

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

_____)	
Three Angels Broadcasting Network, Inc.,)	
an Illinois non-profit corporation, and)	
Danny Lee Shelton, individually,)	Case No.: 1:08-mc-03
)	
Plaintiffs,)	
v.)	
)	
Gailon Arthur Joy and Robert Pickle,)	
)	
Defendants.)	
_____)	

**DEFENDANT GAILON ARTHUR JOY’S MEMORANDUM IN SUPPORT OF
DEFENDANT ROBERT PICKLE’S MOTION TO COMPEL REMNANT
PUBLICATIONS**

INTRODUCTION

The Defendant Gailon Arthur Joy is a defendant ecclesiastical journalist in an action brought by Three Angels Broadcasting Network, Inc (hereinafter 3ABN) and Danny Lee Shelton (hereinafter Shelton), personally, both parties being from Thompsonville, Illinois. Plaintiff’s have alleged defendants are engaged in a conspiracy with the Plaintiff 3ABN’s former vice – president and the ex-wife of Shelton, for “publication and dissemination of defamatory, disparaging, and slanderous statements regarding 3ABN and its President Danny Shelton”.

Plaintiffs further have alleged the Defendants’s “have published numerous untrue statements that 3ABN and its President Danny Shelton have committed financial improprieties with donated ministry funds,” that ”3ABN Board members have personally enriched themselves as officers

and directors of 3ABN in violation of the Internal Revenue Code,” that “Danny Shelton wrongfully withheld book royalties from 3ABN and refused to disclose those royalties in proceedings before a court of law related to the distribution of marital assets,” and concluded that “Each and every one of the statements set forth above is false and Defendants published them with malice, either knowing them to be false or with wanton and reckless disregard for the truth or falsity of the statements.” Plaintiffs further allege the defendants have claimed “Shelton perjured himself through the course of court proceedings relating to his divorce from Linda Shelton”, and therefore “Defendants’ conduct as heretofore set forth evidences a malicious and purposeful campaign of defamation, slander, and disparagement intended and designed to embarrass, discredit, and defame 3ABN and its President Danny Shelton and to vitiate, dishonor, and impair the reputation and goodwill of 3ABN and its President, Danny Shelton.” “and impute serious misconduct to Plaintiffs 3ABN and Danny Shelton and are therefore defamatory per se.”

Defendants have denied the allegations and have undertaken discovery to defend against the allegations of the plaintiffs, including the production of documents from non-parties pursuant to FRCP Rule 45.

The defendant's joint investigation discovered the Plaintiff Shelton is alleged to have done several “book deals” whereby the Plaintiff 3ABN was caused to purchase books by its President, founder and CEO and it is alleged he has earned royalties from these book deals but did not disclose these on the 3ABN annual 990's or the State of Illinois Financial Statements as required by Federal IRC and Illinois state code, resulting in an undisclosed self-inurement to the Plaintiff Shelton (see Defendant Joys Affidavitt).

Defendants have issued a Subpoena to Remnant Publications for the production of documents

necessary for the defenses of the Plaintiff's allegation. Respondent Remnant Publications has refused to produce any documents, despite several conversations with its counsel, Atty Bappert, and following the Respondents objection that a confidentiality order was essential. The Massachusetts court has issued a confidentiality order and Defendants have re-issued the Subpoena and again the Respondents have refused to produce. and did not show up at the scheduled time for inspection and copying. See Pickle Aff., Ex. C–E.

The Defendants seek relevant documents by subpoena from Remnant Publications (hereafter “Remnant”) of Coldwater, Michigan, pertaining to:

- a) royalty or other payments made directly or indirectly to Plaintiff Shelton,
- b) the flow of money or assets from 3ABN through Remnant to Plaintiff Shelton, his relatives, or 3ABN officers, directors, or employees,
- c) the underlying agreements which establish or define the relationships and payments between Remnant and the Plaintiffs, and;
- d) the manuscripts or books Remnant publishes or prints for the Plaintiffs. See Pickle Aff., Ex. B.

Defendant have found it necessary to pray the Honorable Court to Compel the respondent Remnant Publications, Inc to comply with the subpoena Pursuant to FRCP Rule 45 (c)(2) (I).

Background

Both 3ABN and Remnant are publicly supported, non-profit, 501(c)3 corporations which file Form 990's with the Internal Revenue Service annually. See Pickle Aff. at ¶¶ 4, 12. Remnant has performed printing and publishing services for the Plaintiffs, and, due to Remnant having a seat or seats on 3ABN's book committee, is in alliance with 3ABN in regards to the Plaintiffs' publishing ventures. See Pickle Aff., Ex. F.

The U.S. Congress requires that Form 990's be open to public inspection, thus making 3ABN and Remnant to a degree accountable to the public from which they solicit support. Both 3ABN and Remnant are supporting ministries of the Seventh-day Adventist Church.

From 1985 until September 2007, Plaintiff Shelton was the president, CEO, and managing director of 3ABN, and he remains an influential director of and the only founder still employed by 3ABN.

Former general counsel and director of 3ABN, Nicholas Miller, claimed in September 2006 that he was "quite certain" that Plaintiff Shelton had earned "several hundred thousands of dollars" from *TCTR*, but that he was hiding the amount from his board members, that this was a "gross conflict of interest," and that this could cost 3ABN its tax exempt status. See Pickle Aff., Ex. AA. Miller's later story about Plaintiff Shelton's channeling monies from 3ABN to his future wife through a third-party non-profit suggest the creative lengths Plaintiff Shelton might go to hide the method of his obtaining his royalties. See Pickle Aff. at ¶ 12.

In November 2006, Plaintiff Shelton stated that he was refusing to disclose his royalties until after his marital property case with Linda Shelton was settled.

See Pickle Aff., Ex. BB at p. 5.

In early 2007 sources informed the Defendants that Plaintiff Shelton and Dwight Hall had conspired to hide Plaintiff Shelton's royalties from the 3ABN Board, and from his ex-wife Linda Shelton, whom Plaintiff Shelton believed was entitled to some of the royalties. According to these sources, the money sat on Remnant's books and was secreted in an account in a Coldwater, Michigan, bank. See Affidavit of Gailon Arthur Joy.

After publishing editions of *TCTR* claiming to have been copyrighted in 2005 by Danny Shelton and Shelley Quinn and carrying publication dates of 2005 and 2006, Remnant published

yet another edition in 2007. This 2007 edition instead claimed to have been copyrighted in 2005 by Remnant, even though it carried the same ISBN number, contrary to industry standards. See Pickle Aff. at ¶¶ 16–17, Ex. W–Y. This false 2007 claim that Remnant had copyrighted the book in 2005, a claim made after 5 million copies of the previous editions had already been distributed, suggests that Dwight Hall and Remnant are willing to go to extreme lengths to aid Plaintiff Shelton in concealing his ownership of the rights to TCTR as well as his royalties.

Basis in Law

The Federal Rules of Civil Procedure, FRCP 34 specifically makes provision for this process of document production and specifically states “(c) Nonparties. As provided in Rule 45, a nonparty may be compelled to produce documents and tangible things or to permit an inspection.”

Under Rule 26 the Federal rules clearly establish the scope of discovery as defined in FRCP 26: “(b) (1) Scope in General.

Unless otherwise limited by court order, the scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense — including the existence, description, nature, custody, condition, and location of any documents or other tangible things and the identity and location of persons who know of any discoverable matter. For good cause, the court may order discovery of any matter relevant to the subject matter involved in the action. Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence. All discovery is subject to the limitations imposed by Rule 26(b)(2)(C).”

The Defendants are clearly allowed to move the subject court for an order compelling production of discovery via rule 45 as follows:

Pursuant to FRCP Rule 45 (c)(2) (i) "At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection."

Defendant is required to preserve the Respondent from any undue expense pursuant to FRCP

Rule 45 (c)(2)(ii) which states "These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance."

Therefore, Defendant has made one of two options to the Respondent:

Bring the documents to a neutral location and the Defendants would copy the same or defendant's would be happy to come to the Respondents location and inspect and copy at the offices of Remnant Publications, Inc.

Therefore, the Defendants would pray the honorable court to compel the Respondents, Remnant Publications, Inc to select the location and to make the requested documents available for the defendants to inspect and copy the requested documents.

Dated: April 30, 2008

Respectfully submitted,

Gailon Arthur Joy, *pro se*
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Affidavit of Service:

Under penalty of perjury, I, Gailon Arthur Joy, do certify that I am over the age of 18 years of age and on this day I have caused service of this document to the Court and have served by first class mail, postage prepaid, a copy of this document and this Certificate of Service to Plaintiffs' counsel, Jerrie Hayes, at Siegel, Brill, Greupner, Duffy & Foster, and by email to Bob Pickle and a courtesy copy by e-mail to Jerrie Hayes, Counsel for the Plaintiffs and Charles Bappert, Esq. For Remnant Publications.

Gailon Arthur Joy, Pro Se

Dated: May 12, 2008

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