

# IN THE UNITED STATES COURT WESTERN DISTRICT OF ARKANSAS

**Curtis J Neeley Jr., MFA**

**V**

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

**NAMEMEDIA INC**

**Google Inc (GOOG)**

**Federal Communications Commission (FCC)**

## **SUPPLEMENTAL PLEADING JOINING CLAIMS AND JOINDER OF THE FCC FOR REFUSAL TO REGULATE WIRE COMMUNICATIONS IN THE SAME SERIES OF ACTS**

Comes now the Plaintiff, respectfully and states for this proposed Supplemental Motion described as concisely as the severely brain-damaged, pro se litigant is able in this extremely complicated intellectual properties case including trademarks, Title 17 Infringements, repetitive public defamations, and a series of criminal violations of US Title 18 § 1343. The tortuous actions are so numerous they prohibit concise titling or description. The severely brain injured Plaintiff is outraged by learning of the fraudulent business policies of the Defendants discovered while researching how a pre-teen daughter was exposed to Plaintiff's original photos of the nude figure as an object of art on wire communications called the Internet for disguise. The Courts call this a "new medium" that is apparently exempt from even moderate regulation in an obvious error that violates the intention of the Communications Act of 1934. The particular actions can be described as follows and supported by existing docket entries and will be further supported by witnesses and presentations during trial.

# I. NAMEMEDIA INC

## A. Defendant NAMEMEDIA INC Initial Title 15 § 1125(d) offense

1. Defendant NAMEMEDIA INC violated the Plaintiff's previously registered domains <eartheye.com> and <sleepspot.com> that were used in commerce with no purpose other than to sell them when they expired in 2003. This was at a time when the Plaintiff was an incompetent.

2. The <eartheye.com> Lanham Act violation was repeated yearly and the Supreme Court ruled on May 24, 2010 that when torts continue, or are repeated, the cause of action accrues from the last date of occurrence. This tolled the violations of Defendant NAMEMEDIA INC due to the yearly renewals of each domain until the early 2009 offer to the Plaintiff to encourage bidding on the expiring <eartheye.com> domain. When the Plaintiff was unable to pay the several thousand NAMEMEDIA INC sought, the Defendant advertised selling it for \$2,300 and accrued a \$100,000 statutory liability.

3. The Plaintiff had advised NAMEMEDIA INC that <eartheye.com> was originally his and they ignored the Plaintiff outrageously and sold the domain after having been advised and first involving legal Council of Erik Zilinek who dared the Plaintiff to attempt DNRP actions. Ted Olson has alleged being contacted by the Plaintiff by telephone on some indeterminate date dishonestly before discussing the domain <eartheye.com> via email on Nov 29, 2007 on the record.

4. Defendant NAMEMEDIA contacted the Plaintiff again on Jan 26, 2009 and Feb 13, 2009, and this lawsuit was started July 14, 2009. Defendant NAMEMEDIA INC violated <eartheye.com> and <sleepspot.com> annually when renewing the registrations rather than letting them expire and cease to resolve.

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3 **B. Original Artwork mis-use in violation of US Title 17**

4 5. Plaintiff previously was trained in commercial photography and <eartheye.com> was the  
5 website used for his art. Plaintiff continued to do art photography as well as commercial  
6 photography and created a user profile at <photo.net> and uploaded some art while an incompetent  
7 or before recovering guardianship on January 26, 2006. The Plaintiff was never aware of the  
8 ownership of <photo.net>.  
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10 6. Defendant NAMEMEDIA INC purchased <photo.net> in 2007. Defendant stopped allowing  
11 users of the site to delete art and began to claim perpetual license for all user content.  
12 NAMEMEDIA INC alleged photos could be deleted but the Plaintiff soon discovered this was a  
13 false claim and the Plaintiff began posting photos elsewhere.  
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15 7. On a forum posting on July 12, 2009, the Plaintiff posted that the new site owners would face  
16 him in Court and Mr Neeley wished for them to delete his figure nude art. About July 24, 2009  
17 Defendant NAMEMEDIA INC deleted Plaintiff's access to <photo.net> and yet continued  
18 preventing deletion of his art as was continually demanded.  
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20 **C. Second US Title 15 § 1125(d) violation**

21 8. NAMEMEDIA INC offered <sleepspot.com> to the Plaintiff after this litigation had begun  
22 for \$2788 as can be seen in Docket 25 Ex #2 2788 and tolled limitations as well as establishing  
23 another \$100,000 statutory liability.  
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1 **D. Destruction of Original <SleepSpot.com> Art**

2 9. NAMEMEDIA INC used the robots exclusion protocol (REP) and created a specific  
3 robots.txt file to cause <sleepspot.com> artwork to be destroyed after realizing this suit was planned  
4 after July 24, 2009. NAMEMEDIA INC was made aware of Plaintiff desiring this evidence in  
5 Docket 12 ¶ #3 addressing the November 16, 2009 filing of Docket 10. NAMEMEDIA INC  
6 maliciously opposed Docket 160 only 150 docket filings later after nearly a year.  
7

8 **E. Six NAMEMEDIA INC Continued Defamations by libel**

9 10. Hannah Thiem, the “Digital Millennium Copyrite Agent” (DMCA) of Defendant  
10 NAMEMEDIA INC, was notified and ignored the Plaintiff but was relying on the Plaintiff’s  
11 disability and paralysis to make mailing notices nearly impossible. The Plaintiff notified  
12 Ms Thiem using an IP beacon to confirm delivery as well as using MySpace and Flickr social  
13 websites. The Plaintiff also signed up as a new user at <photo.net> and posted comments on the  
14 photographs requested for deletion where a period was actually an IP beacon. Many of these image  
15 displays were then tracked, as evidence will show during the jury TRIAL.  
16

17 11. The Plaintiff had demanded that the art be removed repeatedly because it was art of the nude  
18 figure. The Plaintiff became aware that it was displayed to minors and was very likely to have  
19 caused his minor child’s outrageous communication of December 26, 2008. The Plaintiff’s severe  
20 traumatic brain injury, which once left him incompetent, is permanent. Curtis J Neeley Jr does not  
21 remember a daughter living with him prior to injury. Despite this fact, the Plaintiff loves her and  
22 sought diligently to be the best parent possible.  
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1 12. Curtis J Neeley Jr, MFA, believes that no minor, atheist, or Muslim should be exposed to  
2 figurenude art. Shortly after this lawsuit was entered, the Plaintiff realized that Defendant  
3 NAMEMEDIA INC and Defendant Google Inc conspired to operate the image search on  
4 <photo.net> that attributed nude photographs to Plaintiff by name and displayed them to minors or  
5 any anonymous visitor while alleging plaintiff's specific permission. This lawsuit was served on  
6 Defendant NAMEMEDIA INC but the attribution and display of nude art continued after the  
7 DMCA agent listed as Hannah Thiem had viewed the notice and she and/or NAMEMEDIA INC  
8 chose to ignore it, as well as ignoring even this litigation for six months.

9 13. In January 2010, the Plaintiff discovered a new DMCA agent was listed for Defendant  
10 NAMEMEDIA INC. Plaintiff set out to repeat his monitored notification to get the images deleted  
11 expeditiously since Federal litigation was unable. Plaintiff researched the DMCA agent by wire and  
12 determined that the posted address was where Robb Rosell operated a website design business.  
13 Plaintiff contacted all disclosed clients of the DMCA and asked that they relay the notice regarding  
14 nude art being displayed against Plaintiff's wishes while allegedly being shown to minors by  
15 specific permission. Defendant NAMEMEDIA INC then finally deleted the pornographic photos  
16 and ceased attributing Plaintiff with "pornographic" art around January 24, 2010 as a result of the  
17 second DMCA notice. Plaintiff then stopped USING <namemedias.com> as a protest site since  
18 <photo.net> deleted the images Plaintiff USED <namemedias.com> to protest.

## 19 II. Google Inc

### 20 A. Defendant Google Inc US Title 15 § 1125 (d) offenses

21 14. Defendant Google Inc began Lanham Act violations of <eartheye.com> and  
22 <sleepspot.com> at some indeterminate date after the 2003 expiration of each registration. GOOG  
23 chose to license these domains in AdSense for Domains and acquired \$200,000 statutory liability  
24 that was also reacquired annually until <eartheye.com> was sold and until repetitive notifications  
25 that <sleepspot.com> was involved in TM litigation after the service of this action caused Google  
26 Inc Adsense for Domain to stop unmasked USE and reverting to stealth profiting they currently still  
27 do. See Ex. Stealth-Profiting marked on page 3.  
28

## **B. Detrimental reliance on Google Inc AdWords FRAUDS**

14. Defendant Google Inc sold advertisement to the Plaintiff in AdWords on domains it licensed exclusively for Google Inc AdSense for Domains and did not disclose the ads were run on deceptive domains exclusively using for ads. This was a scheme to defraud by wire and caused detrimental reliance. “AdSense for Domains” is a fraudulent business policy and Google Inc uses “AdSense for Domains” for scores of millions of dollars unjust enrichment each year.

## **C. Google Inc Defamation while claiming authorization during litigation**

15. Defendant Google Inc attributed Plaintiff’s ‘figure nude’ images *correctly* with no concern for US Title 17 violations or defamation continually on <google.com> and on <photo.net> until Defendant NAME MEDIA INC deleted the ‘figure nude’ images after the second DMCA agent caused deletion on or after January 24, 2010 but not until then though aware of this litigation.

16. Defendant Google Inc attributes the Plaintiff to pornographic or indecent art by image searches of his personal name from various websites where the Plaintiff had disclosed his art creation by choice based on context and from images Plaintiff never had on his website as described more fully later in a separate claim. Google Inc allowed and now allows anonymous viewership of anything to support profits.

### **Eric Schmidt CNBC Rejection of Privacy and US Title 17**

17. Eric Schmidt stated in an interview with CNBC that if a person has anything they do not want anyone to know about, they had best not do it. Eric Schmidt is the Earth’s wealthiest human in history due to inventing a way to disguise pornography as free speech.

1 18. Mr Schmidt is the CEO of Defendant Google Inc and the Plaintiff would like to hear  
2 Mr Schmidt explain to a JURY how what he calls “free speech” protects Google Inc pornography  
3 distribution and describe why Google Inc is only a bit player in China where pornography is not  
4 allowed. Plaintiff wants to hear Mr Schmidt explain to the JURY how his company’s profits would  
5 be affected if indecency was prevented on wire communications in the United States as the law  
6 already requires and how much his company donates to politicians and judges to ensure the Internet  
7 remains exempt from FCC regulation. The Plaintiff would also like to hear Mr Schmidt explain for  
8 the JURY how Google Inc justifies returning nude images when “Curtis Neeley” is entered in image  
9 searches when competitors like Lycos Inc, Yahoo Inc, and Microsoft Corporation and  
10 IAC/InterActiveCorp have all chosen not to since this litigation began except for Lycos Inc who  
11 never had due to being headquartered in a country with moral copyrights.  
12

13  
14 19. The Plaintiff will show the jury how oogle Inc competitors Yahoo Inc, Microsoft  
15 Corporation, and IAC/InterActiveCorp almost ceased returning indecent nudes for image searches of  
16 the Plaintiff’s personal name during this very litigation when made aware it disturbed the Plaintiff  
17 and asks how Google Inc could dare to say that ceasing to return nudes for searches for  
18 “Curtis Neeley” would require shutting down Google.com. See Docket 73 Ex #2 Yahoo, #4 Bing  
19 and perform wire image searches now at <yahoo.com>, <bing.com>, or <ask.com> and compare.  
20

21 **D. Google Inc re-publication of nude art scanned from a library**

22 20. After this lawsuit was filed and after Google Inc had filed an answer claiming the affirmative  
23 defense of failure of the Plaintiff to mitigate damages on March 2010, Google Inc continued to  
24 expand their defamatory actions after Plaintiff’s request to Amend on March 17<sup>th</sup>, 2010 where in  
25 Docket #111 # 1 Exhibit (Third Amended Complaint) in the Conclusion/Prayer section ¶ #2 on p. 18  
26 the Plaintiff stated as follows.  
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1       *“Plaintiff is an overlooked, outraged artist not part of the class in New York because his*  
2       *original photographic art is published in a book that was already seen at*  
3       *<Books.Google.com> and has a registered copyright from 2006 titled “The Renascentl Vol.*  
4       *3 Photography”.*

5       Plaintiff prepared an exhibit but forgot to include it. The omitted exhibit reveals only that, “No  
6       preview is available”, and listed the wrong author. It revealed the distress of the Plaintiff as  
7       follows.

8               *Is this book scanned by Google already? My nude photography is in this book and I*  
9               *already sued Gogle for violating my copyrights and common law TMs. They say that*  
10              *if it is already copyrighted they will pay \$60 for violating the copyrights? I want 60*  
11              *billion instead.*

12       21. The posted review above was deleted when Google decided to expand their defamation and  
13       this action causes outrage as well as demonstrating intentionally increasing their exposure and  
14       thereby showing disrespect for Court. Plaintiff has often shown poor attitudes and extreme  
15       confusion since this action started but defaming an artists again while facing him in Federal Court  
16       for defamation is an admission of not considering this US Court Action sincerely enough to mitigate  
17       the damages created. Google Inc opposing Counsel commented on the posted comment  
18       demonstrating being aware of this posting in the record.

19       *See Docket 135 Ex. 1 Google-Oops < curtisneeley.com/NameMedia/Google-Oops.pdf >*  
20       *See Docket 135 Ex. 2 Google-Oops2 < curtisneeley.com/NameMedia/Google-Oops2.pdf >*

21       22. Defendant Google Inc uses their “Curtis Neeley” broadcast using the Plaintiff’s personal  
22       name, which is shared by his father, and results in repetitive display of indecent images in a manner  
23       that is outrageous defamation. Neither the Plaintiff, nor his father, condones broadcasting  
24       pornography to an anonymous viewer who refuses to take responsibility for the viewership of  
25       pornography. Neither would allow their children or grandchildren to view nudity presented by  
26       Google Inc using only their personal name “Curtis Neeley” in an image search.

## **E. The Google Inc 2010 defamation during litigation**

23. Google Inc Books after March 7, 2010 and attributed Plaintiff correctly to three original 'figure nude' art photographs shown to anonymous people including minors, atheists, and Muslims as is offensive and shames the Plaintiff and violates rights to privacy. The Plaintiff granted Joseph Morse permission electronically to place Plaintiff's photos in a book, which Mr Morse then did. Courts have ruled that publication of a book online requires a new authorization and the Google Inc fair-use argument has been waived by Google Inc in New York Court attempting to settle.

## **F. Continual Google Inc untruthful libelous defamations**

24. Google Inc caused Michael Peven's erect penis photograph created by Mr Peven in 1979 to appear in a "strictly safe" image search for Mr Neeley's personal name. This continued after Google Inc outrageously claimed failure to mitigate damages by the Plaintiff as an affirmative defense. The erect penis photo has NEVER been on <curtisneeley.com> and the claim that it was shown there was both malicious, slanderous, and defamation that continued after numerous direct requests to Counsel and DEMANDS that this libelous fraud cease. The German Supreme Court recently allowed Google Inc to display thumbnails due to an implied permission and voluntary use of the robots exclusion protocol to control indexing. In the United States, this claim is a felony wire fraud prohibited by US Title 18 § 1343 when used fraudulently for profit.

25. This German Courts rational will not protect Google Inc in this litigation because the penis photo was never on <curtisneeley.com> or anywhere else posted by the Plaintiff as continually claimed. Outrage is an unpopular tort and Michael Peven's erect penis photo resulting in image searches for "Curtis Neeley" using even the "strict safe" settings are defamatory in addition to being outrageous.

26. Michael Peven's erect penis photo result has been displayed very often, as evidence will show alleging it was shown on <curtisneeley.com>. The pornographic erect penis photo caused the docket of (10-2255) to be locked from the public as well as instigating admonishment of the Plaintiff by the Court Clerks. Michael Peven's erect 1979 penis photo was attributed to <curtisneeley.com> and is falsely returned for "Curtis Neeley" in searches continually and adds to defamation and outrage especially since the page causing the erect Michael Peven penis photo has always expressed detesting the photo and never included it as will be presented in evidence. There is a specific condemnation of the erect penis photo as well as condemnation of Michael Peven and this does not imply permission to display Michael Peven's penis thumbnails or full size images as is continually done when "Curtis Neeley" is entered in an image search at Google Inc in spite of continual protest.

### **III. Federal Communications Commission**

#### **A. Federal Communications Commission Nonfeasance**

27. The Federal Communications Commission (FCC) regulated wire communications when they were the only way to deliver communications across the ocean. When wire communications described in the Communications Act of 1934 evolved to be a worldwide apparatus connected to either end of the wires the FCC abandoned regulation of the content of wire communications. The FCC reports not regulating wire as is obvious by looking at the record and comparing this to CBS v FCC, (06-3575) and attempting to understand how the nude images of the Plaintiff are transmitted by wire and how searching for "Teri Weigel" by wire results in transmissions by wire of explicit pornography if you are a child and lie or are unsupervised or only search for "Curtis Neeley" at <google.com>

See <bing.com/images/search?q=teri+weigel>

See <video.search.yahoo.com/search/video?p=teri+weigel>

See <google.com/search?q=teri weigel&hl=en&tab=wv>

See <google.com/images?hl=en&q=curtis+neeley>

## **Prayer for punitive, compensatory, and for injunctive relief**

28. Whereas the Plaintiff has faced a tortuous swarm of activity as described in I (A-E), II (A-F), and III (A) above; Plaintiff asks for Court ordered relief as follows to mitigate damages due to distress and to compensate for the distress as well as establishing preliminary injunctions to prevent the actions from recurring or continuing. In the interest of punishing the Defendants who all acted maliciously or recklessly when causing the damages, Plaintiff asks a JURY to establish a truly punitive award that could amount to billions.

29. The Plaintiff seeks creation of a nonprofit "Search Engine Alternative" that does not violate US Title 17 after revised to acknowledge the fundamental Right to Attribution and uses its income to offset taxes and is controlled by the wire division of the FCC. Plaintiff asks that the JURY assist in establishing a just compensation beyond a traumatic brain injured mind's abilities to imagine since a JURY award is not subject to being set aside or reduced for violating Due Process, as will be claimed.

30. Defendant NAMEMEDIA INC, who instigated this action and who acted very maliciously, should face no less than \$200,000 in statutory Lanham Act awards and no less than a fifteen million dollar punitive award per domain violated. For the defamations by image attribution they instigated NAMEMEDIA INC should face a statutory Title 17 award of \$900,000 and a punitive award of not less than sixty million dollars and award of sleepspot.com as well as \$1,000,000 for the malicious destruction of the sleepspot.com artwork and rights to the domain <photo.net> that was initially used to defame the Plaintiff.

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2 31. Defendant Google Inc should face an enormous punitive award for a business policy of  
3 selling display of advertisements on “parked” or fraudulent sites licensed exclusively for Google  
4 AdSense for Domain in a scheme for wire frauds as prohibited by US Title § 1343. Compensatory  
5 awards for the damages would be insignificant for this Plaintiff alone but should be punitive as  
6 determined by a JURY based on ill-gotten gains.  
7

8 32. Defendant Google has a business policy of violating the fundamental exclusive right to  
9 attribution and do this to profitably traffic in pornography by search engine republications since the  
10 FCC is nonfeasant and allow this where other countries do not. Google Inc should face an injunction  
11 to return no nudes for any image search containing only the name of the Plaintiff plus no less than  
12 10 billion dollars for a punitive award considering their maliciously expanding defamations during  
13 this lawsuit in addition to the statutory US Title 17 awards for the nine original artworks violated.  
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15 33. <Google.com> should be ordered to not return indecent results for all uses of the Plaintiff’s  
16 personal name as a preemptive injunctive order made unquestionably necessary during this litigation  
17 and maturing to become permanent.  
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19 34. Punitive damages should be set by a JURY in light of profits due to this policy while  
20 recognizing that each Defendant will claim the award violates Due Process. Half of the award will  
21 be paid in taxes and the unnamed class is every US taxpayer parent or citizen opposed to porn  
22 trafficking and the award affects every person on Earth where wire communication disguised as “the  
23 Internet” now exist unregulated.  
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35. Google Inc should be subject to punitive damages of three billion or an amount the JURY deems adequate for Google Inc digitally re-publishing Plaintiff's three original nude photographs from "*Renascent Vol 3 | Photography*" after this action had started and acknowledging Plaintiffs distress but recklessly and maliciously ignoring Plaintiff distress and this litigation.

## **FCC Injunctive Relief**

36. The Plaintiff prays that Federal Communications Commission be ordered to regulate wire communications as defined but not regulated in an ultimate act of hypocrisy. The FCC should be ordered to require that all computers attached to wire be regulated and that the wire division of the FCC create a search engine and require mandatory self-rating of computers attached to the wires called the Internet and establish fines for wire communications of indecency.

37. A period of 180 days would then be allowed to pass before policing of wire Communications would be allowed where connecting a file with a disclosed location wherein the FCC or other search engine might index it is considered a communications by wire.

38. Search engines indexing copies of indecent locations would be treated as transmissions of indecency as if the re-publishing search engine had originally communicated the indecency due to gathering the indecency and then choosing to republish it for profit.

39. The FCC should be ordered to cease all uses of the term "the Internet" except as the term for the early unregulated wire communications venue for pornography that broadcasted pornography under the ruse of free speech.

40. The FCC should regulate wire communications accessing browsers such that all browsers must be FCC "approved" and updated browsers must have a plug-in where the FCC robot exclusion protocol prevents display of any wire location not rated or rated above the computer purchaser's settings instead of the user of the computer. A website directory rated "R" would therefore never be displayed on a computer set to only view "G" websites.

1 41. Robot Exclusion Protocol (REP) would be used to rate directories of all computers attached  
2 to wires and REP would be established and made mandatory by the FCC wire division. The FCC  
3 would handle fining for wire communications when not rated or rated inconsistent with current FCC  
4 standards. Extra-national violations of the established REP would require that no domestic search  
5 engine list the violator or acquire the same liability the extra-national violator would have had if  
6 domestic.

7 42. The FCC should apologize to parents for not regulating wire communications and pay  
8 Mr Neeley for helping the FCC stop wire communications of pornography and indecency and  
9 helping establish the non-profit FCC search engine where profits fund the wire division of the FCC  
10 and otherwise fund Social Security and Medicaid or otherwise offset taxes.  
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## 21 **Title 18 Rational for the PRAYER to a JURY**

22 43. Only a JURY trial has the solid constitutional footing to require enforcement of laws and  
23 punish criminal wire-fraud violations as have been done to Curtis J Neeley Jr., MFA in this  
24 EXTREMELY complicated but closely related swarm of torts. Application of the Rule of Law is  
25 either logical or incorrect as should now be obvious. No company, regardless of how profitable, has  
26 the right to run roughshod over any citizen's rights. EXXON suffered the largest punitive award in  
27 history and was still the most profitable company on Earth in 2009.  
28

1 44. The Valdez oil tanker was an accident and this action was intentional and was criminal use  
2 of felony wire communications described in Title 18 § 1343.

3 45. The Plaintiff seeks punitive damages that will be the largest in history halting Google Inc  
4 from profiting on wire communications until they can do it without pornography and without  
5 violating citizen rights to privacy. The taxes paid on this award are like a commission that will be  
6 paid to every taxpayer and should affect the US budget resulting in a balanced budget in a few years  
7 after the wire division of the FCC is established and as already required by the mission of the  
8 Federal Communications Commission described in the Communications Act of 1934.  
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11 Respectfully Submitted by Hand,  
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13 Curtis J Neeley Jr., MFA  
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