

**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 Inc.  
Google Inc.

**SECOND BRIEF SUPPORTING OPPOSITION  
TO THE MOTION FOR DISMISSAL DKT 104**

Plaintiff files this concise Second Brief Supporting his Opposition to Dismissal Dkt 104 and his Motion to Reconsider Dkt 99 as well as Request for Leave to Amend Dkt 111 and herein cites cases supporting each Motion.

1. Network Solution LLC through competent counsel stated, “[i]t should be undisputed, however, that federal courts do not automatically apply the doctrine of equitable tolling...” In *Ott v. Midland Ross Corp.*, 600 F.2d 24, 31 (6th Cir. 1979), an ADEA action, the court held that the jury should decide whether the plaintiff is entitled to equitable tolling. Plaintiff does not ask the doctrine be applied automatically but specifically asked it be applied and the Sixth Circuit has held it an issue for juries *Id.*

2. Plaintiff was alleged to feel that tolling limitations accrue when the tortious actions first become known. *See* Docket #121. Plaintiff herein admits this and asserts that in the Eighth Circuit similar statements were made that a cause of action "accrues when the plaintiff discovers, or should have discovered the cause of injury." *Osborn v. United States* , 918 F.2d 724, 731 (8th Cir. 1990). Plaintiff asserts now that when a claim accrues is a question of law. Without citing a single case the Plaintiff notes the Catholic Church would rejoice if the Network Solutions LLC Counsel belief also excused the past actions of Priest pedophilia. While this case has very little in common with pedophilia, nude photography done by the Plaintiff exposed to his own children is involved with the other Defendants.

3. Network Solution LLC through competent counsel stated, “[i]n the Eighth Circuit it has been held that such extreme circumstances exist “only when some fault on the part of the defendant has caused the plaintiff to be late in filing, or when other circumstances, external to the plaintiff and not attributable to his actions, are responsible for the delay.” *Kidd v. United States*, 2010 WL 1170115, \*1 (W.D.Mo. 2010) quoting ...[cases] ... Plaintiff has not alleged in his Complaint or demonstrated in his brief any basis for applying the doctrine... ”, Plaintiff here notes Docket #121 use of a 2010 case that is against Network Solutions LLC interests and asks how much Network Solutions LLC paid opposing Counsel to eviscerate their own interests and states that a paid writer who does not read what they write is outrageous.

4. Network Solution LLC through competent counsel cited the preceding Eighth Circuit case and now Plaintiff asks that the Judge notice the underlined portion above and states again that none of his injuries previously listed in Docket #8 were attributable to his own actions. Plaintiff formerly felt no need to restate the conditions that are in the record now on page six of Docket #8. Plaintiff will not list them again now but reminds the Court as well as the Network Solution LLC Counsel. The Magistrate Judge then ruling is no longer involved in this case. Docket #8, however, was not stricken.

5. The Plaintiff hopes that Hon. Judge Hendren is familiar with the addendum in Docket #8 that concisely explained a multitude of extreme circumstances that very easily support equitable tolling. Plaintiff questions this fact now since each of the three “Network” competent counselors demonstrated being completely unaware of Docket #8 by citing case law adverse to Network Solutions LLC interests. Docket #8, was ordered by this Court and was entered as requested by the Magistrate Judge no longer ruling in this case. Every claim in Docket #8 is hereby reasserted and this second Supporting Brief adds support to this case and does not replace the preceding brief but is a supplement.

6. Changing of Ruling Judge was not thought to strike portions of the Docket where the Magistrate had been Ruling. Pro se Plaintiff now believes somehow Docket #8 has been overlooked by the Court in Docket #97 as well as by Network Solutions LLC in Docket #121. Denial of equitable tolling is an issue now worthy of appeal. Numerous extreme circumstances that demand equitable tolling were overlooked in Docket #121 by “paid” competent Counsel as well as Docket #97 by the Court although there was admittedly no duty for the Court to apply it. Plaintiff hopes it was not overlooked while contemplating the Motion to Amend and Replace in Docket #111 and now uses Docket #121 an opposition where an entire Law Firm was “paid to overlook” the record to support grounds for an appeal if equitable tolling does not support the claims from 2003 for every single Defendant. Three competent Counselors have demonstrated being completely unaware of Docket #8 and the Court is asked now to read Docket #8 while considering Docket # 99, and Docket #111. Granting of Docket #111 Motion to Amend and Replace would make Docket #97, #99, #104, and #121 moot for the most part. Plaintiff is unable to file as quickly as represented parties and hopes this is filed and noticed before the Motion to Reconsider Docket #99 is ruled on.

7. Plaintiff will not repeat Docket #8 but asks that the extreme conditions described there that were not a result of actions by the Plaintiff be found to be grounds worthy of denying Docket #104 and/or granting leave requested in Docket #99. Extreme circumstances existed consistent with the recent cited but unread Eighth Circuit Ruling of “when other circumstances, external to the plaintiff and not attributable to his actions, are responsible for the delay.” *Kidd v. United States*, 2010 WL 1170115

Whereas the Plaintiff is easily entitled to equitable tolling as would be consistent with the cited case in Docket 121 by “paid” Network Solutions LLC counsel; the severely disabled pro se litigant prays that the external circumstances not attributable to his actions that were disclosed in Docket #8 and supported by several affidavits now in the record be found to support Docket 111 and thereby make the Summary Judgment Motion for Dismissal of 104 be dismissed or declared moot. Equitable tolling of Docket #8 easily supports Plaintiff’s Motion to Reconsider and Granting Leave to Amend makes the other motions all moot and is supported by Eighth Circuit precedent regarding equitable tolling as well as the Sixth Circuit Rulings cited herein as well as “Wikipedia” that so disturbed the Network Solutions LLC “paid” counselors but not shown to be inaccurate and only alleged incomplete or insufficient. These alleged deficiencies are herein remedied to a standard acceptable to the Eighth Circuit Ruling cited by Network Solutions LLC Counsel from 2010.

Respectfully Submitted

Curtis J Neeley Jr, MFA