UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

NORTH JERSEY MEDIA GROUP INC.,

Plaintiff,

14 Civ

7630

-against-

FOX NEWS NETWORK, LLC AND JOHN DOE NOS. 1 - 5,

Defendants.

COMPLAINT AND JURY

Plaintiff North Jersey Media Group Inc. ("NJMG"), by its undersigned attorneys, for its complaint against defendants Fox News Network, LLC ("Fox News"), and John Doe Nos. 1-5 alleges:

Nature of the Action

1. NJMG is bringing this action to enforce the copyright in its iconic photograph of three firefighters raising the American flag at the ruins of the World Trade Center site on September 11, 2001 (the "WTC Flag Raising Photograph").

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the claim in this action pursuant to 28 U.S.C. §§ 1331 and 1338 because it arises under the Copyright Act, 17 U.S.C. § 101.

- 3. Upon information and belief, venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(a).
- 4. Defendants are subject to the personal jurisdiction of this Court pursuant to C.P.L.R. § 301.

Parties

- 5. NJMG is engaged in the business of reporting. NJMG is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business in Woodland Park, New Jersey. NJMG is the leading provider of news and marketing services in northern New Jersey. The Record and its sister publication, Herald News, are awardwinning daily newspapers that reach nearly half a million readers a day with local, investigative and enterprise reporting. Fortynine community newspapers circulate to 778,000 households across Bergen, Passaic, Essex, Morris, Hudson, and Sussex counties. Together, the company's daily and community newspapers reach 98% of homes across Bergen and Passaic counties.
- 6. Fox News is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in the State of New York. John Doe Nos. 1-5 are employees or agents of Fox News, whose identities are not known to NJMG.

NJMG's Copyright

7. On or about September 11, 2001, an employee of NJMG, acting within the scope of his employment, took the WTC Flag Raising Photograph, a copy of which is annexed as Exhibit A. The WTC Flag Raising Photograph has become an iconic image that has received international attention. Because an employee of NJMG took the WTC Flag Raising Photograph while acting within the scope of his employment, it is a "work made for hire" as defined by \$ 101 of the Copyright Act. NJMG is therefore the sole owner of the copyright in the WTC Flag Raising Photograph.

Defendants' Infringing Acts

- 8. On or about September 10, 2014, defendants, their agents, or their employees, without permission, posted a copy of the WTC Flag Raising Photograph to the Facebook page they maintain for Bret Baier, the host of "Special Report with Bret Baier," on the web page www.facebook.com/BretBaierSR (the "Bret Baier Facebook page"), a copy of which is annexed as Exhibit B.
- 9. On September 15, 2014, NJMG, through its counsel, notified Fox News of the infringement by sending an e-mail to Dori Ann Hanswirth, Esq., and Nathaniel S. Boyer, Esq., Fox News' outside counsel.
- 10. As of September 19, 2014, Fox News has not removed the WTC Flag Raising Photograph from the Bret Baier Facebook page.

11. This is not the first time Fox News has made an unauthorized use of the WTC Flag Raising Photograph. On October 9, 2013, NJMG filed a complaint in this Court against one of Fox News' television personalities, Judge Jeanine Pirro, for infringing NJMG's WTC Flag Raising Copyright. The action is captioned North Jersey Media Group Inc. v. Pirro, 13 Civ. 7153 (ER). On February 20, 2014, acting on information Fox News provided, NJMG amended its complaint in that action to name Fox News as a defendant.

CLAIM FOR RELIEF

(Copyright Infringement - 17 U.S.C. § 501)

- 12. NJMG repeats the allegations in paragraphs 1 through 11 as if set forth in full.
- 13. NJMG owns, registered and received the United States Certificate of Copyright Registration No. VA 1-014-297 for the WTC Flag Raising Photograph ("WTC Flag Raising Copyright"). A copy of the certificate is annexed as Exhibit C.
- 14. NJMG's WTC Flag Raising Copyright is valid and enforceable.
- 15. Defendants have infringed NJMG's WTC Flag Raising Copyright in violation of 17 U.S.C. § 501 by using it to advertise and promote the "Special Report with Bret Baier" television program. Specifically, the web page, www.facebook.com/BretBaierSR, advertised "Special Report with

Bret Baier" and embedded video clips from the show. The post that infringed NJMG's WTC Flag Raising Copyright featured the hashtags #FoxNews and #SpecialReport.

- 16. Defendants' acts have irreparably damaged and, unless enjoined, will continue to irreparably damage NJMG. NJMG has no adequate remedy at law for these wrongs and injuries. NJMG is, therefore, entitled to a preliminary and permanent injunction restraining and enjoining defendants, their agents, servants, employees, and attorneys and all persons acting in concert with them, from infringing NJMG's WTC Flag Raising Copyright.
- 17. Defendants have willfully infringed NJMG's WTC Flag Raising Copyright.
- 18. NJMG is entitled to recover damages sustained as a result of defendants' unlawful conduct including defendants' profits, or alternatively at NJMG's election, statutory damages.

WHEREFORE, NJMG demands judgment:

- A. Preliminarily and permanently enjoining defendants, their agents, servants, employees, and attorneys and all those acting in concert with them from infringing NJMG's WTC Flag Raising Copyright in violation of 17 U.S.C. § 501;
- B. Awarding NJMG its damages or defendants' profits, or alternatively, at NJMG's election, statutory damages, as a

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result of defendants' infringement of NJMG's WTC Flag Raising Copyright;

- C. Awarding NJMG its costs in this action, including its reasonable attorneys' fees pursuant to 17 U.S.C. § 505; and
- D. Granting such other and further relief as to this Court seems just and proper.

Jury Trial Demand

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, NJMG hereby demands a trial by jury of all issues in this action that are so triable.

Dated: New York, New York September 19, 2014

DUNNEGAN & SCILEPPI LLC

William Dunnegan (WD0415)

wd@dunnegan.com

Richard Weiss (RW4039)

rw@dunnegan.com

Attorneys for Plaintiff

North Jersey Media Group Inc.

350 Fifth Avenue

New York, New York 10118

(212) 332-8300

Exhibit A

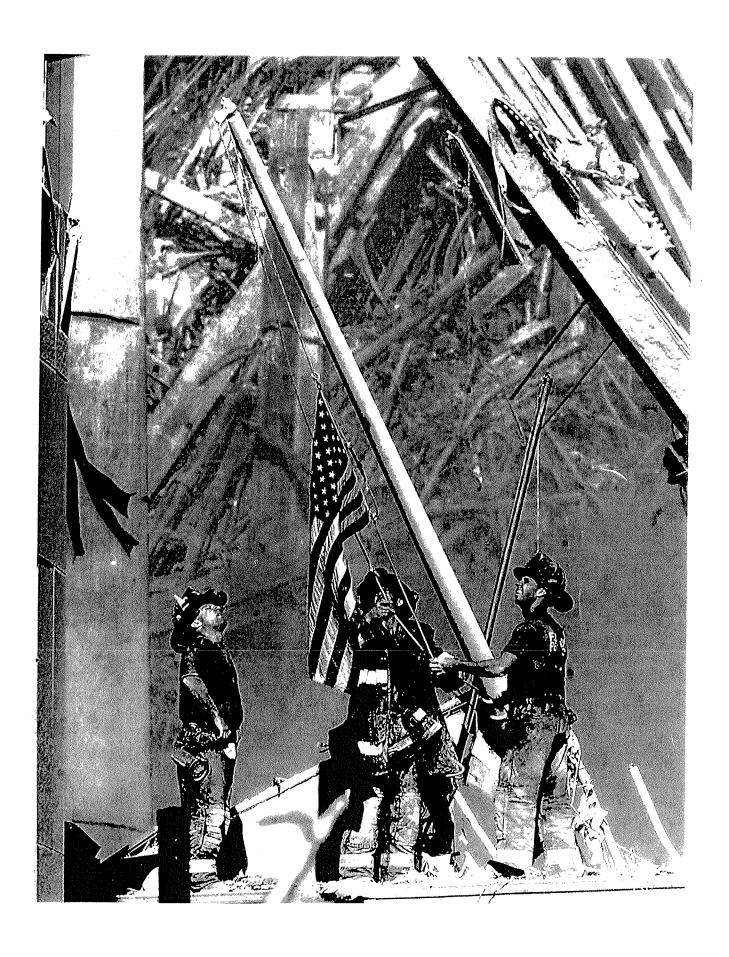
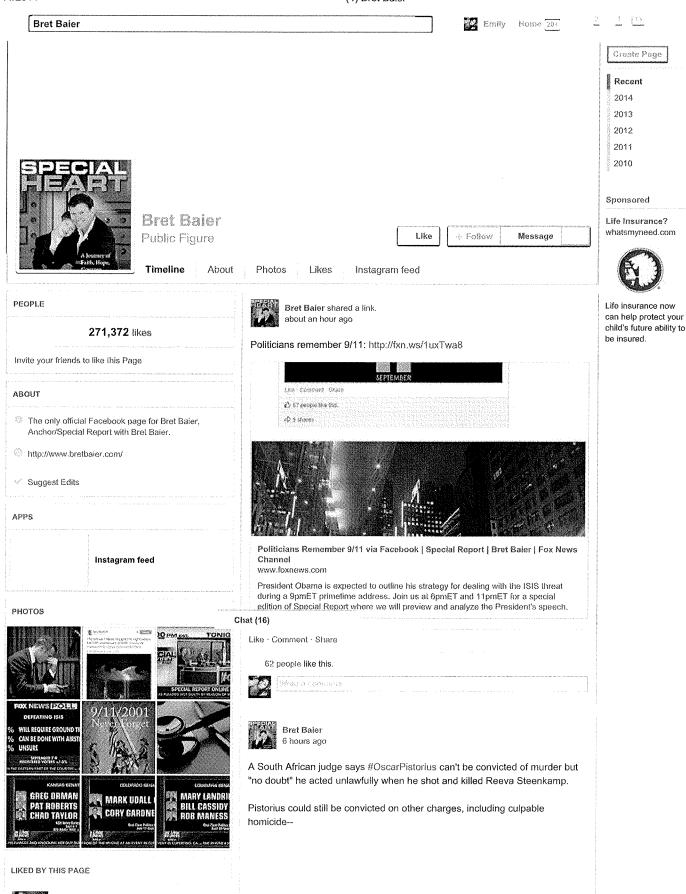


Exhibit B

9/11/2014 (4) Bret Baier



lenna Lee

⊯ Like

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9/11/2014

(4) Bret Baier



Eric Shawn

i Like



r Like

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Like · Comment · Share

4 Shares

107 people like this.

Top Comments



Válto a comment.



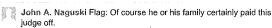
Phyllis O'shaughnessy What a ridiculous verdict

18 · 6 hours ago Like · Reply ·



Flag Gazer Do sports figures ever really pay for their crimes?

Like · Reply · 15 · 6 hours ago



Like · 2 · 4 hours ago



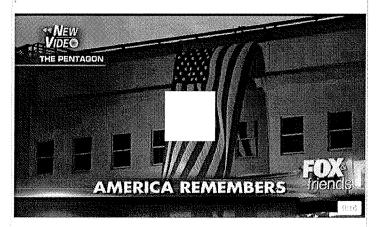
Write a reply

View 29 more comments



Bret Baler shared Fox News's video. 6 hours ago

This morning in Washington, D.C., the American flag was lowered over the Pentagon on the 13th anniversary of the 9/11 attacks.



Like · Comment · Share

1,803 people like this.

Top Comments





Vickie McCarty CO God Bless America

Like · Reply · 22 · 6 hours ago



Danielle Moffa very nice

Like · Reply · 6 · 6 hours ago

View 32 more comments



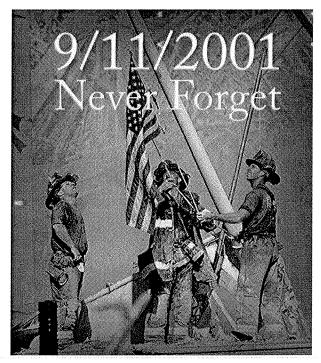
Bret Baler 17 hours ago

Today-- and every day--we remember each of the victims of #September11th terrorist attack and the heroes who risked everything to help.

(4) Bret Baier

Our thoughts and our prayers are with all of the families affected by that tragic day and with the entire nation.

#FoxNews #SpecialReport



Like · Comment · Share

4,220 Shares

1,526 people like this.

Top Comments



Ante a com<mark>ment.</mark>



Gordon Welt And just like the Alan Jackson song, "Where were you when the world stopped turning", I remember where I was, emotions, the news coverage, President Bush 43 on the pile, etc... Never let future generations forget Like · Reply · 61 · 17 hours ago · Edited



Patrick Chmmr Mac Manus I was 12 years old, in bed, Mum was watching TV and saw the second plane hit live.... a horrible thing to see. My heart goes out always to those who lost a loved one.

Like · 11 · 8 hours ago



Youe a reply



Angle Pickle Dont forget the attack on American soil 9-11-12 Benghazi Like · Reply · 56 · 17 hours ago



Paula Brantley Everyday I get up and the time is an 11. Could be 711,911,1111, well you get the point. I thought when I came to nyc last new year it would go away finally. But no it remains. I will never for get that day or today 9112014. God Bless America. God Bless the families of 911.

Like · Reply · 8 · 17 hours ago



Tatiana Nicholson □□ Forever in our hearts! United as one we will always never forget the innocent lives so many

taken....always remember 9/11, We pray for your peace as we remember the terrorism attacks.

God give us your strength to face the memory of this attack and the changes it made in our lives... God Bless America!

Like - Reply - 7 - 16 hours ago



Carole Layton Turchi Never will forget...

Like · Reply · 7 · 17 hours ago



Earlene Silver I don't see how any person in the United States who loves his or her country could ever forget 9-11-01 or the 9-11-12 in Benghazi!!

Carolyn McMoran God bless America and those who love her 🕮

Like · Reply · 4 · 9 hours ago · Edited



Like · Reply · 3 · 10 hours ago



Carolyn Crabtree So sad will never forget. Like - Reply - 3 - 10 hours ago



Inge Laux Collins yes we newer Forget



Like · Reply · 2 · 11 hours ago

(4) Bret Baier



Alissa Marie Campbell It still makes me mad. Every American should STILL be angry. They should show footage of that day every single day.

2 · 17 hours ago



J. Terrell Butler I agree Alissa. And I get more and more angry a your government every day

Like · 1 · 11 hours ago



VVrite a reety.



Jack Jackson Thanks, Bret, for helping to bring clarity to all the confusion and horror going on around us. And thanks for being the dad and husband you are.

Like · Reply · 1 · 6 hours ago



Cherie Byrnes Never forgotten. Like · Reply · 1 · 7 hours ago



Jean Dallen God bless. Like · Reply · 1 · 7 hours ago



Shirley Noten Prayers for all the families. I cried that day as I watched in disbelief

Like · Reply · 1 · 7 hours ago



Karlina Stoney God bless all the men and women, there family's and the firefighters such a sad day xxxx

Like · Reply · 1 · 7 hours ago



Stan Kaplan Yes, we'll remember, but unless and until we have leaders that have the strength to do what's in the best interests of the people instead of their self interests, we will never be safe or reach our full potential.

Like · Reply · 1 · 8 hours ago



Zebbie Smith Still praying for all the families and praying for America and all the first responders as I did then!

Like · Reply · 1 · 8 hours ago



Nancy Kemler Tragic! I am still heart broken over this! May they all R I P Like · Reply · 1 · 9 hours ago



Debbie Tresdwell Everett God bless each family! God bless Americal Like · Reply · 1 · 13 hours ago



Carol Guy we will never forget that day Like · Reply · 1 · 15 hours ago



Doug Plank What's really sad is how many so-called Americans seem to have forgotten what happened and how much outcry there was EVERYWHERE to take revenge. Now those same people want to blame Bush for doing what the country as a whole wanted him to do. Pathetic.

Like · Reply · 1 · 15 hours ago



Brikko Bree Hayashi Amen!



Like · Reply · 1 · 16 hours ago Judy Zandt I live that pic.



Like · Reply · 1 · 17 hours ago



Ben Sweeney Picture speaks a thousand words...The Public should acknowledge the towers falling everyday... It is the real Pledge of Allegiance...

Like · Reply · 3 · 17 hours ago



Steezy Stevie Never forget how for the first second and third time in history a high rise steel building was brought down at freefall speed due to fire Like · Reply · 2 minutes ago



Shirley Hulsey Hanger A Day don,t think any one can ever Forget, God Bless America an All the Families

Like · Reply · about an hour ago



Raymond Harper Jr. Never will! Like · Reply · 3 hours ago



Linda Bromund how can anyone who was alive ever forget that day???? Like · Reply · 4 hours ago



William King I honor the lives lost by investigating 9/11. The official story doesn't make sense

http://www.youtube.com/watch?v=3Zbv2SvBEec#I=840

Like · Reply · 5 hours ago



Gram Gloria God bless the families who tost loved ones. Thankyou.4 their service. Gram gloria

Like · Reply · 6 hours ago



Michael Worsdell no 1 will forget what happened that day but for the love of god 13 yrs and america still go on about it ppl who lost loved 1s that day who werent americas but to bring it up every year is opening the wounds ppl try and forget but u american cant stop bringing this up ever year as it becoming a joke

Like · Reply · 6 hours ago



Linda Geraci Owen D. A. Lika · Ωanhı · 7 haure and

(4) Bret Baier

 \mathbf{P}^{\prime}

Nathaniel A Mack 9/11/01 and 9/11/12 were both inside jobs, people. Wake up. Like · Reply · 7 hours ago



Deborah Parsons-Burckhard God Bless America!!!

Like · Reply · 8 hours ago



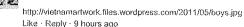
Marisa Lozano Respect Like · Reply · 9 hours ago



Bonnie Wright amen Like · Reply · 9 hours ago



Nick Simaym Never Forget what you did in Vietnam you animals





Aff Lederle Foolish, an Israeli Funker told me, that these assaults were made by faschists that live in the Bible girdle of USA!

Like · Reply · 11 hours ago



William King Question 9/11

Like · Reply · 15 hours ago



Fawn Emler Thank you Bair Like · Reply · 15 hours ago



Barbara Steman Saner i was at work and was the first one to hear it and tell my fellow employees, i had a little radio i kept on low on my desk, when i heard that a plane had hit one of the twin towers, my first thought was not terrorism, when the second plan hit, a sunken feeling went thru my body, i pray it never happens again. Like · Reply · 1 · 8 hours ago



Tim Terry Never forget that day and all fellow Americans in shock watching innocent lives taken as the towers tumbled to the ground.

Like · Reply · 1 · 12 hours ago



Shannon IrishGirl Marie I have friends who were first responders that went from searching for survivors to a recovery effort. The stories are so sad. We must never allow this to happen EVER again.

Like · Reply · 1 · 15 hours ago



Anita Venezia The horrific event still shocks me \dots Will never believe such a thing could happen to our beloved America...

Like · Reply · 1 · 11 hours ago



Denise Hysler Conway Amen Like · Reply · 8 hours ago



Donna Franer http://911review.org/Wiki/TwinTowers.shtml

Like · Reply · 5 hours ago

Write a comment...



Bret Baier 19 hours ago

President Obama laid out a 4 point strategy for combating #ISIS--

A few other key points of the speech below-- Let me know your thoughts.



Like · Comment · Share

299 Shares

584 people like this.

Top Comments

(4) Bret Baier



Danni Hable Wyatt All he said was blah, blah, l am not willing to really fight ISIS so lets just hope I am out of office before it all explodes.

Like - Reply - 96 - 19 hours ago

8 Replies - 6 hours ago



Beth Ann God help us

Like · Reply · 96 · 19 hours ago

1 Reply

View more comments

2 of 277



Bret Baier 20 hours ago

President Obama authorizes U.S. airstrikes in Syria, senior administration officials say, as the president uses a prime-time address to the nation to call for a comprehensive campaign to wipe out Islamic State.

Like · Comment · Share

18 Shares

351 people like this.

Top Comments



Write a comment.



Rose Helisek Hitchman but there was no emotion....... wanted to see anger, fear....something!!!!

Like · Reply · 41 · 20 hours ago

8 Replies · 7 hours ago



Charles Frischknecht i am waiting for action before i believe his words Like · Reply · 30 · 20 hours ago



Loreen Isaacs But wait, he said that ISIS is not Islamic. God help us



Like · 10 · 16 hours ago

2 of 136



Bret Baler 20 hours ago

View more comments

Amazing photo via Gary Hershorn--NYC based photojournalist--on the eve of the 9/11 anniversary.

Fox News

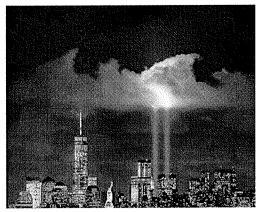


Gary Hershorn

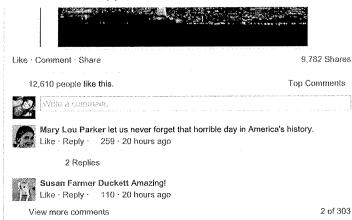


The annual Tribute in Light one night before the 13th anniversary of 9/11, #newyork #newyorkcity @nyc @newyork #1wtc

64 Shapey 🗱 Wethersteld & Parothe *** More



(4) Bret Baier

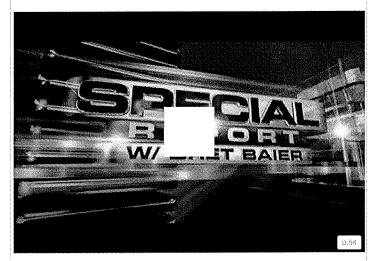


Ω

Bret Baier 21 hours ago

What is the biggest issue we are NOT talking about? The panel weighs in-

#FoxNews #SpecialReport



Like · Comment · Share

75 Shares

722 people like this.

Top Comments



Write a common



Richard Quick The 49 Senate Democrats try to take away our First Amendment rights

Like · Reply · 34 · 21 hours ago

2 Replies · 2 hours ago



Eric Robinson Hmmmmm, well, Big Brother running rough-shod over the Bill Of Rights?

Like - Reply - 32 - 21 hours ago

2 Replies

View more comments

2 of 83

See More Stories >

Exhibit C

Additional Certificate (17 U.S.C. 706) Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Por a Work of the Visual Arts UNITED STATES COPYRIGHT OFFICE

VA 1-014-297

3

Register of Copyrights, United States of America DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET. NATURE OF THIS WORK Y See hetrodors TITLE OF THIS WORK Y Firefighters Raising The American Photograph Flag on the Ruins of the World Trade Center PREVIOUS OR ALTERNATIVE TITLES W Publication as a Contribution if this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared.

Title of Collective Work W On Pages V lique Date V If published in a periodical or serial give: Volume V DATES OF BIRTH AND DEATH Year Born V Year Died V NAME OF AUTHOR Y Was This Anthor's Contribution to the Work
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No
Yes, 'see detailed instructions. Group Inc. d North Jersey Media Author's Nationality or Dominie Was this contribution to the work a OR Cilizer of Mew Jersey XX:Yes Domiciled in New Jerney II No Under the law, the "author" of a "work made for hire" is NATURE OF AUTHORSHIP Check appropriate box(ed). See final ructions [] Technical drawing For hitre" is penerally the emptoyer, not the emptoyee take instruc-tions). For any part of this work that was "made for hire" oneck "yes" in ☐ 3-Dimensional sculpture IT Mep Photograph 2-Dimensional artwork ☐ Architectural work [] Jowelry design Reproduction of work of art DATES OF BIRTH AND DEATH NAME OF AUTHOR Y Year Born 🔻 check "Yes" in the space provided, give the employer (or other person for whom the work was prapared) as "Author" of that part, and leave the Was This Author's Contribution to the Work
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steffen@ballardsphar.com		
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