code Ann. 5-41-103* or schedule this matter for *en banc* consideration.

31. The two violated statutes are wholly exempt from the 47 U.S.C. §230* used to dismiss the prior claims in error via the "*Copy[rite] Act of 1790*". The issue of damages and injunctive relief from each FCC commissioner and the U.S. Attorney General for violating fundamental Ninth Amendment human rights to control original indecent communications under color of law is authorized by 42 U.S.C. §1983*.

32. Wire communications disguised as [sic] "internet" will now quickly become as safe for anonymous human communications as telephones were in 1986 when Teresa "Teri" Susan Weigel had never performed obscene pornography but had accepted posing naked in Playboy magazine. Lord Most Honorable Jimm Larry Hendren promoted a slippery moral slope "*online*" for naked modeling described in Doc. #22* as "*artisan n_des*" by Honorable Timothy L. Brooks rather than the shameful "porn" any public naked presentation by common carrier has been since Adam and Eve. See Genesis 3:7*

33. Authenticated searchers choosing to view the most obscene of legal pornography will continue "*online*" but the attractive nuisance of "*America's"* moral sewers of anonymously distributed free **pornography should not exist** on common carrier wire communications TODAY. The honorable ruling plead for herein after appealed by Google Inc, et. al. to the Supreme Court will end **pornography broadcasting**[5] and allow ALL of humanity to share knowledge, work together, fight diseases, vote, find safe energy sources, and fight human injustices wherever these injustices continue besides United States Courts like will be continued perhaps only temporarily herein.

34. Wire communications disguised as [sic] "internet" today will become wholly safe for anonymous children to use without filtration or supervision anywhere on Earth kids might carry mobile phones, including public schools and libraries, after commercial radio stations become ISP capable making "online" as pervasive and as free in the United States as commercial FM radio broadcasts are today.

CONCLUSION

1. Every document filed in this matter will be published by wire and be accessible for free forever* including EVERY "obscene and indecent" exhibit* for authenticated viewers only and not as broadcast on a common carrier by Google Inc and Microsoft Corporation after allowed illegally by the FCC and U.S. Attorney General. The eventual decision(s) will be made public and be included in a website, book, and then a movie and be made public perpetually and is how all judges and parties herein will be remembered for all time because history has no aliases like Norma Leah McCorvey* of *McCorvey v Wade*, 1973 who had three children but will NEVER be a mother.

5 cast or scatter in all directions or make accessible to the public by radio or wire communications.

2. The (1517) "*95 Thesis*"* by Rev Martin Luther would have little impact had this disputation regarding the immoral sales of indulgences not been translated from Latin and distributed internationally on newly invented printing presses in 1518.

3. Honorable James B. Loken, Honorable Lavenski R. Smith and Honorable William D. Benton are begged to order the Western District of Arkansas to grant trial by jury to set damages for crimes in the complaint of Exhibit "C"* since guilt is a matter of ignored law seen searching the live links now below. In the alternative, and as is preferred, the panel and circuit are plead to set this action for *en banc* consideration by the entire Eighth Circuit to preserve United States Court honor.

Curtis J. Neeley Jr.
2619 N Quality Lane
Apartment. 123
Fayetteville, AR 72703
14792634795 t-sms
15014219703 f

Respectfully Submitted,

s/ Curtis J Neeley Jr.

- "curtis neeley" site:michelle7-erotica.com* <<< (4) MSFT ACA 5-41-103*
- curtis neeley peven* <<< (1) MSFT ACA 5-41-103* & (1) 18 U.S.C. §2511*
- curtis neeley site:deviantart.com* < GOOG 18 U.S.C. §2511* & ACA 5-41-103*
- "curtis neeley" nude site:photo.net* < GOOG ACA 5-41-103* frauds
- +"curtis neeley" nude site:creative-nude.net* < (45) GOOG ACA 5-41-103* frauds
- curtis neeley* <GOOG organized criminal returns
- curtis neeley* <MSFT organized criminal returns

_* = Live PDF links throughout noted

FORM 6. CERTIFICATE OF COMPLIANCE WITH RULE 32(A)

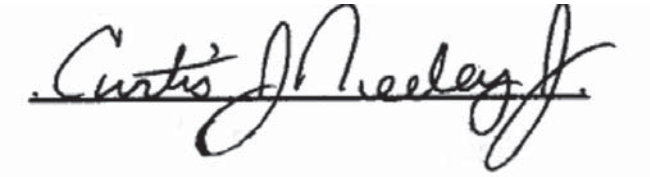
Certificate of Compliance with Type-Volume Limitation,
Typeface Requirements, and Type-Style Requirements

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because the brief contains 3,812 words in all.
2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because:

This brief was prepared in proportionally spaced typeface using OpenOffice 4.1.1 in 14 point or larger Times New Roman font and Arial font headings in 14 point or larger.

Curtis J. Neeley Jr.
2619 N Quality Lane
Apartment. 123
Fayetteville, AR 72703
14792634795 t-sms
15014219703 f

Respectfully Submitted,



s/ Curtis J Neeley Jr.

OVERVIEW For Common U.S. Citizens.

Contemporaneous was added by United States Courts twisting 1968 laws to fit a quarter-century plus later and failing to see the contemporaneous timing issue clearly removed when **electronic communications** were added **by Congress in 1986** and computers and fax machines started replacing telegraph machines. There may be an update needed to make this law less confusing to judges but updates to laws are NOT the duty of United States Courts like courts across the United States are doing today.

This Plaintiff/Appellant will quote as recently told by Honorable Antonin Scalia, "*I don't know how to not take [the Constitution] literally. It means what it means*", and this Plaintiff/Appellant now looks forward to entrusting the Supreme Court with an appeal of this FIAT. Ages are obviously not as important to justice as once thought. Age can effect ability to judge negatively and clearly has herein but this is unusual.

Lord Most Honourable Jimm Larry Hendren invalidated the 1990 Visual Artists Rights Act at the close of a lengthy **almost** honorable career that should have ended soon after the dishonorable Harry Potter library book ruling in 2003 violated the rights of parents to control access to books the parents felt were immoral. This allowed failure of United States law predicted allowing invalidation of the Visual Artists Rights Act over ten years later when control of communications labeled as inappropriate for minors was again the issue Lord Most Honourable Jimm Larry Hendren felt better qualified to determine for children than parents of these children leaving a dishonorable legacy.

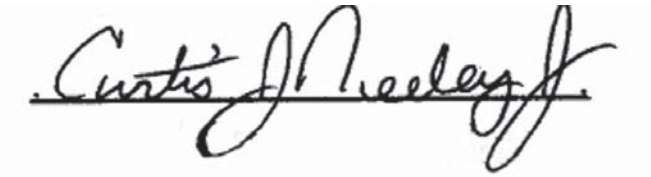
The Wiretap Act was written to protect communications sent by wire to encourage trust in this manner of communications when first used for very rapid but not always contemporaneous distant communications and prevent situations like occurring herein.

Honorable James B. Loken, Honorable Lavenski R. Smith and Honorable William D. Benton affirmed twisting the Wiretap Act of 1968 to allow violations of the communications law updated by Congress in 1986 when rapid distant communication technologies (telegraphs, telephones, facsimile, and email) were starting to compete.

Interceptions that were not contemporaneous were incorporated into the Wiretap Act in 1986 making the 1986 Stored Communications Act irrelevant to electronic communications because incidental storage while transmitting was already fully addressed though these laws are sometimes allowed or are not allowed by various United States Courts by fiats like herein begging the United States Supreme Court to step in and make this case honorable instead of the most dishonorable misuse of law(s) ever done by not using written laws for what these laws meant when written. Laws do not morph like the circuits are alleging is happening to create a circuit split and wildly dishonorable result making United States Courts lose respect and the Supreme Court nearly certain to resolve this case if not resolved as requested herein.

This is the most morally impacting disputation since the *95 Thesis* of 1517.

Respectfully Submitted,



s/ Curtis J Neeley Jr.