

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

CURTIS J. NEELEY, JR., MFA

PLAINTIFF

v.

Civil No. 12-5208

FEDERAL COMMUNICATIONS COMMISSION;  
MICROSOFT CORPORATION; and  
GOOGLE, INC.

DEFENDANTS

O R D E R

Now on this 17<sup>th</sup> day of December 2012, comes on for consideration plaintiff's **Motion for Leave to File Sealed Exhibits Supporting Objections to Dockets (14, 16)** (document #19). The Court, being well and sufficiently advised, finds and orders as follows:

1. Plaintiff Curtis Neeley, acting pro se, filed this action on September 17, 2012, alleging various privacy violations by the Federal Communications Commission, Microsoft Corporation, and Google, Inc., based on the return of nude images attributed to Mr. Neeley in various internet searches.

2. Defendants have filed separate motions to dismiss (documents #14 and #16), which are currently pending.

3. In responding to those motions, Mr. Neeley anticipates attaching certain exhibits, which he contends contain "highly offensive images" that have the possibility of offending the privacy of another individual besides himself.

4. On December 6, 2012, the Court took the matter under

advisement and directed Mr. Neeley to submit the proposed exhibits *in camera* for a determination as to whether they should be placed under seal, if and when he files them. Mr. Neeley has done so, and the Court has reviewed them.

5. The Court notes that the proposed exhibits consist of several screen shots of internet search engine results based on image searches for "curtis neeley" and various "curtis neeley nude" sites. Most of the images on the screen shots are photographs most accurately described as adult pornography, while others appear to be artistic depictions of the nude human form. Several other pictures are various mug shots, photos of cars or houses, or other benign images. However, none of the documents contain any identifying information about the subjects of the photographs, nor do they contain any other confidential information.

6. Court filings that contain

- \* an individual's social-security number, taxpayer-identification number, or birth date;
- \* the name of an individual known to be a minor; or
- \* a financial account number

may be redacted or filed under seal to protect the privacy of the individuals involved. Fed. R. Civ. P. 5.2(a), (d).

Absent the above, the Eighth Circuit has recognized a common-law right to inspect public records and documents. *In re Neal*, 461

F.3d 1048, 1053 (8th Cir. 2006). A party seeking to seal court documents must demonstrate a compelling reason to justify the non-disclosure. *In re Neal*, 461 F.3d at 1053. For example, courts have properly sealed documents for the following reasons:

- \* to ensure that they are not used to "gratify private spite or promote public scandal" through the publication of certain details in a divorce case;

- \* to prevent them from serving as "reservoirs of libelous statements for press consumption;" and

- \* to avoid the release of confidential business information that might harm a litigant's competitive standing. *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978).

7. Mr. Neeley's proposed exhibits contain none of the information listed in Fed. R. Civ. P. 5.2, nor do they contain any scandalous or libelous statements or confidential business information. While the images themselves are likely offensive to some -- and clearly are offensive to Mr. Neeley -- he has not demonstrated a compelling reason for the Court to deny the public of its common-law right to inspect such public records.

The Court understands that Mr. Neeley is upset that such images are returned through internet searches of his name. However, that is the very subject matter of this lawsuit, which Mr. Neeley willingly initiated. The Court sees no reason to seal the documents Mr. Neeley has repeatedly described in his

pleadings.

8. The Court recognizes that Mr. Neeley's responses to defendants' motions to dismiss are due by December 17, 2012, and acknowledges that Mr. Neeley has waited on this order before finalizing and filing those responses. Given these circumstances, the Court hereby extends Mr. Neeley's deadline for filing responses to documents #14 and #16 to December 26, 2012.

**IT IS THEREFORE ORDERED** that Mr. Neeley's **Motion for Leave to File Sealed Exhibits Supporting Objections to Dockets (14, 16)** (document #19) is **denied**.

**IT IS FURTHER ORDERED** that Mr. Neeley's deadline to respond to documents #14 and #16 is extended to December 26, 2012.

**IT IS SO ORDERED.**

/s/ Jimm Larry Hendren  
JIMM LARRY HENDREN  
UNITED STATES DISTRICT JUDGE