

**Ex. B**

No. 08-2457; No. 09-2615

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IN THE  
**UNITED STATES COURT OF APPEALS**  
FOR THE FIRST CIRCUIT

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**THREE ANGELS BROADCASTING NETWORK, INC.,**  
**an Illinois Non-Profit Corporation;**  
**DANNY LEE SHELTON,**

*Plaintiffs-Appellees,*

v.

**GAILON ARTHUR JOY; ROBERT PICKLE,**

*Defendants-Appellants.*

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On Appeal from the United States District Court  
for the District of Massachusetts  
Case No. 07-40098

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**DEFENDANTS' AMENDED  
THIRD STATUS REPORT**

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This Court's August 19, 2009, order set forth Defendants' obligation to inform this Court of (a) the status of motions below that impede the progress of Defendants' appeals here, and (b) the resolution of such motions below. Pursuant to that order,<sup>1</sup> Defendants now file this status report.

### **SUMMARY OF 2ND STATUS REPORT**

Defendants' Second Status Report ("2nd SR") filed on February 5, 2010, informed this Court of Defendants' February 3rd objections to the magistrate judge's electronic orders (2nd SR Ex. A), which orders were entered on January 29, 2010. Those orders denied without comment Defendants' motions to (a) forward to this Court the bank statements produced by MidCountry Bank ("MidCountry records"), (b) require Plaintiffs to return the MidCountry records to the district court, and (c) stay until the conclusion of Defendants' appeals the yet unexecuted order that required that the MidCountry records be returned to MidCountry Bank. (Record on Appeal Docket Entry ("RA") 204; RA 210).

### **DEVELOPMENTS SINCE FEBRUARY 5, 2010**

Plaintiffs then filed a response to Defendants' objections on February 18,

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<sup>1</sup>Defendants originally filed this report on April 6, 2010, with an opening paragraph that stated that this status report was not required. At the time, Defendants believed that the August 19 order was no longer in effect, but were unsure if this was true, and did not want to risk dismissal of their appeals due to failure to file a status report.

Upon further reflection, Defendants realize that thus far no court order has vacated the August 19 order's requirement to file status reports every sixty days, and that the opening paragraph of this status report must be amended.

asserting that Defendants' objections were only authorized under Fed.R.Civ.P.

72(a). (Relevant pages thereof are attached hereto as **Exhibit A.**) In that response

Plaintiffs made the following damaging admissions:

- “Not surprisingly, [the magistrate judge] also recused himself after ruling on the motions.” (Ex. A p. 7).
- The MidCountry records “were filed under seal.” (Ex. A p. 7).
- Defendants’ “claims that [Plaintiffs] covered up allegations of child molestation against a 3ABN employee” were part of what “framed the original basis for Plaintiffs’ lawsuit against them.” (Ex. A p. 5)

The significance of these three admissions is readily apparent:

- If the magistrate judge was required to recuse himself, then he should have done so prior to ruling on the motions at issue in Defendants’ objections, not after. Defendants’ objections must therefore be sustained.
- Since the MidCountry records were filed with the district court, those records constitute part of the district court record and part of the record on appeal. Those records must therefore be forwarded to this Court.
- Plaintiffs lied to the district court and obstructed discovery when they sought to prohibit discovery of the pedophilia allegations against Tommy Shelton on the basis of irrelevancy. (RA 75 pp. 12–13; RA 91 p. 8).

Defendants believed that these admissions, as well as Plaintiffs’ misrepresentations in Plaintiffs’ response, warranted a reply, which Defendants

filed on February 26, and which is attached hereto as **Exhibit B**. Plaintiffs subsequently complained that Defendants' reply was not authorized under the rules, and Defendants replied that, according to Plaintiffs' own legal reasoning, Plaintiffs' response to Defendants' objections was likewise unauthorized.

Of particular interest in Plaintiffs' February 18 response is Plaintiffs' unsupported assertion that Defendants' reporting regarding the child molestation allegations against Tommy Shelton was "uncorroborated, unfounded." (Ex. A p. 7). Defendants' reply cited extensive evidence *in the record* showing that Defendants' reporting on that issue certainly was corroborated and well founded. (Ex B p. 7).

On March 18, through news reports sparked by a press release of that date issued by the Fairfax County Police Department ("FCPD"), Defendants became aware that Tommy Shelton had been arrested on charges of pedophilia. Defendants then requested copies of the five felony arrest warrants which the FCPD had obtained, and received them on March 29.

Because the district court had yet to address any of the pending matters, including whether or not to accept Plaintiffs' response to Defendants' objections and Defendants' subsequent reply, Defendants moved the district court on April 1 to permit Defendants to supplement Defendants' reply with two exhibits: (a) the five felony arrest warrants and (b) the FCPD press release. The memorandum and affidavit for that motion, and the two exhibits in question, are attached hereto as

**Exhibits C–F.**

Defendants' objections pertain to the MidCountry records. (2nd SR Ex. A). Plaintiffs injected the issue of the pedophilia allegations into their opposition to Defendants' objections in Part II of Plaintiffs' legal argument. (Ex. A pp. 5, 3). Plaintiffs sought thereby to convince the district court that Defendants have engaged in a "campaign of harassment," and that Defendants are seeking the return of the MidCountry records to the district court, and the forwarding of those records to the First Circuit, "for reasons unrelated to this litigation." (Ex. A pp. 5–6).

Defendants' reporting on the child molestation allegations against Tommy Shelton, and Danny Lee Shelton's cover up thereof, included allegations arising from incidents that allegedly occurred in Virginia in the 1990's. (Ex. C p. 1, with citations to the record). Since a magistrate in Fairfax County, Virginia, has found probable cause that such crimes did indeed occur (Ex. E), Plaintiffs are left without any legal basis for their outrageously fallacious and sanctionable assertion: that Defendants' reporting about the allegations against Tommy Shelton was "uncorroborated, unfounded." (cf. Ex. C p. 2 n.1).

### **IN SUMMARY**

Defendants' objections to the magistrate judge's orders are still pending in the district court. Meanwhile, Plaintiffs have made very damaging admissions on the record, and Virginia authorities have charged Tommy Shelton with crimes relating to child molestation.

Defendants continue to request that this Court hold Defendants' appeals in

abeyance until the MidCountry records are forwarded to this Court as part of the record on appeal, properly certified pursuant to the Federal Rules of Evidence.

Respectfully submitted,

Dated: April 16, 2010

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