

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

CURTIS J. NEELEY JR., MFA

PLAINTIFF

VS.

CASE NO. 5:12-cv-05074-JLH-ELS

**NAME MEDIA INC,
GOOGLE INC,
MICROSOFT CORPORATION,
FEDERAL COMMUNICATIONS COMMISSION,
THE UNITED STATES**

DEFENDANTS

**MOTION TO ALTER TIME FOR FILING
OF RULE 11 MOTION FOR SANCTIONS**

Separate Defendant NameMedia, Inc. (“NameMedia”), for its Motion to Alter Time for Filing of Rule 11 Motion for Sanctions against Plaintiff Curtis J. Neeley, Jr., (“Neeley”), states:

1. On April 18, 2012, Neeley filed a complaint in this Court naming NameMedia as well as several other defendants;
2. Neeley has previously instituted litigation against NameMedia in this Court – Case No. 5:09-cv-05151-JLH;
3. On June 7, 2011, the Court entered judgment as to all of Neeley’s pending claims in that case (*see* Exhibit “A”, June 7, 2011 Order);
4. Neeley appealed from the Court’s judgment, and the United States Court of Appeals for the Eighth Circuit in all respects affirmed the Court’s judgment on February 15, 2012 (*see* Exhibit “B”, February 15, 2012 Eighth Circuit Order);
5. In Case No. 5:09-cv-05151-JLH, Neeley’s claims against NameMedia centered upon two sets of facts. The first involved claims of cybersquatting related to NameMedia’s

registration of two domain names formerly registered to Neeley. The second involved claims of copyright infringement and other claims related to NameMedia's display of certain nude photographs on the photo.net website, which Neeley himself had voluntarily posted on the site;

6. In the complaint in the present action,¹ all claims asserted against NameMedia relate to display of photos on the photo.net website, the identical set of facts upon which Neeley's copyright and other claims were based in Case No. 5:09-cv-05151-JLH;

7. It is beyond the need for citation that the present complaint is barred by *res judicata*.

8. Therefore, under F.R.C.P. 11(b)(2), the claims of Neeley's complaint against NameMedia are not "warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law";

9. Yesterday, NameMedia served upon Neeley a Motion for Rule 11 Sanctions pursuant to F.R.C.P. 11(c)(2), and emailed a copy of the motion to Neeley together with a demand that Neeley immediately dismiss his complaint against NameMedia;

10. Today, counsel for NameMedia received the email from Neeley attached as Exhibit "A." In the email Neeley states that "[t]here is absolutely no chance whatsoever that Neeley will drop NameMedia Inc from the Neeley v NameMedia Inc, et al, (5:12-cv-05074) action and Neeley will prepare an objection to this sanctions motion that will make NameMedia Inc regret this frivolous and harassing motion for sanctions.";

¹ NameMedia does not here admit it has received formal service of process of the complaint and summons, and does not here waive same.

11. Under F.R.C.P. 11(c)(2), a party must not file a motion for sanctions with the court if the challenged paper is withdrawn or appropriately corrected within 21 days after service “or within another time the court sets.”

12. Given Neeley’s unequivocal refusal to dismiss his complaint as expressed in Exhibit “A”, NameMedia requests that the Court allow NameMedia to file its motion for sanctions if Neeley does not dismiss his complaint against NameMedia before Friday, April 27, 2012;

WHEREFORE, NameMedia asks the Court to allow it to file its motion for sanctions if Neeley does not dismiss prior to April 27, its costs and attorney fees, and for all other relief to which it may be entitled.

Respectfully submitted,

H. WILLIAM ALLEN (ABN 69001)
BROOKS C. WHITE (ABN 2000093)
ALLEN LAW FIRM, P.C.
212 Center Street, 9th Floor
Little Rock, AR 72201
(501) 374-7100
hwallen@allenlawfirmpc.com
bcwhite@allenlawfirmpc.com

By: /s/ Brooks C. White
Brooks C. White

Attorneys for Separate Defendant
NameMedia, Inc.

CERTIFICATE OF SERVICE

I, Brooks C. White, certify that, on this 24th day of April, 2012, I served, via email and U.S. Mail, First Class Postage Prepaid, a copy of the foregoing to the following *pro se* plaintiff:

Mr. Curtis J. Neeley, Jr.
2619 N. Quality Lane, Apt. 123
Fayetteville, AR 72703

/s/ Brooks C. White
Brooks C. White

Brooks C. White

From: Curtis Neeley Jr. [Curtis@CurtisNeeley.com]
Sent: Tuesday, April 24, 2012 8:46 AM
To: Brooks C. White
Cc: 'Jennifer Doan'; 'Michael Page'; philg@mit.edu
Subject: RE: Motion for Rule 11 Sanctions
Attachments: RE Motion for Rule 11 Sanctions.pdf

Brooks C White Esq, et al,

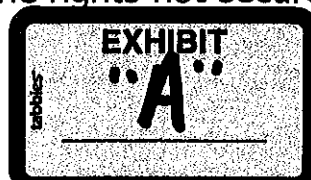
NameMedia Inc may consider the demand to be dropped from the complaint served and considered. Perhaps Brooks C White Esq did not see the section in the complaint in the beginning? <http://www.curtisneeley.com/google/booklet-complaint.htm#page2>

The (5:12-cv-05074) complaint does not mention "copy[rite] violations" from (5:09-cv-05151) in the least. The uncontested facts regarding the actions of NameMedia Inc and Google Inc and all defendants support a successful motion for partial summary justice. The nude images were NOT donated to NameMedia Inc or to the "public domain" when they were "uploaded". The nudes were demanded to be deleted in the prior federal lawsuit although they were then not deleted until January 2010 with the new DMCA agent notice and then only by NameMedia Inc to avoid "harassment".

There is absolutely no chance whatsoever that Neeley will drop NameMedia Inc from the Neeley v NameMedia Inc, et al, (5:12-cv-05074) action and Neeley will prepare an objection to this sanctions motion that will make NameMedia Inc regret this frivolous and harassing motion for sanctions.

Perhaps Brooks C. White Esq needs to contemplate the fact that NameMedia Inc refused to delete the images after this was demanded in federal court for months while alleging to display these nude photos to minors at photo.net and conspiring with Google Inc to do the same while alleging specific permission to do this.

The state libel action remains timely. The Statute of Limitations period in Arkansas for libel is three years. The state libel claim was not considered in any of the prior legal claims and the facts are clear and unquestionable that will support summary judgment. The libel occurred during the prior action and this claim was never brought and therefore could not have been ruled on having occurred from 07/22/2009 continuously until 01/26/2010 . The exclusive authors' rights complaint is timely and was never considered in the least. These claims rely on the rights not secured though authorized for protection by the constitution since 1787.



There are numerous FORMER members of the NameMedia Inc website, <photo.net>, who feel that the claim that all contributed art was "perpetually licensed" is and was fraudulent on its face. This deceit continues but was never accepted by Neeley or even read until the 2009 litigation began. There are numerous FORMER members of the NameMedia Inc website of <photo.net> who may be better served by the filing of a class-action proceeding. A particularly fraudulently paragraph of the new "TOU" follows.

"We respect our users' intellectual property, and claim no copyright to anything posted on the site by our users. However, as a stipulation of using photo.net, we retain the right to keep and display anything posted by users on photo.net as part of the site indefinitely. If you are not prepared to accept this, please do not upload or contribute anything to photo.net."

This is one particularly adverse portion of the fraudulent "TOU" that the unsuspecting users "agree to" by clicking the following disclaimer box that is, in fact, a bare fraud.

I have read and agree to the Terms of Use *

There is no user alive who can agree to an eight-page 3,104 word legal document that allege to incorporate three-pages with the old 704 word attempt to appear legal from back in 2006. This click also alleges accepting an additional three-pages of 1,018 words. There are references to Yahoo and Google privacy policies but these three documents alone amount to the fraud of one-click agreeing to fourteen pages with 4,826 words of legal rambling.

Disclosing wire communications to people besides the intended recipients is forbidden... Revise the motion for sanctions for twenty more days or file it as is. Does this motion make Brooks C White Esq feel better? Neeley personally pursued Jennifer Haltom Doan Esq and now forgives this. Michael Henry Page will now answer for the deceptions told in open court. Some are listed verbatim.

<http://www.curtisneeley.com/google/booklet-complaint.htm#page10> There were more.

Please do not expect Neeley to educate Brooks C White Esq further in the proper honesty required of the legal profession. The term frivolous implies not being serious. Neeley is serious in pursuit of this action and will be respectful of the court and each counselor including Brooks C White Esq.

Sincerely,

Curtis J Neeley Jr, MFA
2619 N. Quality Ln, Ste 123
Fayetteville, AR 72703
Voice: 479-263-4795

DISCLAIMER: Curtis Neeley suffered a severe traumatic brain injury that often very negatively impacts his communications. He is often perceived as blunt, tactless, self-centered and rude. Although Curtis has a severe disability, he is determined to continue creating meaningful visual art. The Curtis Neeley Foundation will be created to preserve and promote his artistic photographic legacy.

From: Brooks C. White [mailto:____.com]
Sent: Monday, April 23, 2012 5:37 PM
To: curtis____om
Cc: Jennifer Doan; Michael Page
Subject: Motion for Rule 11 Sanctions

Mr. Neeley:

Attached is a Motion for Rule 11 Sanctions and brief in support. I am serving this motion on you by regular mail. As stated in the letter attached, we demand that you immediately dismiss the claims against NameMedia contained in your new complaint. Failure to do so within 21 days of service will result in our filing the motion with the Court.

Sincerely,

Brooks White

ALLEN LAW FIRM, P.C.
212 Center Street
9th Floor
Little Rock, Arkansas 72201
(501) 374-7100
(501) 374-1611 FAX
email:)_____)

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