

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

CURTIS J. NEELEY, JR., MFA

PLAINTIFF

V.

CASE NO. 5:09-cv-05151

**NAMEMEDIA, INC.;
NETWORK SOLUTIONS, INC.;
and GOOGLE, INC.**

DEFENDANTS

**OPPOSITION TO MOTION REQUESTING RECONSIDERATION
OF ORDER IN DOCKET #125 DENYING APPEAL TO AMEND**

This Opposition is filed in response to Plaintiff's Motion Requesting Reconsideration of Docket #125 Denying the Appeal to Amend of Docket #111 (Doc. #128). On May 20, 2010 the Court properly denied Plaintiff's Motion Requesting Leave to File Third Amended Replacement Complaint (Doc. #125) and granted Network Solutions, LLC's ("Network Solutions") Motion to Dismiss (Doc. #126).¹ Therefore, all claims against Network Solutions have been dismissed. Plaintiff has not identified any basis upon which this Court should reconsider its Order denying Plaintiff leave to amend his Complaint. Accordingly, the Motion should be denied. By separate opposition, Network Solutions asserts the Court should not reconsider its ruling on the Motion to Dismiss.

The Federal Rules of Civil Procedure do not explicitly provide for motions for reconsideration of non-final orders. Motions styled as such generally are analyzed pursuant to Fed. R. Civ. P. 60(b), which provides for relief from a judgment or order.

¹ Network Solutions' Motion to Dismiss was filed as Doc. #104.

Elder-Keep v. Aksamit, 460 F. 3d 979, 984 (8th Cir. 2006). Rule 60(b) provides various grounds upon which a Court may correct or relieve a party from an order. The specific grounds include the following:

- (1) Mistake, inadvertence, surprise, or excusable neglect;
- (2) Newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59;
- (3) Fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by the opposing party;
- (4) The judgment is void;
- (5) The judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) Any other reason that justifies relief.

Fed. R. Civ. P. 60(b).

Plaintiff's Brief in Support of Motion Requesting Reconsideration of Docket #125 does not identify any specific provision of Fed. R. Civ. P. 60 upon which the Court should reconsider its ruling denying Plaintiff's Motion to amend his Complaint yet again.² To the contrary, Plaintiff's latest filings in Docket ##128, 130, 132, 134 and 136 wade even deeper into the waters of frivolity and serve as additional confirmation of this Court's conclusion that Plaintiff's "submissions indicate that he is more interested in wreaking revenge on the Defendants than obtaining legal redress for any economic injury to himself." *See* Doc. #97 at 17, Doc. #125 at 7. Plaintiff advances no new legal analysis that was not previously asserted or considered by the Court in Doc. # 125.

² Although the pending Motion for Reconsideration relates to the proposed Amended Complaint attached to Docket #111, since the Court's entry of Docket #125, Plaintiff has filed yet another Motion seeking leave to amend his Complaint. *See* Motion Requesting Leave to File Replacement Complaint filed May 27, 2010, Doc. #132.

Plaintiff's Brief (Doc. #129) includes numbered sections, none of which provides a basis for reconsidering any ruling affecting Network Solutions' rights. For this Opposition, Network Solutions will adopt the same numbering utilized by Plaintiff:

- (1) Plaintiff makes arguments regarding alleged defamatory "attributions" by Separate Defendants NameMedia, Inc. and Google, Inc. None of these arguments relates to claims that are the subject of any proposed amended complaint against Network Solutions.
- (2) Plaintiff persists in rehashing other litigation against Google. None of these facts relates to Network Solutions. Such other cases certainly do not provide a basis for reconsidering the Court's denial of Plaintiff's Motion to Amend as to Network Solutions.
- (3) Plaintiff attempts to take the Court back to the 1700s in an effort to pull the Federal Communications Commission into this litigation. These arguments are difficult to decipher; they do not relate to Network Solutions; and they do not relate to any proposed claim or party that was the subject of the proposed Complaint attached to Doc. #111.³ They certainly do not form the basis for this Court to reconsider Doc. #125.
- (4) Besides making the foundational statement that "there is a constitutional right to Free Speech[.]" this paragraph provides no basis for reconsidering any claim related to Network Solutions.
- (5) Paragraph 5 again goes on to talk about matters purportedly related to "attribution." Although not clear how these arguments relate, they plainly do not support any proposed claim against Network Solutions.
- (6) Plaintiff makes ambiguous statements about pornography, morality, and the alleged "malfeasance" of Legislators who intentionally wrote overly broad law. Nonetheless, this paragraph only addresses Google and other "Search Engine Defendants." It provides no basis for reconsidering any Order entered against Network Solutions.
- (7) This paragraph addresses libel, slander and defamation claims not previously asserted against Network Solutions. Even if they could be read to have been previously asserted (which they were not),

³ Plaintiff did not ask to include the FCC until after the ruling that he now asks the court to reconsider.

Plaintiff has not provided any basis for reconsidering the Court's previous Order denying amendment of Plaintiff's Complaint.

- (8) Plaintiff again regales the Court regarding the alleged "moral right to attribution recognized in South Korea." This paragraph does not address any ruling related to proposed claims against Network Solutions and should not form the basis for reconsidering any Order denying leave to amend against Network Solutions.
- (9) Numbered paragraph 9 only relates to alleged actions by Separate Defendant NameMedia, Inc. Accordingly, it should not form the basis for reconsidering any Order against Network Solutions.

Beginning at Page 4, Plaintiff purports to set forth his "Concise Request for Reconsideration." None of the paragraphs identified by Roman Numeral identifies any purported amendment against Network Solutions. Because Network Solutions was a proposed party to the Amended Complaint attached to Doc. # 111, Network Solutions still feels it must object to any reconsideration which could subject it to additional litigation in this Court.

- (10) After setting forth six numbered paragraphs for reconsideration, Plaintiff returns to his traditional numbering of paragraphs. Numbered paragraph 10 does not identify any basis for reconsidering any action against Network Solutions.
- (11) Plaintiff again talks about defamation claims against search engines. Network Solutions is not alleged to be a search engine. And this paragraph provides no basis for reconsidering any claims against Network Solutions related to the expiration of domain name registrations.
- (12) Plaintiff reflects upon the possibility of his having to file separate actions against Search Engine Defendants which have not been allowed in this action to date. Given the manner in which this action has proceeded, Network Solutions respectfully asserts that allowing even more claims against more Defendants within this action would not serve to advance judicial economy and would likely result in an interminable contest of dispositive motions, orders, motions to amend, motions for reconsideration and improper appeals.

- (13) This paragraph perhaps best sums up Plaintiff's cavalier attitude and lack of any basis for reconsideration of the Court's denial of Plaintiff's Request to Amend in Doc. #111. While not identifying any legitimate basis for relieving a party from an Order, Plaintiff states he has been extremely confused," he apologizes for "doing so poorly in Docket #111," he disputes having filed frivolous motions, and he displays visions of grandeur that "this lawsuit will be studied in law schools perpetually." These arguments should in fact assure the Court that it made the proper ruling in Doc. #125. These arguments do not identify any improper ruling with respect to claims asserted against Network Solutions. They have, however, put Network Solutions to additional expense in responding. This Court should order that Plaintiff file no additional pleading attempting to assert claims against Network Solutions within this case.
- (14) Plaintiff asserts that he will appeal the Court's rulings regarding the statute of limitations. A properly perfected appeal, of course, can be a legitimate way to challenge a District Court's ruling. While Network Solutions asserts that Plaintiff's appeal is improper, unwarranted and subject to dismissal, the threat of appeal is not a recognized basis for seeking reconsideration. To the extent Plaintiff asserts that "the trafficking of Plaintiff's owned domains is renewed daily by Network Solutions, LLC and is therefore tolled continuously[.]" he does not identify any new facts that specifically relate to proposed claims attached to Doc. #111. The final two sentences of paragraph 14 further do nothing to alter the Court's ruling that Plaintiff has no standing to assert claims related to actions that have not caused him personal economic harm.
- (15) Plaintiff makes more self-serving statements about alleged lost time with his children and how a "sizable fiscal judgment" will help restore his relationship with his children. These assertions certainly provide no basis for reconsidering any previous ruling against Network Solutions.
- (16) Plaintiff swings wildly with declarations about alleged "free speech," "self-defense," and alleged statutory and constitutional principles. None of these vague proclamations forms the basis for reconsidering any claim against Network Solutions.

Conclusion

Network Solutions has carefully read, acknowledged, and attempted to understand the numbered paragraphs contained in Plaintiff's Motion Requesting Reconsideration of Order in Docket #125 Denying Appeal to Amend. There is simply no basis by which this Court should engage Plaintiff and allow the proposed Amended Complaint attached to Doc. #111. The Court's May 20, 2010 Order was well-reasoned and correct; Plaintiff has provided absolutely no basis for the Court to conclude otherwise. Accordingly, Plaintiff's Motion (Doc. #128) should be denied in whole. In light of the baseless nature of Plaintiff's filings, Network Solutions respectfully requests that this Court award Network Solutions a reasonable attorney's fee for having to respond to all pending motions which have followed the entry of Doc. ##125 and 126. Plaintiff should further be ordered to file no more motions for reconsideration to file amended pleadings related to Network Solutions.

Respectfully submitted,

NETWORK SOLUTIONS, LLC,
Defendant

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to the following:

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I hereby certify that I have mailed the document by the United States Postal Service to the following non CM/ECF participants:

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