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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

CURTIS J. NEELEY, JR.,

Plaintiff,

VS.

5 FEDERAL COMMUNICATIONS COMMISSIONERS,
FCC CHAIRMAN TOM WHEELER, ET AL., US
REPRESENTATIVE STEVE WOMACK, US
REPRESENTATIVE/SENATE CANDIDATE TOM
COTTON, US SENATOR MARK PRYOR, US ATTORNEY
GENERAL ERIC HOLDER, ESQ., HONORABLE JIMM
LARRY HENDREN, DIANA E. MURPHY, PASCO M.
BOWMAN, II, ROGER LELAND WOLLMAN, KERMIT
EDWARD BYE, STEPHEN BREYER, STEVEN M.
COLLTON, ANTONIN SCALIE, RUTH B.
GINSBURG, DENNY CHIN, ANTHONY KENNEDY,
SAMUEL ALITO, RAYMOND W. GRUENDER,
MICROSOFT CORPORATION, GOOGLE, INC.

Defendants.

CASE NO.

5:14-CV-05135

TRANSCRIPT OF PROCEEDINGS, SHOW CAUSE HEARING
BEFORE THE HONORABLE TIMOTHY L. BROOKS
May 27, 2014; 1:43 p.m.
FAYETTEVILLE, ARKANSAS

FOR THE CURTIS J. NEELEY, JR.:

MR. CURTIS J. NEELEY, PRO SE
2619 North Quality Lane
Apartment 123
Fayetteville, Arkansas 72703
(479) 263-4795 Phone

Proceedings recorded in realtime via machine shorthand.

Dana Hayden, CCR, RMR, CRR
Federal Official Court Reporter
35 East Mountain Street
Fayetteville, Arkansas 72701

1 THE COURT: Good morning, everyone. We are on the
2 record this afternoon for a show cause hearing in the case of
3 Curtis J. Neeley, Jr. versus what is styled as 5 Federal
4 Communication Commissioners, the FCC chairman, several
01:43PM 5 congressmen, senators, members of the Supreme Court, members of
6 the Eighth Circuit Court of Appeals, Google, Inc., Microsoft
7 Corporation, among others.

8 Present in the courtroom are the plaintiff,
9 Mr. Curtis J. Neeley, Jr. No other party, no other defendant
01:43PM 10 in this case, was asked to appear. The Court, at the time that
11 it entered its show cause order, directed that the named
12 defendants did not need to file an answer or otherwise appear
13 in this action. Having said that, I believe that, for the
14 record, attorney Josh Thane did enter an appearance for notice
01:43PM 15 purposes only, and Mr. Thane, I note that you are present in
16 the courtroom.

17 MR. THANE: That's correct, your Honor.

18 THE COURT: Thank you.

19 Mr. Neeley was ordered to appear and show cause
01:44PM 20 pursuant to the Court's order which was filed of record on May
21 16th, can be found as Document Number 4 in the court file.
22 More specifically, Mr. Neeley was asked to appear and show
23 cause as to why he should not, number one, be held in contempt
24 or otherwise sanctioned for the delivery of a willful violation
01:44PM 25 of the Court's prior order and injunction; number two, why he

1 should not be sanctioned pursuant to Federal Rule of Civil
2 Procedure 11 for his filing of the current complaint; and
3 number 3, for why his current complaint should not be summarily
4 dismissed.

01:45PM

5 Subsequent to the Court's entry of that order,
6 Mr. Neeley responded with a reply to the show cause order, a
7 brief in support. This morning Mr. Neeley -- or this afternoon
8 Mr. Neeley has also provided the Court with several affidavits
9 of support, and most recently he's provided the Court with a
10 proffered amended and substituted complaint that he would like
11 to file.

01:45PM

12 I would like to, Mr. Neeley, proceed somewhat more
13 informally than we might otherwise proceed. I think that we
14 can have somewhat of a conversational tone and demeanor. I
01:45PM 15 think that my order to appear and show cause pretty much sets
16 forth why I called you in here today and why I asked you to
17 explain some of your actions. But I do anticipate having some
18 questions for you so that I will understand better where you
19 are coming from.

01:46PM

20 And before I ask you those questions throughout the
21 course of this hearing, I would like to have you sworn in. So
22 I'd ask Ms. Craig to swear you in, if you would remain seated
23 obviously and raise your right hand.

24 (Whereupon Mr. Neeley was duly sworn.)

01:46PM

25 THE COURT: Mr. Neeley, I have read back through the

1 complaints that you have filed in this court, including a
2 complaint that you filed in 2009 in Case Number 9-5151; a case
3 you filed in 2012, Case Number 12-5074; another case that you
4 filed in 2012 that was Case Number 12-5208. That was the case
01:47PM 5 which ended with your causes of action being dismissed with
6 prejudice and with Judge Hendren entering an order and an
7 injunction requiring you not to file any related complaints in
8 this matter without permission of the Court.

9 Then you attempted to file a case which was given,
01:48PM 10 for file documentation purposes, was given the case number
11 13-MC-0066, the disposition of which was that Judge Hendren
12 declined to give you permission to file that complaint because
13 he found it to be in violation of the injunction.

14 And then right on the heels of Judge Hendren's order
01:48PM 15 in that case, you filed another case in 2013 -- the case
16 number's 13-5293 -- which Judge Hendren likewise dismissed with
17 prejudice earlier this year. Less than two months after that,
18 you filed the case which we're here on today, which is Case
19 Number 14-5135.

01:49PM 20 I would note that in the prior case that resulted in
21 Judge Hendren enjoining you from filing further actions that
22 that case was appealed to the Eighth Circuit Court of appeals
23 and affirmed. You actually took the steps of attempting to
24 seek a writ of certiorari to the United States Supreme Court,
01:49PM 25 and that was denied.

1 Mr. Neeley, I get the impression in reviewing your
2 writings and the various complaints that you filed and the
3 various responses that you have filed that you're a very
4 intelligent person. I get the impression that you have done a
01:50PM 5 lot of research. You've certainly attempted to research
6 certain law. I'm not sure how precisely you use your
7 citations, but nevertheless it's evident to me that you've done
8 a lot of research.

9 It would also appear to me that you have some very
01:50PM 10 sincerely held beliefs. All that being said -- and I've looked
11 through all these complaints -- you've not stated any legally
12 recognized cause of action.

13 I understand what you're getting at. I understand
14 that at its core you are upset about two or three main things,
01:51PM 15 and there's some tangents that offshoot from that in these
16 different lawsuits that you filed. But a recurring theme seems
17 to be that at one point in your life, you took artistic nude
18 photography images and then since you were involved in an
19 automobile accident and have recovered from that, you have
01:51PM 20 developed a dislike of your name being associated with this
21 artwork that you formally prepared or composed or photographed,
22 whatever the proper term is, Mr. Neeley, and you've been
23 seeking to have your name disassociated with that artwork such
24 that people, when they run a Google search, for example, that
01:52PM 25 your name "Neeley" is not associated with these former artworks

1 that you created. And you've gone about that several different
2 ways of trying to get that connection broken.

3 I take it from what I have read that in some
4 instances you've been successful in getting the companies or
01:52PM 5 the Internet search engines or what have you to cooperate with
6 you in getting your name attribution with those images
7 disassociated; other instances maybe it's still popping up.
8 I'm not sure.

9 Another theme that I take from all of this litigation
01:52PM 10 you have filed is that you disagree with how our federal
11 copyright laws are currently either being interpreted and/or
12 enforced and you, for example, believe that Google and
13 Microsoft and these other Internet companies are violating the
14 Federal Wiretap Act when -- and I'm not real clear on how all
01:53PM 15 this works, but it's clear that you believe that they are
16 violating federal wiretap prohibition act. It's pretty clear
17 that you believe that these companies are violating both the
18 Constitution and the copyright clause of the Constitution, as
19 well as the copyright laws of the United States, all of that
01:53PM 20 having to do with either the transmission of pornography in
21 general or the retransmission of these figurenudes, as you call
22 them, over the Internet that you believe that you have a
23 copyright over and that despite what Courts may say about fair
24 use that you don't believe that that is an exception that
01:54PM 25 applies and you feel aggrieved by that.

1 My understanding in reading over these various
2 complaints that you filed is that you don't believe that the
3 Federal Communications Commission or its commissioners or its
4 chairmen are doing their job in enforcing the law, and my
01:54PM 5 understanding is that you believe that the judges are not
6 interpreting the law correctly or not applying the law
7 correctly. And for these and perhaps other reasons, you have
8 brought this suit and other suits against them.

9 Before we get into the three reasons for why you were
01:55PM 10 cited in here today, I would like to give you an opportunity
11 just to explain. Forget the legalese, forget having to cite
12 chapter and verse to a statute or a case, but just tell me and
13 help me understand what your grievance is, number one; and
14 number two, what it is you think that I can do about that,
01:55PM 15 or -- and when I say "I," I mean this court and on what
16 authority. Let's start with what your grievance is,
17 Mr. Neeley.

18 MR. NEELEY: Thank you, your Honor. That's very
19 close to what I believe I've done. The -- my grievance
01:55PM 20 currently is that --

21 THE COURT: Mr. Neeley, would you pull that
22 microphone kind of up in front of you and speak into it, if you
23 could?

24 MR. NEELEY: I'm sorry. One of the things -- the
01:56PM 25 things that I say right now, currently are in this, in the

1 complaint that I filed, that you're saying that I need to show
2 cause for is that currently if you go to Google and type in my
3 name and they are searching deviantart.com, it pulled up my
4 name on a list, yes, it does. But then you link to it,
01:56PM 5 there's -- you do not see any pictures, which is what I have
6 done on the site. I said do not show any pictures. On these I
7 have four graphics that I have placed on this site, and they
8 are intended to be shown only to members of deviantart.com
9 website. And if you go to Google and you type in the regular
01:57PM 10 search engine, it comes up and it links to it and you don't see
11 any pictures. But if you go to Google's image search, image
12 search bypasses the fact that those pictures are not shown to
13 anybody as they logged in. But if you go to Google, Google
14 shows them.

01:57PM 15 THE COURT: If you go to what?

16 MR. NEELEY: If you go to Google Images, Google
17 Images will show you images, the ones that, if you go to the
18 website, you have to log into the website and be a member of
19 the website but not if you go to Google. If you go to Google,
01:57PM 20 Google will show you.

21 THE COURT: I'd ask the marshal to assist him with
22 the microphone over there. I am still having a little bit of
23 trouble hearing him. Why don't you be sure that it's on.

24 MR. NEELEY: Hello. Is this better?

01:57PM 25 THE COURT: Yeah, that's better. Thank you. I'm

1 sorry.

2 So the problem seems to be corrected as it relates to
3 an ordinary Google search, but if you do something called a
4 search on Google Images, there is still an association between
01:58PM 5 your name and those images?

6 MR. NEELEY: Yes. And the images are not images of
7 naked people. They're images of graphics of FCC keeping a
8 family safe from pornography and a graphic that is the -- well,
9 it's more complicated than I can get. It's a diagram that is
01:58PM 10 an illustration for how to make wi-fi free. And it's a plan on
11 how to make wi-fi -- as with windows, it makes FM radios like
12 any FM radio in America could broadcast wi-fi already, today.

13 THE COURT: You lost me there, Mr. Neeley. Are you
14 saying that whenever you do a search on Google Images that it
01:58PM 15 pulls up this?

16 MR. NEELEY: These charts, yes, it does. And see, no
17 one in America has -- understands right now how this works.
18 But what happens is you can use time-based multiplexing and --

19 THE COURT: Time what?

01:59PM 20 MR. NEELEY: Time-based multiplexing, TBM. It's
21 time-based. Like any -- currently the way the frequency, FM
22 distributes the frequency, FM distributes the frequency,
23 through multiplexing. Well, a third is time-based
24 multiplexing, which is a relatively new event. That's how we
01:59PM 25 got Internet the way around.

1 The fact is that FM radios could also transmit wi-fi
2 at the same time as carrying audio on their current radio
3 system. And it would be -- it would make it basically, it
4 would make wi-fi something that would be everywhere. If you
01:59PM 5 get FM radio, you'd able to get wi-fi, anywhere.

6 THE COURT: Why are you aggrieved by that?

7 MR. NEELEY: I'm not aggrieved by that. I'm -- I'm
8 aggrieved by Google bypassing my having placed those and said
9 "Do not show to anybody unless they're a member of this
01:59PM 10 website," and they showed them anyway. And that is against the
11 law.

12 THE COURT: I thought you just said when you did a
13 Google image search that it -- that it pulled up this
14 instructions for how to convert any FM signal to wi-fi.

02:00PM 15 MR. NEELEY: No. No, sir. Windows pulls up my
16 profile on DeviantArt and has a placeholder that says you have
17 to be logged in to see these images. However, if you go to
18 Google Images, it does not. It bypasses the password provision
19 and pulls through the images.

02:00PM 20 THE COURT: All right. Let me see if I can get at it
21 this way. At the present time if you go to Google and do a
22 normal Google search, is there an association currently between
23 your name and these nude images as you have alleged in prior
24 lawsuits?

02:01PM 25 MR. NEELEY: There are not unless you -- unless you

1 type in my name and the word "nude," then there is.

2 THE COURT: So if you type in your name and the word
3 "nude," then some images do come up?

4 MR. NEELEY: Right. And one thing is that if you go
02:01PM 5 and look at the images, there is an image that they are showing
6 in searches for my name and "nude" that does -- it is a nude
7 that I did and that I gave to Wikipedia for an SIP entry, and
8 they removed -- they actually have removed my name from it. I
9 asked -- I gave them, said take my name off, do -- I said, you
02:01PM 10 can use my current -- CN foundation and that will be okay, but
11 don't put my name with it. And so they have it. And if you go
12 on a web page, my name is not anywhere on that web page, but
13 it's still coming back in the Google search for my name. And
14 that has showing this image in a way that I have asked not to
02:02PM 15 be done, which is a violation of the law.

16 THE COURT: What law?

17 MR. NEELEY: 2511, 18 2511.

18 THE COURT: Well, that's the Federal Wiretap Act.

19 MR. NEELEY: Criminal law 18 2511. It is a felony if
02:02PM 20 you -- the thing is I talked to the -- I asked the FBI and the
21 attorney and the -- I asked them to prosecute it, and they said
22 they couldn't because the only punishment for it was a lawsuit.
23 They said -- they advised me to get an attorney and file a
24 lawsuit.

02:02PM 25 THE COURT: Well, except for statutes which provide

1 for a specific type and form of civil relief, a private citizen
2 cannot step into the shoes of the government and prosecute a
3 crime. That's what the United States attorney's office is for.
4 And you have made references in your complaint about how the
02:03PM 5 Courts have failed to prosecute this or failed to prosecute
6 that, and you need to understand that the Court doesn't
7 prosecute.

8 The Court sits as a court and oversees the
9 prosecution of criminal cases, but the Court is not in the role
02:03PM 10 of a prosecutor. The Court is a neutral arbiter of the facts
11 and the law. And so your problem on that particular issue,
12 Mr. Neeley, is that you don't have standing to prosecute a
13 crime, and this Court doesn't have standing in the absence of
14 being an overseer of the Government's action, and neutral in
02:04PM 15 the Government's action, to grant that type of relief.

16 MR. NEELEY: Your Honor, actually in the statute
17 18 2520, it gives anybody -- says anybody who this has been
18 done to may bring a civil cause.

19 THE COURT: Well, that is the private -- there is a
02:04PM 20 civil provision, you're right. That is Section 2520. But the
21 concept, Mr. Neeley, there of the Federal Wiretap Act and the
22 whole -- really the whole purpose of the Wiretap Act is to
23 regulate and otherwise prohibit the interception of
24 contemporaneous communications. There's nothing about the
02:05PM 25 facts in which you have alleged in your complaint that Google

1 or anyone else is attempting to contemporaneously intercept any
2 communications that are protected by that statute.

3 And I might also add, Mr. Neeley, that if you look
4 at, I believe it is Subsection (1)(g) of 2511 -- for the
02:05PM 5 record, this is 18 U.S.C. 2511(2)(g), there's an exception for
6 communications that are readily accessible to the general
7 public.

8 I guess, Mr. Neeley, I -- today is not going to -- is
9 not intended to delve down into a debate about what the law is
02:06PM 10 or what the law should be. I'm just really interested in
11 understanding where you're coming from, and I want to try to
12 communicate with you so that I can be sure that I understand
13 what your grievances are and to try to better understand what
14 it is that you want the United States District Court to do
02:07PM 15 about it.

16 And with regard to this notion that Google or anyone
17 else is violating Section 2511, number one, that's the criminal
18 part. You don't have standing to prosecute a crime; this Court
19 doesn't have standing to prosecute a crime. So even if it is a
02:07PM 20 crime, there isn't anything that you or I can do about it. The
21 U.S. attorney is the one that needs to bring those charges.

22 I assure you that the U.S. attorney in this district
23 is very vigorous about pursuing various types of illegal
24 pornography, and in my short time on the bench, that is 40 to
02:08PM 25 50 percent of the criminal cases, as sadly as this is,

1 Mr. Neeley, where I've conducted criminal sentencings has
2 involved child pornography. And I assure you that from
3 everything that I've seen -- and I'm not privy to what the U.S.
4 attorney does, but from everything that I've seen in this
02:08PM 5 courtroom, they take a very vigorous stance when it comes to
6 issues involving illegal pornography.

7 So if there is a violation of any law, criminal
8 violation of any law -- or a violation of any criminal statute
9 I guess is how I should say it -- A, that's the U.S. attorney's
02:08PM 10 job; B, as best I can tell, this area, especially as it relates
11 to child pornography, is something that they have a high
12 interest in pursuing. But your repeated filings of lawsuits of
13 the sort that you have made are simply clogging up the system.
14 They're taking the time of this Court from other matters,
02:09PM 15 including the matters that the U.S. attorney is prosecuting,
16 people that have violated statutes, from working their way
17 through the system as swiftly and efficiently as they can.

18 So, so far you've told me about your grievance as it
19 relates to violation of the Federal Wiretap Act. I understand
02:09PM 20 that. I hopefully have explained at least my understanding of
21 that.

22 What other grievances do you have?

23 MR. NEELEY: I -- excuse me, your Honor. I believe
24 that when Google -- Google is doing better than Microsoft, but
02:10PM 25 when Google and Microsoft continue to return my name -- say my

1 name is on a page that it is not on, that is a computer fraud.

2 THE COURT: And what statute do you base that on?

3 MR. NEELEY: Arkansas -- oh, dear.

4 THE COURT: The Arkansas computer fraud statute?

02:10PM

5 MR. NEELEY: Yes, sir.

6 THE COURT: That you cited --

7 MR. NEELEY: 301, I think.

8 THE COURT: I can't remember whether it was in the
9 most recent complaint that you filed or not. I've read so many

02:10PM

10 of them recently --

11 MR. NEELEY: It was in --

12 THE COURT: -- but I recall --

13 MR. NEELEY: It was in the most recent complaint on
14 about Page 3.

02:10PM

15 THE COURT: This is a federal court. I don't have
16 jurisdiction to enforce the Arkansas code. It's kind of the
17 very same story as it relates to the Wiretap Act.

18 MR. NEELEY: Excuse me, your Honor.

19 THE COURT: Let me finish, Mr. Neeley.

02:11PM

20 MR. NEELEY: Excuse me.

21 THE COURT: Even if I did have jurisdiction over the
22 state criminal law, which I don't, the criminal aspect of it
23 would have to be prosecuted by a state prosecutor. You don't
24 have standing to prosecute the state, a suspected violation of
02:11PM 25 a state crime, nor does this Court have the ability to

1 prosecute.

2 Now, there is a civil component to that state
3 computer fraud statute as well, but if you go back and look at
4 the elements of how a privately aggrieved person can go about
02:12PM 5 bringing a suit, I don't see that you have met the elements
6 laid out in that state statute. And just -- and we're not
7 being super legal here today, I don't suppose, but you haven't
8 established jurisdiction in this court for a civil violation of
9 the Arkansas computer fraud statute.

02:12PM 10 MR. NEELEY: But, your Honor, I don't -- I hadn't
11 thought about that. I don't understand what -- I'm lost there,
12 but I felt that because Google and Microsoft are in a different
13 district, they're in different states, but the business they do
14 is here, that it would give us jurisdiction.

02:12PM 15 THE COURT: Well, there most certainly is a concept
16 known as diversity of citizenship. Whether or not you can
17 invoke federal jurisdiction to pursue civil enforcement of an
18 Arkansas criminal statute is an interesting legal question. I
19 think that I need not get any farther than the fact that you've
02:13PM 20 not appropriately pled diversity of citizenship jurisdiction in
21 your complaint.

22 All right. You're critical of Google, and you
23 explained that one of those grievances is under the federal
24 wiretap prohibition act. The second grievance you indicated
02:13PM 25 was based on the Arkansas computer fraud act.

1 What other grievances do you have, Mr. Neeley?

2 MR. NEELEY: I suppose I -- in the complaint I also
3 said that -- that the -- when judges remain on the bench beyond
4 the age of 70, they are violating their oath of office. And
02:14PM 5 they are not following the Constitution where it says that they
6 will act only while in good conduct, or during good behavior.

7 THE COURT: And on what authority do you interpret
8 Article III of the Constitution when it says "during period of
9 good behavior" to mean age 70? Where did you come up with age
02:14PM 10 70?

11 MR. NEELEY: I compared that to the majority of the
12 rest of the world. I compared it to Europe. There are 33
13 United States states they have that, and that's what I'm
14 saying. I have those listed in there, but I don't remember
02:15PM 15 if the -- like Poland, Australia, Great Britain. Both -- I am
16 looking to other countries at their laws and what they do.

17 THE COURT: Well, Mr. Neeley, you know, when you
18 bring a lawsuit, you have to be able to establish that someone
19 has, in effect, in a civil case, especially if it's a tort-type
02:15PM 20 case, you have to first establish a duty and then you have to
21 establish that you have suffered some sort of damage and then
22 you have to establish that there's some sort of connection
23 between this duty and the damage that you've suffered. And,
24 you know, just because any average, ordinary citizen like you
02:16PM 25 and me believes that the law ought to be something else, it

1 doesn't mean that that gives you standing, nor does that mean
2 that you have the elements to go forward with a lawsuit. And
3 just because you believe that judges should not continue to
4 serve past age 70 based on your interpretation of Article III
02:16PM 5 of the Constitution, that doesn't mean that's what the law is.
6 And even if you could do that, what is it that you would have
7 me do? And when I say "me," I mean the Court.

8 MR. NEELEY: I don't suppose there is anything that
9 you could do. I apologize. I was confused, I suppose. I
02:17PM 10 thought that I had to show that -- I have no idea why I do it.

11 THE COURT: Okay. What other grievances do you have,
12 Mr. Neeley?

13 MR. NEELEY: The fact that United States Constitution
14 says that we give artists or authors the right to control their
02:17PM 15 work for a time, and that does not happen. Because as Judge
16 Hendren ruled in 5151 that you read through, he ruled that Act
17 106 -- or 107 -- Section 106(a) did not apply online. And
18 it -- basically I believe that that is -- I mean, it was a
19 correct reading, that's -- it's one of those things where the
02:18PM 20 law says this, but then it has an exception. It says "except
21 for," and then it says something that means online. And -- but
22 that seems to me as if, if you can't have a right to -- you
23 can't have the right that you can't have online. You can do it
24 anywhere else, but online, no.

02:18PM 25 To me, the Constitution applies online or not online.

1 And where the -- and I agree that what he said was correct, but
2 the way they wrote the law was such that it would possibly
3 exempt online, and Judge Hendren's ruling is the only case that
4 ever dealt with that law, ever, since it was ever -- since
02:18PM 5 passing in 1990. The first time it's ever been addressed. And
6 he said -- and I can understand he was saying they do not apply
7 to online. But to me a right you can't -- the Constitution
8 doesn't -- cannot have the right. They exist for people for a
9 time; that doesn't apply when it's online.

02:19PM 10 THE COURT: Well, the copyright clause of the
11 Constitution says what it says. More legs are given to that in
12 the various copyright laws that congress has enacted, the
13 patent laws that congress has enacted, and other types and
14 forms of intellectual property laws that congress has enacted.

02:19PM 15 In the case that you filed in 2009, I believe that
16 was 5151; is that right?

17 MR. NEELEY: Yes, your Honor.

18 THE COURT: That case was decided and ruled upon by
19 Judge Hendren for the reasons stated in his dismissal order.

02:20PM 20 Did you appeal that case?

21 MR. NEELEY: I did, your Honor.

22 THE COURT: And what was the result of that case on
23 appeal?

24 MR. NEELEY: It was affirmed.

02:20PM 25 THE COURT: And I know you've done some research on

1 this term known as res judicata.

2 MR. NEELEY: Oh, yes, sir, I know what that means.

3 THE COURT: Yeah. So that issue's been decided, and
4 we could go back and debate that, we could go out for a cup of
02:20PM 5 coffee tomorrow and debate whether that was right or whether it
6 is not right. And I know that you have some very strongly held
7 beliefs about that, but that case has been decided.

8 MR. NEELEY: It does. But when that case was
9 decided -- and I agree it was decided correctly -- the thing is
02:21PM 10 you can't re- -- you know, beat the dead horse, as it would be.
11 But the problem is that that means -- the fact that that case
12 was decided the way it was means that congress did not ever
13 follow the copyright clause and the authorization to protect
14 the rights of others. It's still there saying to protect them.
02:21PM 15 Congress cannot -- protect the rights of others, but they have
16 not.

17 THE COURT: Well, what would you have this Court do
18 about that, assuming that is true? Are you asking this Court
19 to order congress to pass laws?

02:21PM 20 MR. NEELEY: I am asking for the Court to find that
21 the congress -- well, my congressman and senator should be
22 fined for not having -- a law.

23 THE COURT: And under what authority would I do that?
24 And when I say "I," I mean the Court.

02:22PM 25 MR. NEELEY: Under having perjured themselves.

1 THE COURT: Having perjured themselves?

2 MR. NEELEY: Upholding the Constitution they have not
3 done. If they have not attempted to protect artists, they
4 haven't done what the Constitution says.

02:22PM

5 THE COURT: Well, we live in a very divided time
6 politically, Mr. Neeley, and I bet if we went to the street and
7 gathered up a hundred people, they would have anywhere from two
8 to a hundred different reasons why congress is not doing their
9 job. But I don't understand on what authority this Court would
10 have to compel someone in the congress to do anything. Do you?

02:22PM

11 MR. NEELEY: I was hoping that we could -- they could
12 do a order of damages, even if it were just a dollar, but that
13 would be reexamined in a year, or six months.

02:23PM

14 THE COURT: Well, I read that in one of the pleadings
15 that you filed, but it just doesn't work that way.

16 MR. NEELEY: Well, I didn't realize that.

02:23PM

17 THE COURT: Number one, they're immune from suit, for
18 acts or inacts in their capacity as an official of the United
19 States. So you can't sue a congressman for introducing a bill
20 that you don't like or that you think violates the
21 Constitution. And the opposite of that is likewise true: You
22 can't sue them for not introducing a bill or not passing a law
23 that you personally would like to see them pass because you
24 believe it would be in furtherance of the Constitution.

02:24PM

25 What you can do is what thousands of Americans do

1 every day and that is lobby congress. Many different ways to
2 lobby congress. But even if I were inclined to your way of
3 thinking, Mr. Neeley, there's not a piece of paper that I can
4 write out and sign my name to that would have the ability or
02:24PM 5 effect of making any representative or senator do anything.

6 MR. NEELEY: Yes, your Honor. I see that now that
7 that is a -- was a mistake on my part. I apologize.

8 THE COURT: What other grievances do you have,
9 Mr. Neeley?

02:25PM 10 MR. NEELEY: I believe that -- I believe that covers
11 everything. I suppose that's it. I probably should have
12 just -- I apologize.

13 THE COURT: Well, let's turn now to the reasons that
14 the Court cited you in today. And before I get into that, I
02:25PM 15 would like to know a little bit more about you personally,
16 Mr. Neeley, and I met with you before we went on the record to
17 kind of explain this. This will help me understand where
18 you're coming from a little bit more as I approach the issues
19 that are set forth in the show cause order. But if for some
02:25PM 20 reason you'd prefer not to answer them, then you just tell me
21 you'd prefer not to. I don't mean to invade your privacy or to
22 embarrass you in any way.

23 MR. NEELEY: Thank you, your Honor.

24 THE COURT: I understand that you were in a very
02:26PM 25 serious car wreck several years ago; is that right?

1 MR. NEELEY: Yes, sir.

2 THE COURT: What year was that?

3 MR. NEELEY: September 3rd, 2002.

4 THE COURT: Somewhere along the way, I saw a
02:26PM 5 photograph of your car, and it's very difficult to believe that
6 you survived that. But I'm very thankful that you did.

7 MR. NEELEY: Thank you, your Honor. I was in a coma
8 for six weeks, and my wife did a DNR order and had the
9 respirator disconnected.

02:26PM 10 THE COURT: And you had the what?

11 MR. NEELEY: Respirator disconnected. And --

12 THE COURT: They thought that you were so far gone
13 that they were going to pull the plug on you, so to speak?

14 MR. NEELEY: They did, yes, sir.

02:26PM 15 THE COURT: And you showed them, I guess?

16 MR. NEELEY: Well, not exactly. My brother said I
17 squeezed his hand. The judge -- or not the judge. The surgeon
18 attending said that happens when you're dying. And he asked
19 him to look at it again. They asked me if I was there, to give
02:27PM 20 them a thumbs-up, and I did.

21 THE COURT: That's amazing. Did that happen here in
22 Arkansas, or was that when you were in California?

23 MR. NEELEY: Yes, sir, it was here.

24 THE COURT: Here in Arkansas?

02:27PM 25 MR. NEELEY: It was here.

1 THE COURT: Mr. Neeley, I spent over 24 years in
2 private practice before I was appointed to this position, and a
3 large part of my practice and private practice was representing
4 people who were injured through the fault of other people,
02:27PM 5 through a negligent 18-wheeler or through allegedly by the
6 hands of the negligent doctor or allegedly by the hands of a
7 defective product, many different theories. But the point is I
8 represented a lot of people who had some very, very serious
9 injuries that they/we alleged to be caused by some other person
02:28PM 10 or some other corporation. So I feel that I have a certain
11 amount of empathy for you and what you've gone through.

12 I have had the -- I've had the -- I've been in the
13 position of representing people who have gone through those
14 injuries and come out on the other side with brain injury. I
02:28PM 15 represented a gentleman within the last six or seven years, as
16 a matter of fact, who was in a prolonged coma, not as long as
17 yours, but I believe in the range of three or four weeks.
18 Doctors said that he, if he survived would, you know, would
19 basically be a vegetable.

02:29PM 20 This gentleman was a very intelligent person before
21 the accident, and thank God he not only survived but made
22 remarkable progress. He was ultimately left with several
23 neurological-related impairments which left him -- I would
24 analogize it to someone that's had a stroke. He couldn't walk
02:29PM 25 very well, he had difficulty speaking, he had difficulty

1 formulating words in his mouth. But if you gave him time, the
2 intellectual part of his brain worked just fine. And he was as
3 smart after the accident as he was before the accident.

02:30PM 4 But whenever you suffer a brain injury, I've learned
5 that it can do some very strange things to your brain. For
6 example, like in this gentleman's case, the intellectual part
7 of his brain worked just fine, but he lost a lot of cognitive
8 abilities. He lost the ability to, you know, see two facts and
9 understand what their connection was. It horribly affected his
02:30PM 10 emotional coping capabilities. It horribly affected his, what
11 I would generically call his filters. He could just blow up on
12 somebody, you know, in a second because he didn't have any
13 social filters.

02:31PM 14 Brain injuries and the healing of brain injuries can
15 be very mysterious things. What I'm interested in knowing from
16 you, given that I feel like I have some understanding of that,
17 and I read something in one of your pleadings about how you
18 must have been under the care -- not under the care, but you
19 must have had a guardianship over you at some point in time; is
02:31PM 20 that right?

21 MR. NEELEY: I did, yes, sir. Yes, your Honor, I
22 did.

23 THE COURT: From what year, year to year was that,
24 Mr. Neeley?

02:31PM 25 MR. NEELEY: 2003 to 2006, your Honor.

1 THE COURT: And did you have a guardian of your
2 estate and over your person, or just one or the other?

3 MR. NEELEY: Both.

02:31PM

4 THE COURT: And what happened in 2006 that caused
5 those disabilities, those legal disabilities to be removed?

6 MR. NEELEY: I -- I went to court, I suppose.

7 THE COURT: And took action to have them removed?

8 MR. NEELEY: Yes, sir.

02:32PM

9 THE COURT: All right. Mr. Neeley, do you have
10 any -- other than obviously -- and for the record, I should
11 note that you're in a wheelchair today. This car accident that
12 you were in took your legs; is that right?

02:32PM

13 MR. NEELEY: Yes, your Honor -- well, no, your Honor.
14 Indirectly it did. It paralyzed me from the midback down and
15 then I got pressure sores on my feet and they wouldn't heal and
16 wouldn't heal. So I just asked them to cut off my legs.

17 THE COURT: Okay.

18 MR. NEELEY: And they did, and so indirectly, I
19 guess, yes.

02:32PM

20 THE COURT: Do you know or have you ever been
21 diagnosed as having any neurocognitive impairments?

02:33PM

22 MR. NEELEY: I believe so. They -- I had -- for a
23 time I took a medication for -- to make, like you were saying,
24 the filters, a filter -- kind of a filter medication that would
25 keep me from saying things. And I have had difficulty with

1 that, but I think I've gotten significantly better.

2 THE COURT: Mr. Neeley, I've tried lawsuits as a
3 lawyer throughout my entire career in private practice, and
4 thus far, I've had an opportunity to preside over three jury
02:33PM 5 trials as a judge. And in almost every trial that I've ever
6 been in, whether it be as a lawyer or on the bench, there is a
7 passage or a part of a standard jury instruction that goes
8 something to the effect of that you, the jury, are obligated to
9 abide by the law as the judge instructs you, whether you like
02:34PM 10 that law or don't like that law or wish that that law were
11 something else, even if you know that it's not the law.

12 Juries are charged with the responsibility to
13 determine fact issues. The Court, or the judge, is obligated
14 to instruct the jury as to what the law is, and juries are told
02:34PM 15 that, like I said, it doesn't really matter what they think the
16 law is; they're obligated to take that law and apply it to the
17 facts before them.

18 As a plaintiff in a lawsuit, you have an obligation
19 to set forth in your initial pleading known as a complaint, a
02:35PM 20 recognized cause of action on the face of the complaint. I
21 know you've researched some of this stuff, but in Rule 8 of the
22 Federal Rules of Civil Procedure, you're required to state --
23 and you're required to make a short and plain statement of your
24 claims showing that you are entitled to relief. And that
02:35PM 25 statement must contain sufficient facts on the face of that

1 initial pleading, known as the complaint, to state a plausible
2 claim that demonstrates that the defendant or defendants that
3 you have sued are liable for the misconduct that you've accused
4 them of.

02:36PM

5 Now, they're just allegations. And the Court, at the
6 initial review phase, must look at those and assume that
7 they're true, assume that the facts that you have stated are
8 true. The test is whether, if you take the facts as stated in
9 the complaint as true, has the complaint stated a recognized
10 action.

02:36PM

11 If your complaint doesn't do that or if later on the
12 Court takes and considers some preliminary evidence, or not
13 preliminary evidence but the parties submit affidavits and
14 depositions and that sort of thing, and if the Court at that
15 later opportunity decides that there isn't any fact question
16 for the jury to decide, then your case never makes it far
17 enough to where you are entitled, you or anyone else,
18 Mr. Neeley, are entitled to a jury.

02:37PM

19 Another common theme that I saw through your
20 complaints is that you've been deprived of your Seventh
21 Amendment right to a jury trial. And understand that while the
22 Seventh Amendment is very jealous of its protection of all of
23 our rights to a civil jury, you're only entitled to a jury to
24 the extent that there's a fact question. And if your
25 complaint, or the evidence that you develop after filing a

02:38PM

1 complaint, does not lead to any remaining genuine issues of
2 fact, then the Court under the Rules is obligated to dismiss
3 it. And so whether you agree -- like we tell these jurors,
4 whether you agree that that's what the law is, whether you wish
02:38PM 5 the law was different, doesn't really matter. And I don't mean
6 that in a mean way. I mean that the Court is obligated to look
7 at the rules and the law and to apply that to what's before it.
8 The Court can't act on what you would like the law to be. Do
9 you understand that?

02:39PM 10 MR. NEELEY: I do. The one thing I don't understand
11 is how is it that they can allege that I -- my name's on a page
12 and to reach those images, return those images when my name is
13 not on a page. I mean, most of the time Google has stopped
14 that; however, there are simple cases where they have not. And
02:39PM 15 I have kindly said, guys, would you please take my -- my name's
16 not on this page, it's a bigger cache, do something. But they
17 have not. And so they keep alleging it's there.

18 THE COURT: I don't know the answer to that,
19 Mr. Neeley. You know, I don't have very good understanding.
02:40PM 20 I've never had a case like that before. I don't really
21 understand whether Google merely provides the computing power
22 against which their search engines operate or whether there's
23 some other entity, whether it be a company that sells a service
24 somehow associates names with products or what have you. I
02:40PM 25 really don't know how that part works.

1 What I can say is this: Google, like any other
2 company, if they're not providing a good service or if they're
3 finding a service that you think is a bad service or they don't
4 operate the way that you would like them to operate, go to a
02:41PM 5 different service.

6 MR. NEELEY: My problem is that children who are in
7 schools, my children who type in my name will see images that
8 are not on pages that my name's on there.

9 THE COURT: But Mr. Neeley, if we start down that
02:41PM 10 path, one of the tragic things that I have presided over so far
11 are some of these criminal sentencings, and people stand right
12 here before the Court and they or their attorney will tell me
13 about these bad things, in that case obviously criminal things,
14 that they've done. And they ask the Court to have mercy in the
02:42PM 15 sentencing because they're going to be gone for a long time
16 from their kids and their family. And I take that into
17 consideration. And I can't imagine what it would be like to be
18 sent away, when your child is very young, for something bad,
19 and you come back five years later or ten years later and you
02:42PM 20 try to normalize your relationship with your family.

21 The bad thing that those criminal defendants have
22 done is always going to be there, and that person can't go
23 around to Google and every other search engine and say, would
24 you please disassociate my name with all the news stories back
02:42PM 25 at the time because I don't want my 10-year-old to know that I

1 robbed a bank or that I sold drugs.

2 And Mr. Neeley, I'm not trying to analogize what you
3 did to something criminal. I'm just trying to make the point
4 that, A, I don't know what Google could do about it; but if
02:43PM 5 they did, can you imagine what a ruckus it would be trying to
6 make sure that every bad thing that someone ever did is erased
7 from the Internet.

8 MR. NEELEY: The fact is that currently they have
9 just lost a case in Europe and have to do exactly that. If it
02:43PM 10 is not relevant, then it's not that -- gatherers of links to
11 places are required now to -- unless it's relevant news at the
12 time, they need to remove links.

13 THE COURT: Well, that may very well be and perhaps
14 I'm not just -- not very well educated about that. I don't
02:44PM 15 know that that is the law here.

16 MR. NEELEY: It only happened -- it's not the law
17 here. What I'm saying is that they gather links, that's fine.
18 The fact is they can't -- they don't go back and erase -- the
19 fact is, what I'm saying on my case, if I -- my name's on a
02:44PM 20 page, then so be it, you know, but like you said, you can't go
21 back and change the past. But my name has been taken off a
22 page completely, 100 percent, and the only place that Google is
23 able to get anything on my name on it is they say, well, four
24 years ago, you had your name on there and so therefore we're
02:44PM 25 going to continue to return that page. But even though it's

1 not there now, it was five years ago. The fact is I spent a
2 great deal of time in talking with the Wikipedia foundation to
3 have them remove my name, and they have made sure it's
4 not -- they don't have a history of it being there. They have
02:45PM 5 moved it altogether and yet it still comes up in the Google
6 search engine.

7 THE COURT: In your complaints you've cited to a
8 bunch of different federal statutes, several different cases.
9 I'm not aware that any of those, any of those citations gives
02:45PM 10 this Court the authority to enjoin Google from having its
11 computer systems return a particular search result. But I
12 would suggest this: There are probably -- not probably. There
13 are some very, very, very smart intellectual property lawyers
14 out there in this country. And if Google is violating some
02:46PM 15 statute, some law, some legal principle that a citizen such as
16 yourself has standing to bring a claim in court, there are
17 people, lawyers out there that can advise you about that.

18 And typically -- and I don't know anything about
19 Google, but -- and I hear you saying that you've done this, but
02:46PM 20 typically you start with asking them nicely before you haul off
21 and sue them. And one problem in every lawsuit -- and I don't
22 mean to give you legal advice here, but one thing that I've
23 noticed in every lawsuit that you file is you've kind of taken
24 a shotgun approach, and the shotgun pattern has gotten
02:47PM 25 progressively larger every time you file a lawsuit. And if

1 that is what your concern is, is that your name is still being
2 somehow associated with something, ask Google nicely, A, if
3 they -- if that's physically possible or engineering-wise
4 whether it's possible to make that disassociation.

02:47PM

5 And then if you know that it is and they still won't
6 do it, then go talk to a lawyer to see if there's some legal
7 remedy that you have, or whether that's just the way life is
8 until you go to congress and have them change the law. But you
9 can't file the sort of lawsuits that you have filed that don't
10 recite on the face of your complaint a basis that would give a
11 Court like me the ability to do anything.

02:47PM

12 I hear what you're saying, and I'm empathetic toward
13 you, and I know that you're sincere, but you just haven't given
14 the Court any basis on which to grant you the relief that
15 you're wanting.

02:48PM

16 MR. NEELEY: I understand that, I suppose.

17 THE COURT: Let me ask you a couple other personal
18 questions. And again, you don't have to answer these if you
19 don't want to.

02:48PM

20 What sort of financial resources do you have? Do you
21 have the financial resources to go out and hire a lawyer if you
22 wanted to?

23 MR. NEELEY: No, sir, I do not. I have a hundred
24 and -- \$1,017 per month Social Security.

02:49PM

25 THE COURT: How much?

1 MR. NEELEY: \$1,017 per month Social Security and
2 \$100 of alimony. That's all.

3 THE COURT: Did you get any sort of settlement out of
4 this car wreck that you were in many years ago?

02:49PM

5 MR. NEELEY: I did. That is -- was used to build a
6 home, and that home is now with my ex-wife.

7 THE COURT: Okay.

02:49PM

8 MR. NEELEY: I have had the -- my -- the people who
9 are around me, my friends, basically told me to -- that if this
10 is going to be dismissed to give up, and I can do that. But I
11 don't understand how -- I mean, I can try the nice approach,
12 you know, again, but it seems to me like it would be so easy to
13 stop doing that they don't. It makes it more -- makes me more
14 angry, that it would be so easy to stop, but they don't.

02:50PM

15 Anyway, the fact is my name is not on the page and
16 yet the picture returns in searches for my name.

02:50PM

17 THE COURT: Well, again, I can understand how that
18 would be aggravating, and I understand how when you have been
19 horribly injured through no fault of your own like you have
20 that you have a lot of -- well, I don't know you, Mr. Neeley.
21 So I shouldn't say that. But -- and when I was in private
22 practice, I had clients who had been injured and they didn't
23 have any family that was close by and so they ended up -- and
24 my mother did the same thing after my dad died. They suddenly
25 just start thinking about things and it just kind of snowballs,

02:51PM

1 you know, in their head, and it takes on kind of, you know, a
2 life of its own after a while. And, you know, it appears to me
3 from reading -- and the extent that you've gone through to do
4 the research -- that you've really kind of obsessed about some
02:51PM 5 of this. And I believe that it's sincere, but I think that
6 it's gotten out of hand. And it -- well, let's get into the
7 specifics of why I asked you to come before the Court today.

8 And I appreciate you sharing with me all that you
9 have shared with me because I think that I understand what your
02:52PM 10 grievances are, and I hope that you understand that I'm not
11 just some incompassionate person that reads papers and tries to
12 get rid of cases but that I have to play by the rules, too, and
13 that there are certain orders that are in place, there are
14 certain rules that are in place, there are laws and precedent
02:52PM 15 that I'm obliged to go by. And even if I felt as though there
16 were merit to some of these beliefs and approaches that you
17 believe in, there's nothing that this Court has the power or
18 ability to do. But I think that I have a better sense of where
19 you're coming from, if nothing else.

02:53PM 20 Getting to the three elements in the order to appear
21 and show cause -- and you have proffered for the Court certain
22 affidavits of support that I'm collectively going to mark as
23 Court's Exhibit Number 1 for the record. You've also tendered
24 a supplemental amended complaint that I'm going to mark as
02:53PM 25 Court's Exhibit Number 2 for the record. And I will look

1 through and read your proffered supplemental complaint after
2 the hearing today.

3 But the first thing that I asked you to show cause
4 about was why you should not be held in contempt or otherwise
02:54PM 5 sanctioned for the deliberate and willful violation of this
6 Court's prior order and injunction.

7 Mr. Neeley, do you recall -- well, I know you do --
8 but on February 15th of 2013 in Case Number 12-5208, the Court
9 entered an order and an injunction. It was Document Number 58
02:55PM 10 in that court case file. It was attached as Exhibit 1 to the
11 order to appear and show cause.

12 You were aware at the time that you filed this
13 complaint on March 6th of this year that Judge Hendren had
14 ordered you to not file any further complaints or other
02:55PM 15 pleadings related to the same subject matter as your prior
16 litigation. You were aware of that, were you not?

17 MR. NEELEY: Yes, sir, I was aware. I believe I
18 followed that. I --

19 THE COURT: And you believe what?

02:55PM 20 MR. NEELEY: I believe that that's why I did it. I
21 don't believe that's the same thing.

22 THE COURT: Mr. Neeley, you have used -- you've named
23 different defendants, you have approached some of these
24 arguments from different angles, but at its core, your
02:56PM 25 grievance -- grievances, plural, that you've explained to me

1 today are essentially the same grievances as you brought before
2 Judge Hendren in 2012 in Case Number 12-5208, are they not?

3 MR. NEELEY: No, sir. In the past I had published
4 pictures of figurenudes. Naked pictures I had published on the
02:57PM 5 Internet, and I was selling them. And when I was, Google came
6 in and showed them to everybody and that's why the first one
7 was, I said my right to control my art should not have been
8 violated.

9 And it had nothing to do with what -- now currently,
02:57PM 10 and the current complaint has nothing to do with naked art, but
11 it has art that I have put in behind passwords. And they are
12 now going past the password protection and getting those and
13 showing them. And they do that for not only me, but they do
14 that for other people. And it causes -- anyway, it's not the
02:57PM 15 same. And that is the only thing that the affidavits say. It
16 is not the same.

17 THE COURT: Mr. Neeley, I don't say this to be mean
18 but, you know, when I read your complaints, I can read and
19 comprehend the words that you write. But whenever I try to
02:58PM 20 analyze the legal framework and figure out what your -- what
21 legal relief you're seeking, it makes no sense to me.

22 The same is largely true for the other complaints
23 that you filed, including the complaint in 12-5208. But I find
24 that they all arise out of this notion that you had these
02:58PM 25 figurenudes out there at one point in time and your name has

1 been associated with those figurenudes, and in some shape,
2 form, or fashion you feel aggrieved by that and you're asking
3 for these different remedies. And the remedies in this, in the
4 instant case, the one that you filed a few weeks ago, may be
02:59PM 5 somewhat different. They may cite a different statute or what
6 have you, but it all arises out of the same, same underlying
7 nexus.

8 I think what Judge Hendren was trying to state was at
9 that point he didn't feel that if you had -- for example, let's
02:59PM 10 say you had another car wreck, God forbid, and it was a truck
11 wreck caused by a company that operated this eighteen-wheeler
12 that ran over you, and this eighteen-wheeler was headquartered
13 in New Mexico and therefore you had diversity of citizenship
14 and the minimal dollar limitation for jurisdictional purposes
03:00PM 15 was met and therefore federal court jurisdiction was proper. I
16 don't think Judge Hendren would have had a problem with you
17 suing for personal injuries because you had been involved in a
18 truck wreck.

19 But I think that the Court's order clearly
03:00PM 20 contemplated that you not file another lawsuit without
21 proffering it to the Court first to determine whether or not it
22 was related. That was the whole purpose for why the Court
23 asked that you let the Court have an opportunity to look at it
24 before you file it.

03:00PM 25 You knew that, did you not? You knew from Judge

1 Hendren's order that the --

2 MR. NEELEY: I did.

3 THE COURT: -- Court wanted to prescreen --

4 MR. NEELEY: I did.

03:01PM

5 THE COURT: -- any complaints that had to do with
6 this notion about the figure nudes and the name association with
7 your name and that sort of thing, did you not?

8 MR. NEELEY: I did. That is not in the current
9 complaint, although. I mean, it is not there. It's -- I am

03:01PM

10 saying the graphics that I have put behind password protection
11 are being returned. Not -- there are no nudes. Now, the nudes
12 that returned are not -- should not be because that is
13 not -- my name is not on the page. That's a whole different
14 issue. But this is them bypassing the password protection.

03:01PM

15 THE COURT: The second thing that you were cited to
16 appear and show cause for was why you should not be sanctioned
17 pursuant to Rule 11 of the Federal Rules of Civil Procedure for
18 filing this instant complaint, the one that you filed on May
19 6th of this last year. Have you reviewed Rule 11?

03:02PM

20 MR. NEELEY: I have. I don't believe that the
21 complaint I did, I don't believe I had any intention to violate
22 Rule 11. I signed it. It was not just to cause harm. I was
23 looking for relief. And I would still be if what is missed is
24 that I believe they shouldn't bypass passwords.

03:02PM

25 If an artist says don't show this to anybody except

1 members of this site, that should not be shown to anonymous
2 people, who will be children and other people.

3 But basically the fact that they are doing it, they
4 are bypassing the password protection that is allowed on the
03:03PM 5 sites and my claim would be that I would like to have them not
6 do that anymore. And to me if there's some other way I could
7 say it, like it's fraud or it's, you know, some other way to
8 say it. But basically it's wrong to violate somebody's desire
9 to tell only people who are members of the website and not

03:03PM 10 random, anonymous people. And that was what I would like to
11 have done and that, I don't believe, should violate Rule 11. I
12 signed everything.

13 THE COURT: Well, Mr. Neeley, you -- it's hard for me
14 to look at your complaint and label anything as a legal cause
03:04PM 15 of action, but you filed for such things as that your parental
16 child-rearing rights have been infringed. You've brought up,
17 once again, this notion that there are problems with the way
18 that the copyright clause of the Constitution and the very
19 copyright laws are -- either have been interpreted or that
03:04PM 20 there hasn't been legislation properly enacted to give any true
21 meaning to them.

22 You've suggested that the Courts or the FCC or that
23 someone has failed to recognize the fundamental human right of
24 disassociating in more what you believe to be immoral artwork
03:05PM 25 with one's name. You've alleged violations of so-called

1 communications crimes against Google under 18 U.S.C. Section
2 2511. I believe you -- I could be mistaken on this,
3 Mr. Neeley --

4 MR. NEELEY: No, sir.

03:05PM

5 THE COURT: -- but I believe that you've sued Google
6 under that very same statute previously. You have sued under
7 the copyright protection laws at 17 U.S.C. Section 106(a). I
8 believe that you've done that previously as well.

03:05PM

9 I believe that in your very first lawsuit back in
10 2009 in Case 5151 that you sued under 17 U.S.C. Section 106(a),
11 did you not?

12 MR. NEELEY: Yes, sir. That was one of the many
13 complaints that I think that's where -- it ended on that and,
14 yes, sir, I --

03:06PM

15 THE COURT: And Judge Hendren said don't file any
16 more claims or causes of action based on -- that you've
17 previously litigated, correct?

18 MR. NEELEY: I believe so, yes, sir.

19 THE COURT: Yeah.

03:06PM

20 MR. NEELEY: Which would have been, I thought,
21 copyright, 106(a).

03:06PM

22 THE COURT: You sued, you know, on this -- and this
23 is not the first time that you've sued on this, but I think
24 that you also sued under this notion of Article III of the
25 Constitution when it talks about judges serving during periods

1 of good behavior that that should be reinterpreted to mean not
2 past the age of 70. Is that the first time you've ever alleged
3 something like that?

4 MR. NEELEY: Yes, sir.

03:06PM 5 THE COURT: You think it is the first time?

6 MR. NEELEY: This time?

7 THE COURT: Yeah.

8 MR. NEELEY: I think it is. I think in the past I
9 may have said something inappropriate in court, but I never --
03:07PM 10 I never did in the filing.

11 THE COURT: The -- in the case 13-MC-0066 and/or case
12 13-5293, that was the complaint where you sought permission to
13 file it, but it wasn't filed. And then the second one was the
14 one where you turned around a couple of weeks later and filed a
03:07PM 15 lawsuit anyway.

16 Did you not bring up this notion about the
17 oligarchies and that they should be forced to retire at age 70?

18 MR. NEELEY: I have no idea. I have -- I might have
19 looked over that again, but I have no idea. I mean, if I did,
03:07PM 20 I did. I don't -- I don't remember.

21 THE COURT: Well, I could go on and on of the
22 different sort of things that you have alleged. It's difficult
23 for me to understand and put a label as a cause of action on
24 them. But the essence of Rule 11 of the Rules of Civil
03:08PM 25 Procedure, Mr. Neeley, is that it ought not to be that just

1 because you have enough money to pay the filing fee that you
2 can walk down to the courthouse and file anything on a piece of
3 paper and start the legal process.

03:09PM 4 You have to have some genuine, legitimate basis in
5 law and fact to go along with your lawsuit. You can't just
6 haul off and sue senators and judges and FCC commissioners when
7 there isn't an adequate basis in fact in law.

03:09PM 8 And I realize that you believe that there is a basis
9 in fact, but Rule 11 requires that your legal theory be either
10 well grounded or be in good faith based on what you -- and I'm
11 going to butcher this paraphrasing -- but a good faith
12 proposition for a change in the law.

03:10PM 13 For example, if you believe that an act that has been
14 passed is unconstitutional, you could be the very first person
15 to challenge it, and there wouldn't be any law necessarily on
16 which you would base that and so you may file a complaint
17 challenging the constitutionality of something. But even
18 there, there's a procedure for doing those sorts of things and
19 there's a procedure for how you state them. And Mr. Neeley,
03:10PM 20 you haven't stated, as best I can tell, any bona fide,
21 legitimate, legally recognized causes of action.

22 I think that you would be enormously well served if
23 you would take these sincerely held beliefs that you have and
24 go run them past a lawyer first. Why do you not think that
03:11PM 25 would be a good idea?

1 MR. NEELEY: I can't afford a lawyer.

2 THE COURT: Well, so is it then the law that everyone
3 that can't afford a lawyer is, no matter how well meaning they
4 are, has the right to go down and file a bunch of gobbledygook
03:11PM 5 on paper and clog up the court system? Do you believe that
6 that's the way our system should operate?

7 MR. NEELEY: No.

8 THE COURT: The third reason why I asked you to
9 appear and show cause today, Mr. Neeley, was to state why your
03:11PM 10 current complaint should not be summarily dismissed. As I've
11 already indicated, I've read over it several times. I've
12 compared it to your prior lawsuits, and I think that it should
13 be summarily dismissed for any number of reasons, not the least
14 of which is that, as I interpret the injunction that was in
03:12PM 15 place, you shouldn't have filed it without getting advance
16 permission of the Court to do so because I find that it is
17 related.

18 Secondly there's all sorts of these legal concepts of
19 res judicata and the fact that there's simply no legal basis on
03:12PM 20 the face of the complaint to support a recognized claim for
21 relief. So there are many reasons why I think that it should
22 be dismissed; however, you have tendered to the Court a
23 proposed amended complaint, and I don't have the time in the
24 middle of this hearing to sit down and read over that and study
03:13PM 25 it, but I'm going to.

1 I'm going to take this matter under advisement, and
2 I'll be issuing a formal order at a later date on each of those
3 three items, and I'll reserve judgment on your amended
4 complaint until I read it. But even though we've not set down
03:13PM 5 to compose that order, I can tell you that it will be this
6 Court's finding that you have violated this Court's order by
7 filing this lawsuit without getting advance permission. You
8 were enjoined and ordered not to do that, and you did it
9 anyway.

03:14PM 10 Whether and what sort of contempt or sanctions that
11 results in I want to give some more thought to. I can also
12 tell you that your current complaint that I have read that I'm
13 going to find that it should be dismissed. If there's
14 something new in your proposed amended complaint, then I'll
03:14PM 15 deal with that whenever I read it. But as it currently stands,
16 there's just not anything there, Mr. Neeley.

17 I'm going to temper those findings with some other
18 findings, which are I believe that you're an intelligent
19 person; I believe that you have some sincerely held beliefs; I
03:15PM 20 believe that, as you have indicated, that you do have, to some
21 extent or degree, some neurological impairments -- strike
22 that -- neurocognitive impairments. And I don't know to what
23 extent that is at play here, but I think that it may very well
24 be, and I'm going to take that into consideration.

03:15PM 25 What I need to get you to do more than anything is to

1 tell me whether it is your current plan to keep on filing these
2 types of lawsuits or not. Because if you tell me that it is,
3 then I'm going to have to include some sanctions because that's
4 the only way that I know to get your attention.

03:16PM

5 MR. NEELEY: Your Honor, my belief right now is that
6 it is not correct what they're doing. However, apparently law
7 is not the -- I am not going to do anything else, is that I am
8 done. I apologize for having not -- I have abused the Court.
9 I had no idea that's what I was doing, and I apologize. I will
10 not do that again.

03:16PM

11 THE COURT: Okay. And you're going to make
12 that -- you're under oath. Are you making that commitment to
13 me right now?

03:16PM

14 MR. NEELEY: I am under oath. I am not going to sue
15 Google or Microsoft or anybody else. In fact, I'm never going
16 to sue anybody because it just doesn't -- I was wrong. I mean,
17 as much money, I have borrowed money to -- you know, I mean,
18 I'll be paying for this for a long time just the way it is
19 right now. So I am not going to come back.

03:17PM

20 THE COURT: All right. Very well.

21 The Court will take the matters identified in the
22 show cause order under advisement at this point. We'll be
23 issuing a formal order.

03:17PM

24 In the order to appear and show cause, the Court
25 indicated that the named defendants need not appear pending

1 further orders of the Court and that order will remain in
2 effect.

3 Anything further, Mr. Neeley?

03:17PM

4 MR. NEELEY: Nothing other than I would like to beg
5 the Court for leniency on monetary because -- as far as how
6 much of a fine. Because having paid fine fees twice and
7 everything else, I have really no means of paying a fine, and I
8 guess ask the Court for its mercy.

03:18PM

9 THE COURT: All right. Thank you, Mr. Neeley. I'll
10 take that under consideration.

11 (Proceedings concluded at 3:19 p.m.)

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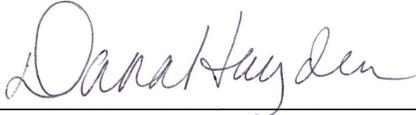
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CERTIFICATE OF OFFICIAL REPORTER

I, Dana Hayden, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Arkansas, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 2nd day of May, 2014.

**DANA HAYDEN
CERTIFIED COURT REPORTER
ARKANSAS SUPREME COURT
LS NO. 714**



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