

**IN THE UNITED STATES COURT  
WESTERN DISTRICT OF ARKANSAS**

CURTIS J NEELEY JR, MFA

VS

CASE NO. 5:09-cv-05151-JLH

NAMEMEDIA INC  
Network Solutions LLC  
Google Inc.

**SECOND BRIEF SUPPORTING MOTION REQUESTING LEAVE  
TO FILE AMENDED REPLACEMENT COMPLAINT**

**I Parties Added**

a. Yahoo Inc, AOL LLC, Microsoft Corporation, IAC, and ICANN Inc are the five parties that Plaintiff seeks to add in the same action that is now before the Court. They were not noticed until January when defendant NAMEMEDIA INC finally deleted the nude photographs as demanded and noticed by NAMEMEDIA as can be seen in the record as early as July 24, 2009. Plaintiff does not expect to file anything further.

**II Claims Added**

- a. Defendants Yahoo Inc, AOL LLC, Microsoft Corporation, IAC, each defamed the Plaintiff while violating his rights to exclusively control attribution to modified art or not to be credited to modified art that subjects the artist to public shame. They each attributed images not allowed to be broadcast on TV to minors and thereby disclosed information that the common person would prefer to maintain privately. Display of the original art photographs of the Plaintiff to minors is a manner of display abhorrent to the Plaintiff and thereby a defamation by AR Statute 16-63-207 as well as against "COPA" had it not been ruled overbroad, vague and an implied First Amendment Violation based on content. These Defects will soon be remedied and an enforceable statute will make it again illegal.
- b. The added Plaintiff's, as well as Google Inc, each go further and "broadcast" or traffic in pornography that affects all children and by including the Plaintiff's original figure nude art, they defame him and imply a consent of this trafficking of obscene material. It is so obscene it can't be entered without violating federal laws that prohibit trafficking such material in print.
- c. The added Plaintiff's, as well as Google Inc, violated substantive Due Process right to be free from displaying art unfit for public broadcast to my minor children or compelling the Plaintiff to show adult art to his children by allowing them to use the internet without constant supervision. No "COPA" law is needed to guarantee this right that is already enjoyed in many overseas locations or by requiring using lycos.com for all searches.

- d. Defendant Network solutions LLC will face a claim of outrage caused by harassing communications as well as US Title 15 § 1125(d) trafficking in five domains of the Plaintiff since this action started as well as attempting to commit fraud by misleading the Plaintiff into feeling advertising of expiration dates was required. This fraudulent communication was a harassing response to a claim exactly counter to the fraudulent attempt to confuse a mentally challenged. The Lanham Trademark Claims are subject to equitable tolling and remain.
- e. Defendant NAMEMEDIA INC will face a claim for outrage resulting from harassing communications regarding <eartheye.com> and <sleepspot.com> as well as unjust enrichment for rejecting the offer of a domain while concealing the Plaintiff's impending legal action they were aware of from the opposing bidder, while using Plaintiff's interest to inflate the unjust enrichment they got from EDATS Inc. They will also face an exquisitely outrageous copyright liability for destroying publicly displayed art after July 24, 2009. This trespass was also discrimination against a disabled person.
- f. Defendant Google Inc will face a claim of outrage caused by harassing communications as well as violation of copyrights and privacy while defaming the Plaintiff. They will also face a claim of unjust enrichment for charging the Plaintiff for AdWords advertising on default selected "parked" sites as though they were Google search pages. These as well as a direct and contributory trademark violation that was concealed and was therefore not discovered till this action began and is not subject to the Limitations Ruling in Docket #97.
- g. ICANN Inc will face a claim of detrimental reliance for allowing domain expiration dates to be advertised and causing all registrars including those for the Plaintiff's current domains to thereby have a false demand for all domains and thereby endangering all Plaintiff's current domains. Simply publicly listed if requested instead of advertised would prevent establishing fraudulent values and a demand for all potentially descriptive short domain names. ICANN Inc is aware of this and communicated the same on the phone to the Plaintiff recently, as evidence will support.
- h. US Attorney General is an interested party because Statute US Title 17 has been unconstitutional since May 31, 1790. This unconstitutional Statute has resulted in the United States "Copyright" laws being morally bankrupt since Benjamin Huntington and a publisher modified the Statute of Anne from Britain from 1709 and created a license fee for a right the Creator gave and that even young schoolchildren recognize as fundamental. The Ninth Amendment better protects the right to attribution than the Statute that turned this fundamental right into a "license to sue". Plaintiff has already filed a Notice of Constitutional Challenge Dkt 36 as required and is not sure if the US is better left a non-joined interested party or a Defendant based on the Court implications in Dkt 97.

### **III. Claims Erroneously Dropped/Dismissed**

a. Plaintiff, erroneously, completely agreed with the Network Solutions LLC Motion to Dismiss Docket #104. Statutory Limitations were treated as applicable to Network Solutions in error. Plaintiff agrees with portions of Google Inc Counsel Cross Motion for Reconsideration and Motion in Response to Docket #97. The Docket #109 citation of Stricker v. Union Planters Bank should in no way color this request because the request to amend here was by confused pro se pauper litigant and there it was by Counsel where the proposed amendment denied could already be seen to lack standing and all parties were relatively wealthy. Plaintiff's standing and the applicability of equitable tolling as mentioned in Docket 119 could not be more obvious.

b. Plaintiff asks the Court to issue Summons for the six newly added Defendants AOL LLC, Yahoo Inc, Microsoft Corporation, IAC, and ICANN Inc. Plaintiff has emailed each one and asked for a valid address for service and has not had a single reply that had the address except for from AOL LLC and it may be wrong and listed no Agent for Service. Plaintiff will diligently seek the information from the Secretary's of their headquarter location States. The Second Amended Complaint was served without a Summons to "Network" without a correct spelling of the name of the party to whom it was sent. This was why the pro se Plaintiff made a motion to amend the summons as allowed by Federal Rules of CP.

#### **Relevant standard**

a. The federal Rules of Civil Procedure Rule 15(c)(1)(B) are the controlling legal standard

b. This amendment asserts a claim that arose out of the conduct or occurrences attempted to be set out in the original pleading and are within the 120 days allowed by Federal Rules of CP Rule 4(m).

c. Docket 117 ¶(I) labeled Legal Standard lists as follows. "Although leave to amend pleadings should generally be granted freely pursuant to Fed. R. Civ. P. 15(a), the Court should deny a motion for leave to amend if the amendment would be futile. Stricker v. Union Planters Bank, 436 F.3d 875, 878 (8th Cir. 2006); United States ex. rel. Lee v. Fairview Health Sys., 413 F.3d 748, 749 (8th Cir. 2005)". This amendment can be seen to have standing and not be futile on its face.

Whereby; Plaintiff believes this action fatally flawed against several already served Defendants unless amended due to legal errors of a brain damaged pro se party, amending will save all parties expenses and not waste the diligence of the Court already invested. Plaintiff does not believe he has herein repeated his former improper conduct. Seven days will give enough time to locate the Agents for Service and submit them to Court for Certified postal USMS Summons as well as removing the irrelevant and so noted portion in the properly attached Complaint exhibit and filing it with the Court. All Defendants may see it now obviously different. Plaintiff's father has the engine and transmission repaired on his wheelchair van and he will use the gracious Court offer to use their location for the Rule 26(f) conference to deal with having only one regular functioning arm. Plaintiff will not attempt to respond to further motions unless so ordered by the Court or if otherwise required as this proved to be.

Respectfully and humbly submitted,

Curtis J Neeley Jr, MFA