
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)
)
COUNTY OF HENNEPIN) ss

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

s/Jerrie M. Hayes

Jerrie M. Hayes, Esq.

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

s/Gabrielle K. Helmbrecht

Notary Public

My Commission Expires Jan 31, 2010