

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

CURTIS J. NEELEY, Jr.

PLAINTIFF

VS.

CASE NO. 5:09-cv-05151-JLH

**NAMEMEDIA, INC.
and GOOGLE, INC.**

DEFENDANTS

BRIEF IN SUPPORT OF MOTION TO DISMISS COUNTERCLAIM

Defendant NameMedia, Inc. ("NameMedia"), for its Brief in Support of Motion to Voluntarily Dismiss Counterclaim, states as follows:

Although Plaintiff has filed an interlocutory appeal, appeal from an interlocutory order does not divest the trial court of jurisdiction to continue with other phases of the case. *Briggs v. LaBarge*, 212 Fed. Appx. 577, 578, *citing Janousek v. Doyle*, 313 F.2d 916, 921 (8th Cir. 1963).

NameMedia wishes to dismiss its counterclaim under F.R.C.P. 41(a)(2) and thus respectfully requests the Court to enter an Order dismissing the counterclaim without prejudice.

Respectfully submitted,

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By: /s/ Brooks C. White
Brooks C. White

Attorneys for Defendant and
Counterclaimant NameMedia, Inc.

CERTIFICATE OF SERVICE

I, Brooks C. White, hereby certify that on this 22nd day of June, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following attorneys of record:

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I further certify that, on this 22nd day of June, 2011, I e-mailed a copy of the foregoing to the following *pro se* plaintiff:

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/s/ Brooks C. White
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