

**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.

**BRIEF SUPPORTING NOTICE OF APPEAL OF ORDERS OF DOCKET #97
AND DOCKET #126 AS COLLATERAL ORDERS WARRANTING APPEAL**

The collateral order doctrine is a narrow exception to the final-judgment rule, which normally forces parties to wait for final judgment before appealing any rulings and it was established by the Supreme Court in Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541 (1949) where the Court ruled appeal is available for orders that, "finally determine claims of right separable from, and collateral to, rights asserted in the action, too important to be denied review and too independent of the cause itself to require that appellate consideration be deferred until the whole case is adjudicated.", and therein established precisely the standards warranting interlocutory appeal. These criteria are presented concisely as follows.

Rights Separable From Defamation

The Docket #97 dismissal of Lanham Act and Title 17 claims due to limitations was simply one Judge exercising jurisprudence. Much of Docket #97 has since become contrary to the ruling of the Supreme Court of March 24, 2010 where the Supreme Court Justice[s] ruled that the defense of limitations does not accrue from the first of a series of acts, but the last act. Lewis v. Chicago, (08-974) The violations of the photography business website of <eartheye.com> and the violations of <sleepspot.com> reservation software website was repeated annually and still exist if defamation was never pled.

Rights Collateral to Defamation

The Docket #97 dismissal of Lanham Act and Title 17 claims due to limitations are separate but collateral in that the defamation would not have been discovered had the Lanham Act violations not occurred.

Rights too important to be denied a review

The Docket #97 dismissal of the Lanham Act and Title 17 claims due to limitations was used in the ruling of Docket #126 where Network Solutions was dismissed. This dismissal, although violating the Lanham Act continually, is too important to await the appeals process and thereby increase damages done.

Rights too independent of defamation to be denied a review

The Docket #97 dismissal of Lanham Act and Title 17 claims due to limitations was used in the ruling of Docket #126 and the allowed defamation action is entirely separate as the domain names issue and the rights to be attributed to art are completely independent.

Equitable tolling is an issue too important to be decided by one person

1. The limitations defenses allowed after being reconsidered denies the Plaintiff's a right to be heard by a jury. While the ruling Judge stated one plausible rational for allowing limitations to excuse the 2003 Lanham Act violations, allowing the ruling to excuse multiple Lanham Act and Title 17 violations violates the rights of the Plaintiff granted by the Sixth Amendment to be tried by a jury. The Sixth Circuit has agreed. 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. Underlining added for emphasis. The interpretation of statute as Hon Judge Hendren did was Summary Judgment.

Conclusion

The factual issues are precisely described in this motion and the Supreme Court requirements to allow appeal of interlocutory orders have been met. The Plaintiff, Curtis J Neeley Jr MFA, hereby notifies the Court of an intention to appeal to the Eighth Circuit Court of Appeals. This notice will become moot if the replacement complaint attached here and to the motion for preliminary injunction is allowed. Otherwise a continuance motion will be filed as well as an appeal to the Eighth Circuit.

Respectfully and humbly submitted,

Curtis J Neeley Jr, MFA