IN THE UNITED STATES COURT FOR THE WESTERN DISTRICT OF ARKANSAS

Curtis J Neeley Jr., *et al*,

Plaintiff(s)

CASE NO. 13-cv-5293

**Federal Communications Commissioners,
US Representatives; John Boehner, *et al*,
US Senators; Joe Biden, *et al*,
US Attorney General, Eric Holder Esq.,
Microsoft Corporation,
Google Inc.**

Defendants

BRIEF IN SUPPORT OF RULE 60(b) MOTION FOR RECONSIDERATION OF THE MISTAKES IN DOCKETS 12, 16, & 22

1. The time for Rule 59 alteration or granting a new trial have expired and the date for an appeal that will never be done has been set. This Motion for Reconsideration per Fed. R. of Civ. P. Rule 60(b) seeks reconsideration of all three mistaken orders and must be filed within one year of the mistakes made per Fed. R. of Civ. P. Rule 60(c)(1). This time runs until Feb. 5, 2015.

2. According to the Eighth Circuit Court of Appeals, "*a [Rule 60(b)] motion is not a substitute for appeal.*" *Broadway v. Norris,* 193 F.3d 987, 990 (8th Cir. 1999) (internal quotations omitted), and, "*appeal from denial of Rule 60(b) motion does not raise [the] underlying judgment for review.*" (*Sanders v Clemco Indus.*, 862 F.2d at 169). These rulings are unpublished and not considered presidential and are, in fact, improper and misuses of Fed. R. Civ. P. to dismiss a *pro se* IFP party.

3. Several times seen in the previous paragraph the Eighth Circuit failed to realize Rule 60(b)(1) Motions calling the prior judgment a mistake on its face is an opportunity for relief <u>without the expense of a formal appeal to another court</u> and **without damaging the moral legacy of the District Court** if the judgment is, in fact, a "mistake, inadvertence, surprise, or excusable neglect" like done by the ruling judge herein counter to decades of meritorious service like this Plaintiff alleges done herein.

4. The mistakes, inadvertence, surprises, or excusable neglect in this action now preserve unquestionable communications crimes perpetuating crimes like child pornography on the internet, as should be morally embarrassing. **These mistakes enable all future child porn by failing to recognize btoadcasting and private exchanges in the wire medium as all the internet has ever been**.

5. This district Court stated, "*[o]n January 15 and 16, 2014, the Court entered Orders dismissing this complaint as a violation of the Court's previous Orders. The January 15 Order also denied plaintiff's motion asking the undersigned judge to consider recusing.*", and mentioned the injunction barring litigation as, "*related to events previously litigated*", and went on to again mistakenly allege "*[m]ost of plaintiff's arguments in the instant motion are repetitious of arguments [...] already made in this and previous proceedings*", and gave evidence of mistakes, inadvertence, surprise, or excusable neglect done by the District Court. Quotes are from *Neeley v. Federal Communications Commissioners et al,* (5:13-cv-05293-JLH) Dkt.# 22.

6. The Supreme Court states, "*[a]t the summary judgment stage the judge's function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.... [T]here is no issue for trial unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted.*" *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 106 S.Ct. 2505, 2511, 91 L.Ed.2d 202 (1986) (citations omitted) This dismissals were summary judgments despite significant probative material facts favoring this Plaintiff's claims.

7. Considering both motions to dismiss Dkt. ## (12, 16) to be Motions for Summary Judgment, "*in determining whether summary judgment should lie, the district court is to view the evidence in the light most favorable to the nonmoving party and give to that party the benefit of all inferences which reasonably may be drawn*" *Hagerman v. Yukon Energy Corp.,* 839 F.2d 407, 414 (8th Cir. 1988) (citations omitted).

8. This District Court failed to give this Plaintiff any inference and, in fact, did exactly the opposite as evidenced in Dkt. #22 "*appears plaintiff merely wants to engage in a battle of semantics*". This litigation is not now and has **never been** a personal "battle" against anyone. There was once utterly improper tenor used by this Plaintiff in *Neeley I*. This Plaintiff never included this District Court judge as a defendant and never even asserted the injunction was over-broad or misapplied by this ruling judge like it was by both corporate defendants. Mistakes sought relieved were **made by this District Court**.

9. This litigation was never about most of the naked images returning in searches using Plaintiff's name. The one and only naked image that returns *per se* illegally is in a Microsoft Corporation search and this crime is against some random other artist and not this Plaintiff. This mistake by the Plaintiff perhaps caused the mistakes now done in Dkt. ## (12, 16) and repeated in Dkt. #22 by this Court.

10. The legal images returned criminally are described in the Complaint section II ## (2, 3, 4) and these naked images are returned *per se* illegally in ways the artists did not intend and these communications crimes were never considered in any prior complaint whatsoever. None of these naked images were done by this Plaintiff. Most legal naked images become illegal immediately when shown on the internet or by radio to the unknown. Most of those returned for "curtis neeley" queries are shown via unauthenticated "wire broadcasts" to the unknown including all images described by "Complaint" section II #1 except one naked image returned *per se* illegally by Microsoft Corporation now seen in Dkt. #19 exhibit "M" on the fist page.

11. This ONE naked image is related to events previously litigated ONLY by being a naked image and being **potentially** seen via internet. **This difference is not purely semantic**. This naked image was only intended shown to contactable authenticated parties by the authors like the graphics labeled as "NSFW" seen in Dkt. #19 exhibit "G" p.1 by the Plaintiff and described in Complaint section II ¶ ## (2, 3, 4). The twelve other naked images seen in Dkt. #19 in ~~order~~ exhibit "G" p.5 are not shown to the random public by the wishes of other artists counter to the claims of Google Inc in Dkt. #16 except per se criminally by Google Inc. These communications crimes are NOT against this Plaintiff's communications but harm the Plaintiff's ability to parent and otherwise proscribe consumption of immoral broadcasts of communications.

12. The legal naked images and the legal "NSFW" tagged graphics were never contributed to the public domain like implied by Google Inc in Dkt. #16. Most naked images returning for searches of "curtis neeley" or most other names are not *per se* illegal to create and are not *per se* illegal to display. These otherwise legal naked images are still *per se* illegal to display to the random public in violation of the *Pacifica* ruling from 1978 and federal criminal statutes 18 U.S.C. §§ (1462, 1464).

13. The internet, unfortunately, contains some *per se* illegal images of child pornography. The internet contains billions of naked images shown that were not illegal to produce and are not illegal to display if shown to authenticated parties in order to prevent violations of the *Pacifica* ruling from 1978 and federal criminal statutes 18 U.S.C. §§(1462 1464).

14. This Plaintiff was one of the first professional photographers with a website displaying naked images that were legal for adult consumption but were illegal if intentionally shown to children by radio or in print. Plaintiff rejoiced when the *Reno v ACLU*, (96-511) mistake was made, though Wi-Fi radio did not exist like it does today making everything on the internet also a radio broadcast if sent to the anonymous public versus authenticated receivers like on facebook.com or G+.

15 As the internet of wire communications quickly developed, every "search engine" alleged to not be able to tell if images were naked or otherwise inappropriate. This fraudulent allegation is wholly untrue but was made in open court during *Neeley I* by Michael H. Page Esq. This materially fraudulent fact is considered true by most on Earth including this District Court herein. EVERY image file ever created has always had the provision for text labeling or tagging so "bots" or humans can immediately know if the image is fit or is not fit for children **WITHOUT VIEWING THE POTENTIALLY OFFENSIVE IMAGE**.

16. Most of the internet is intentionally left an attractive nuisance by each corporate criminal today as was thought pointed out precisely in (5:13-cv-5293-JLH) "Complaint" section II ¶ #2 by this plaintiff. This attractive nuisance is wholly wrong and correcting this wrong **would immediately END ALL CHILD PORNOGRAPHY or make prison as certain for this crime as for murder, armed robbery, or other crime impossible to covertly do today**.

16. This *pro se* Plaintiff begs this District Court to reconsider the three motions listed. While reconsidering the two mistakes of the District Court that were summary judgment, it is prayed this District Court note mistakes described done by the Eighth Circuit.

17. The rule of law is wholly dependent on semantics. Four mutually exclusive examples revealing how relevant semantics are to this claim follow:

1)claims for displaying illegal images legally;
2)claims for displaying illegal images illegally;
3)claims for displaying legal images legally;
4)claims for displaying legal images illegally;

All four of the image display claims above are wholly unique yet are "*essentially identical*". Plaintiff attempted in good faith to obey the injunction and attempted to bring only claims regarding 4)claims for displaying legal images illegally. This was done in "Complaint" section II ¶ ## (2, 3, 4), "Complaint" section III, and "Complaint" section IV. Displaying *per se* illegal images (violations of moral copy[rite]) from legal broadcasts or the first argument example is the only claim previously litigated. Displaying legal naked images to the unauthenticated is, however, *per se* illegal broadcasting by wire and radio that has **NEVER BEEN PROSECUTED BY ANY COURT** including this District.

Plaintiff prays this District Court now set a hearing to address these claims intended including the claim against Congress and the Attorney General for moral author's exclusive rights protection and updating the C.D.A. per the *Reno v ACLU,* (96-511) mistake.

In the alternative Plaintiff seeks dismissal of Google Inc, Microsoft Corporation, and the FCC leaving the claims against only the US Attorney General and this Plaintiff's Congressmen or congressional candidates and Senator Ronald Lee "Ron" Wyden like already listed by reference and appointing a counselor to aid if no pro bono counselor is found within 60 days after this case is reinstated or conditionally reinstated in order to provide relief authorized per Rule 60(b)(1). The portion of the prior Rule 59(e) Motion for a New Trial could still herein be granted. Plaintiff feels this complaint too impacting and too confusing to be dismissed without even a hearing where simple "questions and answers" of this pro se party would support proceeding to trial on the merits. Plaintiff is proud to be an American but is embarrassed by the United States' creation of a morally irresponsible manner that inappropriate communications can be made on the internet. The immoral mistake of *Reno v ACLU,* (96-511) prevented the distributed wire medium from developing as a simple common carrier and created a "non-medium medium" that can be used to secretly view child pornography, pornography, anything else. This paralyzed and brain injured Plaintiff greatly appreciates this court's amazing patience and consideration and herein advises NO OTHER FILING in United States Courts seeking reconsideration will be done and no appeal of these rulings will ever be made and asks that this request be considered a great deal of time as if this is the most important ruling ever made.

Most Respectfully Submitted,

Curtis J Neeley Jr.

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CERTIFICATE OF SERVICE

NOTICE OF PERMANENT PUBLIC SERVICE OF THIS COMPLAINT AND FREE PERMANENT PUBLIC MIRROR OF THE PACER ARWD DOCKET

1. This litigation will effect the future of [sic] "online" for the entire Earth and will remain accessible perpetually by simultaneous wire and radio broadcasting from the following two URLs. This is the easiest and most fair method to make this accessible to every US Senator, every US Representative, and every Federal Communications Commission Commissioner while accessible to all US citizens at the same time with the complaint broadcast in all common text file formats. Curtis J Neeley Jr swears and affirms under penalty of perjury that today February 7, 2014 this will be scanned and made accessible by the ARWD Court Clerk and be mirrored freely to each Defendant as well as the public.

A. TheEndofPornbyWire.org

B. TheEndofPornbyWire.org/docket

Most Respectfully Submitted,

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