

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF ILLINOIS

ALEX WALKER,	)	
	)	
Plaintiff,	)	No. 12-114-DRH/SCW
	)	CJRA Track: B
v.	)	Presumptive Trial Month: April 2013
	)	Judge David R. Herndon.
	)	
THREE ANGELS BROADCASTING	)	Mag. Judge Stephen C. Williams
NETWORK, INC., and TOMMY	)	
SHELTON	)	
	)	
Defendants	)	

**DEFENDANT THREE ANGELS BROADCASTING NETWORK, INC.'S MOTION TO STAY DISCOVERY**

NOW COMES Defendant, Three Angels Broadcasting (3ABN), by and through its attorneys, Johnson & Bell, Ltd., and respectfully move this Honorable Court to enter an Order staying discovery until after Defendant's Motion to Dismiss based on lack of subject matter jurisdiction is ruled upon. In support thereof, Defendant, states as follows:

1. Plaintiff filed a Complaint at law asserting allegations of illicit sexual misconduct against Tommy Shelton, while he was an alleged employee of 3ABN. This case was initially filed in the United States District Court for the Northern District of Illinois. This case was then transferred to the Honorable David R. Herndon and accepted by the United States District Court for the Southern District of Illinois on February 7, 2012 with a Court No. of 12-114-DRH/SCW.

2. This Court, specifically Magistrate Williams, entered a scheduling order on April 9, 2012, requiring that the parties complete Plaintiff's deposition by May 31, 2012 and Defendants' depositions by August 15, 2012. (A copy of that order is attached hereto as Exhibit "A").

3. However, the discovery schedule set forth above and referenced in Exhibit "A" presents a problem as 3ABN's Motion to Dismiss on jurisdictional grounds has not been ruled upon by Judge Herndon. 3ABN initially filed the Motion to Dismiss on February 28, 2012. Plaintiff filed a Response on April 9, 2012. Defendant 3ABN filed its Reply on April 23, 2012 and a Rule 7.1 Disclosure Statement on May 10, 2012.

4. Plaintiff's deposition is currently set for May 30, 2012 in order to comply with the discovery order and scheduled by the parties as the parties are concerned with violating said order.

5. Counsel for 3ABN is not confident that the Court will have a ruling on Defendant's Motion to dismiss before Plaintiff's scheduled deposition. Given the significant differences between State and Federal rules of civil procedure applicable to deposition, 3ABN believes it would be in the interest of all parties to stay discovery, namely the pending depositions until a ruling is made on the Motion to Dismiss.

6. 3ABN's Motion to Stay is supported by Fed. R. Civ. P. 1 which hold in part, "They should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding." Taking the purpose of the Federal Rules into consideration, proceeding with a deposition when it is not determined if the Court has jurisdiction to oversee this case, would be a costly endeavor to all parties and would not satisfy the purpose of the Federal Rules.

7. Furthermore, "[A] district court possess[es] substantial discretion to control its docket," which includes the power to issue a stay of some or all proceedings. *Hollinger Int'l., Inc. v. Hollinger, Inc.*, 2008 U.S. Dist. LEXIS 3289, at 6 (N.D. Ill. 2008) (citing *Bd. of Trs. of the Ironworkers Local No. 198 Pension Fund v. Nationwide Life Ins. Co.*, 2005 U.S. Dist. LEXIS

6159 (N.D. Ill. 2005) (quoting *Employers Ins. of Wausau v. Shell Oil Co.*, 820 F.2d 898, 902 (7th Cir. 1987)). It is well settled that district courts have the inherent power, in the exercise of discretion, to issue a stay when the interests of justice require such action. *Hollinger Int'l., Inc.*, 2008 U.S. Dist. LEXIS 3289, at 6. Depending on the particular facts of the case, the court may decide to stay civil proceedings, postpone civil discovery, or impose protective orders. *Id.*

8. Defendant 3ABN is not requesting an unlimited stay of discovery in this matter, but rather, requests a brief stay in order for a ruling to be handed down on its Motion to Dismiss based on jurisdictional grounds.

9. Any potential prejudice to Plaintiff “from a limited stay will be minimal.” *Jernryd v. Nilsson*, 1988 U.S. Dist. LEXIS 4641, 1 (N.D. Ill. 1988).

10. It is in the interests of the parties and a resolution of this case on its merits that discovery in this matter be briefly stayed to allow for a ruling on Defendant’s Motion to Dismiss to occur.

WHEREFORE, for the foregoing reasons, Defendant 3ABN respectfully requests that this Honorable Court enter an Order staying discovery in the instant proceeding until after Defendant’s Motion to Dismiss is ruled upon or a date certain, and for any other further relief as this Honorable Court deems just and proper.

Respectfully submitted,

JOHNSON & BELL, LTD.

By: /s/Patrick T. Garvey  
One of the Attorneys for 3ABN

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NETWORK, INC., and TOMMY	)	
SHELTON	)	
	)	
Defendants	)	

**Certificate of Service**

The undersigned, certify that I caused service of this Motion to Stay Discovery on this 12<sup>th</sup> day of May, 2012, by operation of the Court's Electronic Case Filing System, upon

Filing Users registered in this case and by mailing a copy to:

Tommy Shelton  
Inmate No. 2021892  
Fairfax Adult Detention Center  
10520 Judicial Drive  
Fairfax, VA 22030

By: /s/Patrick T. Garvey  
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FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>ALEX WALKER,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No. 12-cv-114-DRH-SCW</b>
	)	
<b>vs.</b>	)	<b>CJRA Track: B</b>
	)	
<b>THREE ANGELS BROADCASTING</b>	)	<b>Trial Date: April 2013</b>
<b>NETWORK, INC., and TOMMY</b>	)	
<b>SHELTON,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER ADOPTING JOINT REPORT AND  
PROPOSED SCHEDULING AND DISCOVERY ORDER**

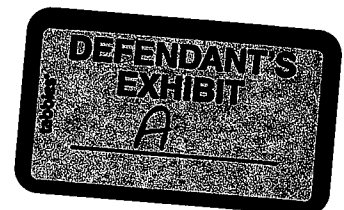
**WILLIAMS, Magistrate Judge:**

Having reviewed the Joint Report of the Parties and Proposed Scheduling and Discovery Order, and finding that the parties have complied with the requirements of **FED.R.CIV.P. 26(f)** and **SDIL-LR 16.2(a)**, the Court hereby approves and enters the Proposed Scheduling and Discovery Order.

The parties should note that they may modify the deadlines set in the Joint Report by written stipulation, except that they may *not* modify a date if such modification would impact the deadline for the completion of all discovery, the deadline for filing dispositive motions, or the date of any court appearance. **FED.R.CIV.P. 29.**

A Telephone Status Conference is scheduled before Magistrate Judge Stephen C. Williams on **June 15, 2012 at 9:30 a.m.**

A Settlement Conference is scheduled before Magistrate Judge Stephen C. Williams on **August 24, 2012 at 9:00 a.m.** in the Federal Courthouse, East St. Louis, Illinois.



The Presumptive Trial Month is **April 2013**.

IT IS SO ORDERED.  
DATED: April 5, 2012.

/s/ Stephen C. Williams  
STEPHEN C. WILLIAMS  
United States Magistrate Judge