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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Three Angels Broadcasting)	
Network, Inc., and)	
Danny Lee Shelton,)	
Plaintiffs,)	
)	
vs.)	Case No. 07cv40098-FDS
)	
Gailon Arthur Joy,)	
and Robert Pickle,)	
Defendants.)	

BEFORE: The Honorable F. Dennis Saylor, IV

Status conference/Motion for Voluntary Dismissal

United States District Court
Courtroom No. 2
595 Main Street
Worcester, Massachusetts
October 30, 2008

Marianne Kusa-Ryll, RDR, CRR
Official Court Reporter
United States District Court
595 Main Street, Room 514A
Worcester, MA 01608-2093
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Mechanical Steno - Transcript by Computer



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1 THE COURT: Let me -- let me just finish. And any
2 records that were delivered under seal and that are in the
3 custody of the magistrate judge shall be returned to the party
4 that produced those documents.

5 Yes, sir. Is this Mr. Pickle?

6 MR. PICKLE: Yes, it is.

7 THE COURT: Yes.

8 MR. PICKLE: Your Honor, one of the concerns that the
9 case law brings up is that -- see -- a voluntarily dismissal
10 without prejudice, one of the questions is well, will there be
11 plain legal prejudice to the defendants, and one of the things
12 that is, like, undue expense.

13 We've had -- and one of the factors they look at is
14 amount of time and effort and expense the defendants have
15 expended. We bring this out in our memorandum. Okay. What
16 the -- what the plaintiffs are doing -- see, our basis for
17 counterclaim --

18 THE COURT: Hold on. Hold on, Mr. Pickle. There's no
19 counterclaim filed, as I understand; is that right?

20 MR. PUCCI: Right.

21 THE COURT: In this case.

22 MR. PICKLE: That is correct, your Honor.

23 THE COURT: You know, and -- and, you know, whether
24 you have some future claim against the plaintiffs, I make no
25 comment on of any kind whatsoever.

1 MR. PICKLE: It is --

2 THE COURT: In terms of -- just let -- let me, if I
3 can. Just in terms of your costs and expense and attorney's
4 fees, my understanding is that but for a brief appearance by
5 Mr. Heal, I think, at the beginning of the litigation, you've
6 been proceeding pro se; and let me add as a further condition
7 that I will at least permit defendants to seek recovery of
8 reasonable costs, fees, expenses -- reasonable cost of
9 attorney's fees or expenses, if they file something within 21
10 days of the date of this order. I'm not promising that I will
11 allow those to be paid, and I'll permit plaintiffs to oppose
12 it, but I will give you the opportunity to make that argument
13 formally and with a specific itemized detailing of your costs
14 and expenses.

15 MR. PICKLE: Okay. Your Honor, if the discovery in
16 this case and work product is not transferable to -- to the
17 other -- the future actions, either by the plaintiff or
18 ourselves, that would prejudice the defendants.

19 THE COURT: Well, it's -- it is transferable, unless
20 it's subject to the confidentiality order. If it's subject to
21 the confidentiality order, you have to return it, or do
22 whatever the order says you're supposed to do with it; and, you
23 know, you have gained presumably a certain amount of
24 information. You're not required to erase it from your brain,
25 and you can use it consistent with the terms of the order

1 as -- as may be permitted by that order, but that's --

2 MR. PICKLE: That would mean, your Honor, that we
3 would have to spend months and months litigating again to get
4 the documents from Remnant, for example.

5 THE COURT: There is going to be no lawsuit pending.
6 You'll have -- we'll have to wait and see how that plays out
7 and in what court.

8 MR. PICKLE: And the one other thing, your Honor, is
9 that the MidCountry Bank records, as far as I know, they were
10 never designated confidential by MidCountry Bank, and it cost
11 us \$3,500 to get those.

12 THE COURT: Again, I'm giving you 21 days to file
13 something with me setting forth what you believe are your
14 reasonable costs, expenses, and attorney's fees incurred in
15 this litigation.

16 Again, I'm not promising I'm going to pay any of them,
17 or permit them to be paid, but I will entertain any filing you
18 wish to make.

19 MR. JOY: Your Honor, are you looking for -- this is
20 now Gailon Joy again.

21 Are you looking for our motion's total cost or --

22 THE COURT: Please characterize it as a motion, so
23 that it -- under the computer system, it -- it's flagged as
24 something requiring my action.

25 MR. JOY: Thank you.