
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Three Angels Broadcasting Network, Inc.,
an Illinois non-profit corporation, and
Danny Lee Shelton, individually,

Case No. 0:08-mc-7

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

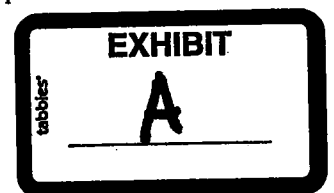
Defendants.

AFFIDAVIT OF JERRIE M. HAYES

STATE OF MINNESOTA)
) ss
COUNTY OF HENNEPIN)

Jerrie M. Hayes, being first duly sworn upon oath, deposes and states as follows:

1. I am an attorney licensed in the State of Minnesota and admitted *pro hac vice* to the Federal District Court of the District of Massachusetts, where I am one of the attorneys representing Plaintiff Danny Shelton in an action in the Federal District Court of the District of Massachusetts captioned *Three Angels Broadcasting Network, Inc. and Danny Lee Shelton v. Gailon Arthur Joy and Robert Pickle* (No. 07-40098-FDS (D. Mass.)). I make this affidavit based upon my knowledge and information.
2. On April 6, 2007, Plaintiffs Three Angels Broadcasting Network, Inc. and Danny Shelton (collectively "Plaintiffs") filed a complaint against Gailon Arthur Joy and Robert Pickle (collectively "Defendants") alleging that Defendants' maintenance and operation



of the websites “www.Save3ABN.com” and “www.Save3ABN.org” constitutes trademark infringement and dilution in violation of the Lanham Act, 15 U.S.C. § 1114 and 15 U.S.C. § 1125(c). A true and correct copy of the Complaint is attached hereto as **Exhibit A**.

3. Plaintiffs’ Complaint also alleges that Defendants have, through these websites and other points of publication, engaged in a willful campaign of defamation designed and intended to damage Plaintiffs and to interfere with Plaintiffs advantageous economic relations with their donors and supporters.

4. Defendants answered the Complaint on May 21, 2007 but alleged no counterclaims or affirmative defenses. A true and correct copy of the Answer is attached hereto as **Exhibit B**.

5. The Federal District Court for the District of Massachusetts heard a motion for impoundment on May 10, 2007 and June 21, 2007 and a motion concerning production of electronically-stored information on August 9, 2007.

6. Defendant Pickle served written Requests for Production of Documents on Plaintiffs on November 29, 2007 and December 7, 2007. Included among the requests was a demand for the bank records of Danny Shelton, D&L Publishing and DLS Publishing. A true and correct copy of page 16 of Defendant Pickle’s Request for Production of Documents is attached hereto as **Exhibit C**.

7. Defendant Pickle has caused four prior non-party subpoenas to issue, all of which seek Plaintiffs’ sensitive, confidential or proprietary business, financial or operational records. True and correct copies of Defendant Pickle’s subpoenas are attached hereto as **Exhibits D, E, F and G**.

8. Plaintiffs have submitted a proposed Protective Order to govern the production of documents and information in the underlying case. True and correct copies of Plaintiffs' Motion for Protective Order and Proposed Order, accompanied by the Affidavit of Danny Shelton in support thereof, are attached hereto as **Exhibit H**.

9. On January 9, 2008, Plaintiff Shelton responded to Defendant Pickle's Request for Production of Documents and specifically objected to the demand for bank account information in Request No. 38 on the grounds that it was irrelevant, sought highly personal and confidential information and was unduly burdensome, harassing and embarrassing. A true and correct copy of page 19 of Plaintiff Shelton's Response to Defendant Pickle's Request for Production of Documents is attached hereto as **Exhibit I**.

10. Plaintiffs have engaged in discussions with Defendants regarding the discovery dispute concerning Request for Production No. 38, but the United States District Court for the District of Massachusetts has yet to hear the matter. The parties have been thus far unable to resolve the issues of relevance or confidentiality in relation to Plaintiff Shelton's personal financial records.

11. Defendant Pickle caused the clerk of the United States District Court for the District of Minnesota to issue a subpoena *duces tecum*, dated December 12, 2007, to non-party MidCountry Bank, demanding production by February 10, 2008 of bank records from 1998 onward for Danny Shelton, D&L Publishing, DLS Publishing and Crossbridge Music, Inc. A true and correct copy of the subpoena *duces tecum* is attached hereto as **Exhibit J**.

12. MidCountry Bank has not objected to the subpoena. Counsel for Plaintiff Shelton confirmed MidCountry's receipt of the Subpoena on January 18, 2008 and learned of its intent to comply therewith.

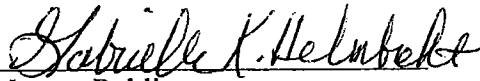
FURTHER YOUR AFFIANT SAYETH NOT.

Dated: February 7, 2008



Jerrie M. Hayes, Esq.

Subscribed and sworn to me
this 7th day of February, 2008.



Notary Public



in that Affidavit's ¶ 4 (or in July 2006 as alleged by ¶ 8 of the Affidavit of Larry Ewing), that donors have stopped donating to 3ABN specifically because of rumors posted on Save3ABN.com, as alleged in that Affidavit's ¶ 5, that Save3ABN.com was the source of any information in the letter published by *Adventist Today*, referred to in that Affidavit's ¶¶ 6-8, other than the child molestation and sexual misconduct allegations against Tommy Shelton, that the individual referred to in that Affidavit's ¶ 8 was indeed a supporter of 3ABN, that demonstrates Save3ABN.com's role in persuading the South Pacific Division of Seventh-day Adventists to enact the moratorium referred to in that Affidavit's ¶ 9, that either Defendant had any knowledge of or involvement in the distribution of the postcards referred to in that Affidavit's ¶ 10, that 3ABN supporters have been confused as to the affiliation of Save3ABN.com as alleged in that Affidavit's ¶ 11, and that Save3ABN.com contains documents that have been edited and commented upon in ways that lead the reader to inaccurate and defamatory conclusions, or that lead the reader to conclude that the original author maintained something by those documents that he or she in effect did not, claims made in ¶ 12 of that Affidavit, and all other emails that support or do not support the positions taken in any of 3ABN or Plaintiff Shelton's court filings, whatever has not already been produced in response to Requests Nos. 1 through 34.

Request No. 36: All documents which You intend to use at trial or which are relevant to documents which You intend to use at trial, that are not already requested in Requests Nos. 1 through 35.

REQUESTS DIRECTED TO PLAINTIFF SHELTON

Request No. 37: From January 1, 1998, onward, all corporation documents, including the originals and all revisions thereof, including but not limited to articles of incorporation, charters, by-laws, or annual filings, for any organizations over which You exercised control except for 3ABN, including without limitation DLS Publishing, and all minutes and other documents of the boards or committees of any such organizations.

Request No. 38: From January 1, 1998, onward, for Plaintiff Shelton, D & L Publishing, DLS Publishing, or any DBA or corporation over which you have exercised control (other than 3ABN), all financial statements, all tax returns (including all required or filed forms, schedules, and worksheets), all financial and accounting records, all bank statements or records (including without limitation statements or records for any investment accounts, savings accounts, or insurance accounts, or any other accounts which give such detail as amount(s) deposited or withdrawn, or an ongoing statement of value), and all credit or charge account statements or records (including without limitation statements or records for any credit cards, charge cards, loans, mortgages, or collateral arrangements, or any other statements or records which give such detail as amount(s) withdrawn, purchase(s) or payment(s) made, or an ongoing statement of amount owed).

Request No. 39: All proofs of payment for the house You purchased from 3ABN in 1998, all proofs of receipt or payment of the loans or mortgages You acquired from Merlin Fjarli or the Fjarli Foundation, and that You gave to Jim Gilley, and all proofs of payment to 3ABN for any services or merchandise 3ABN has, whether directly or indirectly, paid on Your behalf or given to You.

Request No. 40: All documents containing or pertaining to evidence of Linda Shelton's adultery, whether "spiritual" or physical, including without limitation audio or video recordings, phone records of any sort (whether printed or handwritten or otherwise), correspondence, letters,

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Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

Central

DISTRICT OF

Massachusetts

Three Angels Broadcasting and Danny Shelton

SUBPOENA IN A CIVIL CASE

V.

Gailon Arthur Joy and Robert Pickle

Case Number: 07-40098-FDS

TO: Paula Capes, Jennifer Hengel,
Ann Duenow or Keeper of the Records of Midcountry Bank,
Greetings!

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

See Exhibit A attached hereto.

PLACE Office of Bob Pickle, 1354 County Highway 21, Halstad, MN 56548

DATE AND TIME

1/10/2008 11:00 am

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE

SARAH A. THORNTON, Sherry Jones

12-16-07

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Sherry Jones

(See Rule 41 Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

* If location is pending, list district rather than district of residence, state district under case number

α F

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EXHIBIT A

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified:

- All monthly statements, deposit slips or copies thereof, checks or copies thereof from January 1, 1998, onward to the present, for any account of any type owned by, held in trust for, or for whom any of the following were signatories, for whatever months or parts thereof such was true: Danny Lee Shelton (or Danny Shelton), D & L Publishing, DLS Publishing, or any assumed names of any corporations controlled by Danny Lee Shelton, including without limitation accounts owned by Crossbridge Music, Inc., but excluding accounts other than that of Crossbridge Music, Inc., if they are owned by Three Angels Broadcasting Network, Inc. and not Danny Shelton.

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Three Angels Broadcasting Network, Inc.,
an Illinois non-profit corporation, and
Danny Lee Shelton, individually,

Case No. 07-40098-FDS

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

NOTICE OF MOTION AND MOTION FOR PROTECTIVE ORDER
AND REQUEST FOR ORAL ARGUMENT

TO: DEFENDANT GAILON ARTHUR JOY, P.O. BOX 1425, STERLING, MA 01564
DEFENDANT ROBERT PICKLE, 1354 COUNTY HIGHWAY 21, HALSTAD,
MN 56548

NOTICE

PLEASE TAKE NOTICE that on a day and time to be determined by the Court, the undersigned counsel for Plaintiffs Three Angels Broadcasting Network and Danny Shelton will bring a Motion for Protective Order against Defendants Gailon Arthur Joy and Robert Pickle pursuant to Fed. R. Civ. P. 26(c) and Local Rules 7.1 and 37.1 of the District of Massachusetts, at the United States Court House (Donohue Federal Building), 595 Main Street, Worcester, Massachusetts, 01608.

ex H

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MOTION

Plaintiffs Three Angels Broadcasting Network, Inc. and Danny Shelton hereby move the Court for an Order as follows:

1. Directing that the discovery of 3ABN donor names and donation information, as well as other trade secret information of the Plaintiffs, not be had;
2. Directing that any financial or otherwise confidential business or commercial information to be produced by any party shall be subject to an appropriate confidentiality agreement;
3. Directing that the disclosure or discovery of documents and information in the case be had only on the specific terms and conditions of the Protective Order attached hereto as Exhibit A; and
4. For such other relief as to the Court would appear just and equitable.

This Motion is based upon Plaintiffs' Notice of Motion and Motion for Protective Order, Plaintiffs' Memorandum in Support of Motion for Protective Order, any Affidavit(s) filed herewith, the Arguments of Counsel and all other files, record and proceedings herein.

REQUEST FOR ORAL ARGUMENT

Plaintiffs respectfully request that this Honorable Court set a day and time for oral argument to be heard on this Motion.

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Respectfully Submitted:

**Attorneys for Plaintiffs Three Angels
Broadcasting Network, Inc. and
Danny Shelton**

Dated: December 18, 2007

FIERST, PUCCI & KANE LLP

/s/ J. Lizette Richards

John P. Pucci, Esq., BBO #407560
J. Lizette Richards, BBO #649413
Fierst, Pucci & Kane LLP
64 Gothic Street
Northampton, MA 01060
Telephone: 413-584-8067

and

**SIEGEL, BRILL, GREUPNER,
DUFFY & FOSTER, P.A.**

Gerald S. Duffy (MNReg. #24703)
Wm Christopher Penwell (MNReg. #161847)
Jerric M. Hayes (MNReg. #282340)
Kristin L. Kingsbury (MNReg. #346664)
Siegel, Brill, Greupner, Duffy & Foster, P.A.
100 Washington Avenue South
Suite 1300
Minneapolis, MN 55401
(612) 337-6100
(612) 339-6591 – Facsimile

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Local Rule 7.1 Certificate

Undersigned counsel hereby attests that Plaintiffs have complied with the requirements of Local Rule 7.1 by having, in good faith, through counsel and without success, conferred with Defendants in an attempt to resolve or narrow the discovery dispute at issue.

Dated: December 18, 2007

/s/ J. Lizette Richards

J. Lizette Richards

Local Rule 37.1 Certificate

Undersigned counsel hereby attests that Plaintiffs have complied with the requirements of Local Rule 37.1 by having, in good faith, through counsel and without success, conferred with Defendants to narrow the areas of disagreement to the greatest possible extent.

Dated: December 18, 2007

/s/ J. Lizette Richards

J. Lizette Richards

Certificate of Service

I, J. Lizette Richards, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 18, 2007.

Dated: December 18, 2007

/s/ J. Lizette Richards

J. Lizette Richards