

**IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS**  
U.S. DISTRICT COURT WESTERN DISTRICT ARKANSAS FILED

**Curtis J Neeley Jr., MFA**

**Plaintiff**

**DEC 17 2012**

**v**

**CASE NO. 12-5208**

**BY**

**CHRIS R. JOHNSON, CLERK**

**DEPUTY CLERK**

**Federal Communications Commission,  
Microsoft Corporation,  
Google Inc.**

**Defendants**

**OPPOSITION TO DOCKET #14  
MICROSOFT CORPORATION'S  
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and the cited case law, Defendant Microsoft Corporation submitted a motion to dismiss Plaintiff Curtis J. Neeley, Jr.'s Amended Complaint. This District Court should now deny this near-frivolous motion that was clear demonstration of not reading the Amended Complaint and of not doing trivial "WEB" research that is easily done on wire communications by the public and finding vulgarity that remains associated with the Plaintiff's personal name by Microsoft Corporation and is left TODAY on the "WEB" long after advised of this offensive text-image association.

Plaintiff's Amended Complaint was alleged by Defendant Microsoft Corporation to fail to state a claim against Microsoft Corporation upon which relief can be granted. This absurd claim was an admission of failing to consider the Amended Complaint and was a formulaic law school motion seeking dismissal under Rule 12(b)(6). The citation from "*Northstar Indus., Inc. v. Merrill Lynch & Co.*, 576 F.3d 827, 831-32 (8th Cir. 2009)" was nothing but paraphrasing of FRCP Rule 12(b)(6) and is utterly irrelevant case law. Defendant Microsoft Corporation counsel now fails to even acknowledge the prior privacy violations recognized and admitted by Microsoft Corporation Customer Service and the obvious vulgar ongoing violations of privacy against the Plaintiff due prior indecent publications that have long been removed.

The Supreme Court holds that “[t]o survive a motion to dismiss, the factual allegations in a complaint, assumed true, must suffice ‘to state a claim to relief that is plausible on its face’”, *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The Amended Complaint easily exceeds this bar recently set by the Supreme Court of the United States.

Courts dismiss complaints for failure to state claims often enough that this spurious allegation has become the “*standard*” law school filing before answering complaints. The *pro se* Plaintiff will file a Supporting Brief concurrently with vulgar exhibits under seal explicitly pointing out the plausible claims Defendant Microsoft Corporation counselor refuses to recognize without vulgarity while hoping the blindfold of justice will slip enough to allow Microsoft Corporation to decide what amount of personal privacy will be allowed to exist on the “*WEB*” despite US law. Plaintiff prays Docket #14 be denied and this District Court enter an Initial Scheduling Order and place this matter en route for trial by a jury. Motions for Partial Summary Judgment leaving damages awarded to be accessed by a jury due the amount warranted for exemplary damages rising to the low-billions. This will be filed shortly after discovery better supports Defendant Microsoft Corporation’s continuing careless negligence to increase profit in spite of the suggestions of the Supreme Court in 1996 and Congress repeatedly.

Curtis J. Neeley Jr.  
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Suite 123  
Fayetteville, AR 72703

Respectfully Submitted,

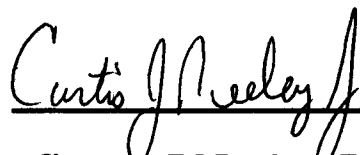
  
Curtis J Neeley Jr., M.F.A.

# CERTIFICATE OF SERVICE

I, Curtis J. Neeley Jr., MFA, do hereby certify that on December 17, 2012, I filed the forgoing personally and the District Clerk will scan this and make it accessible via CM/ECF. Furthermore; every docket entry of Neeley Jr v FCC et al, (5:12-cv-5208) will be accessible by wire communications perpetually including a free mirror of the District Court Docket with freely provided electronic copies of every filing. The docket will be updated within 24-hours after any paper is filed by Neeley and can be accessed from the following UnRegulated Locations. (URLs)

1. [CurtisNeeley.com/FCC/Neeley-Jr\\_v\\_FCC-et-al.htm](http://CurtisNeeley.com/FCC/Neeley-Jr_v_FCC-et-al.htm)
2. [CurtisNeeley.com/FCC/New\\_GOOG\\_exhibits](http://CurtisNeeley.com/FCC/New_GOOG_exhibits)
3. [CurtisNeeley.com/FCC/New\\_MSFT\\_exhibits](http://CurtisNeeley.com/FCC/New_MSFT_exhibits)

URL #1 is the mirror of the Docket. URL #2 is the password protected directory with access to all exhibit files prepared that are not accessible at URL #3. The username for logging in is "adult" and the password is "YeS" and proper case is required. These PDFs are often indecent or obscene and all access is logged.

  
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Curtis J Neeley Jr MFA