

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

COPY

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

Case No. _____

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

PLAINTIFFS' COMPLAINT

Three Angels Broadcasting Network, Inc. (hereinafter "3ABN") and Danny Lee Shelton (hereinafter "Shelton") (hereinafter collective "Plaintiffs"), as and for their Complaint against Defendants Gailon Arthur Joy (hereinafter "Joy") and Robert Pickle (hereinafter "Pickle") (hereinafter collectively "Defendants") do hereby state and allege as follows:

NATURE OF THE ACTION

1. This action arises under the trademark laws of the United States, namely Title 15 of the United States Code (15 U.S.C. §1051 *et seq.*) and Title 17 of the United States Code (17 U.S.C. §501 *et seq.*), and under state and federal common law and is for trademark infringement, trademark dilution, defamation, and intentional interference with advantageous economic prospective business advantage.

EX A

PARTIES

2. Plaintiff Three Angels Broadcasting Network, Inc. is a non-profit corporation organized and existing under the laws of the state of Illinois, with its principle place of business located at 3391 Charley Good Road, West Frankfort, Illinois 62896.

3. Individual Plaintiff Danny Lee Shelton is a resident of Illinois and is the current President of Plaintiff Three Angels Broadcasting Network, Inc.

4. Defendant Gailon Arthur Joy is a resident of Sterling, Massachusetts. Joy is the register of the internet domain name "save3abn.com" and, upon information and belief, is the host, author, and webmaster of the internet web sites "www.save3abn.com" and "www.save3abn.org."

5. Defendant Robert Pickle is a resident of Halstad, Minnesota.

JURISDICTION

6. This court has original subject matter jurisdiction over this matter pursuant to 15 U.S.C. §1121 as an action arising under the Federal Trademark Act and pursuant to 28 U.S.C. §1338 as an action arising under an Act of Congress related to copyright and trademark. This court also has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332 as an action where the matter in controversy is between citizens of different states and the amount in controversy exceeds \$75,000 (exclusive of costs and interest).

7. The Court has personal jurisdiction over Defendant Joy as he is a resident of the District and State of Massachusetts. The Court has personal jurisdiction over Defendant Pickle as he has purposefully availed himself of the jurisdiction of this Court pursuant to the Massachusetts Long Arm statute and the United States Constitution.

VENUE

8. Venue in this District is proper pursuant to 28 U.S.C. §1391 because it is the judicial district where one or more of the Defendants resides and because it is a judicial district in which a substantial part of the events giving rise to Plaintiffs' claims and causes of action occurred.

FACTUAL ALLEGATIONS RELEVANT TO ALL COUNTS

Three Angels Broadcasting

9. Founded in 1985 and incorporated in 1986, 3ABN is an Illinois non-profit corporation, the primary business of which is to operate and manage a Christian television and radio broadcast ministry. Plaintiff Shelton was an original founder of 3ABN and has been continuously involved in the ministry and its operations since its inception. Today, Shelton serves as President of 3ABN and is one of 3ABN's on-air ministry and music presenters.

10. Although many of 3ABN's employees and volunteers, including Plaintiff Shelton, are members of the Seventh-Day Adventist faith, 3ABN is a non-denominational Christian ministry which is not owned by, affiliated with, or financed by any specific church, denomination, or organization.

11. 3ABN, whose ministry focus is "Mending Broken People," offers a broad, Christ-centered slate of programming for adults and children that includes both spiritual (worship, Bible study, inspirational music) and lifestyle (health, cooking, smoking cessation) presentations.

12. Since its inception, Shelton and 3ABN have worked tirelessly to promote 3ABN's ministry and to spread its unique, non-denominational "Return to God" message. For over two decades, 3ABN has spent countless hours and hundreds of thousands of dollars publicizing itself through print and broadcast advertisements, special live events, direct-mail campaigns, and

group presentations. While building a successful worldwide ministry, Plaintiffs have also successfully built considerable name recognition and goodwill for themselves and for their moniker "3ABN."

13. Today, 3ABN is one of the larger Christian networks in North America and, operating from its headquarters and primary production facility in West Frankfort, Illinois, 3ABN broadcasts 24-hour television and radio programming through a global satellite network with potential viewers and listeners well into the millions. In support of its global ministry, 3ABN also operates a production facility in Nizhny Novogorod, Russia, and television facilities in the Philippines and New Guinea.

14. As a provider of religious, spiritual and ministerial program services, 3ABN depends upon its reputation for theological integrity, operational capability, and financial soundness, in order to attract new viewers and listeners, retain current viewers and listeners, and sustain financial support for the ministry. 3ABN relies extensively and almost exclusively on the donations of viewers and supporters for its continued operation.

3ABN's Trademarks

15. To protect its rights and goodwill, 3ABN has registered "3ABN" and "Three Angels Broadcasting Network" as trademarks with the United States Patent and Trademark Office.

16. On October 19, 2004, Registration No. 2895078 (Classes 009, 016, 038, and 041) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark 3ABN, claiming a date of first use of January 1985, as applied to "(a) videocassettes, audio cassettes and compact disks on which are recorded video and audio programs in the fields of religion, health, nutrition, education, family

life, and programs directed to children and teenagers;" (b) "books, magazines and newsletters featuring the subjects of religion, health, nutrition, education, family life, and subject matter directed to children and teenagers;" (c) "radio and television broadcast services, satellite broadcasting services, information services provided on a global computer network in the nature of lectures, sermons, articles and study materials in the field of religion, health, nutrition, education, family, life, and subject matter directed to children and teens;" and (d) "production and distribution of radio and television programming for broadcast and audio and video programming for release on a global computer network and directly to the public." A copy of the Certificate of Registration is attached hereto as **Exhibit A**.

17. On May 25, 2004, Registration No. 2844695 (Class 09) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985, as applied to "prerecorded video cassettes and audio cassettes featuring musical performances, sermons, lectures, and interviews in the fields of religion, health, education and family life; and prerecorded compact disks and digital video disks featuring musical performances, sermons, lectures and interviews in the fields of religion, health, education and family life." A copy of the Certificate of Registration is attached hereto as **Exhibit B**.

18. On March 23, 2004, Registration No. 2825028 (Class 016) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to "books, magazines, newsletters, pamphlets all in the fields

of religion, health, education, and family life.” A copy of the Certificate of Registration is attached hereto as **Exhibit C**.

19. On April 20, 2004, Registration No. 2834345 (Class 038) on the Principal Register of the U.S. Patent and Trademark Office was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to “radio and television broadcasting services, satellite broadcasting services.” A copy of the Certificate of Registration is attached hereto as **Exhibit D**.

20. On June 28, 2005, Registration No. 2963899 (Class 041) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to “production of radio and television programs; distribution of radio and television programs for others; programming, namely, scheduling of audio and video programs on a global computer network; television and radio programming.” A copy of the Certificate of Registration is attached hereto as **Exhibit E**.

21. The registration of the marks set forth in paragraphs 16 through 20 (hereinafter collectively referred to as “3ABN Marks”) constitute *prima facie* evidence of 3ABN’s exclusive right to use and register the 3ABN Marks or any colorable imitations thereof.

22. As a consequence of 3ABN’s continuous and widespread global use, promotion, and marketing of the 3ABN Marks, 3ABN has acquired substantial and protectable goodwill in such Marks. 3ABN has also extensively used and advertised the 3ABN Marks for decades, making the 3ABN Marks instantly recognizable to the public consumer as symbols of 3ABN’s ministry, message, programming, broadcasting, and audio-visual products.

3ABN's Trademark on the Internet

23. In conjunction with the provision of information services on the global computer network, 3ABN also has a considerable presence on the World Wide Web, with its primary website at "www.3abn.org" (North America) and secondary web sites at "www.3abnaustralia.org.au" (Australia) and "www.3angels.ru" (Russia). These web sites offer pastoral support (prayer requests, online Bible study, etc.), streaming audio and video programs, and information about 3ABN's mission and operations. Visitors can also use the 3ABN website to purchase 3ABN-produced inspirational books and music recordings and to make financial donations to the ministry.

24. In further protection of its trademarks and use of the 3ABN Marks on the internet, 3ABN has also registered over three dozen internet domain names, all of which contain Plaintiff's registered "3ABN" trademark, including but not limited to the following:

3ABN.com
3ABN.org
3ABN.tv
3ABNtelevision.com
3ABNradio.com
3ABNmusic.com
3ABNbooks.com
3ABNtv.com
3ABNtv.org

Defendant's Website

25. In January 2007, 3ABN discovered that Defendant Joy had registered the domain name "save3ABN.com" with NamesDirect.com, Inc. (hereinafter "Infringing Domain"). A copy of the registration information for the domain name is attached hereto as **Exhibit F**.

26. In March, 2007, 3ABN discovered that Defendant Joy had registered the domain name "save3ABN.org" with NamesDirect.com, Inc. (hereinafter "Directing Domain"). A copy of the registration information for the domain name is attached hereto as **Exhibit G**.

27. Defendants have constructed and published a website at the Infringing Domain URL that contains information antithetical to 3ABN's message. Specifically, the website, "www.save3abn.com" (hereinafter "Infringing Website"), which is registered to Defendant Joy, contains gross misstatements of fact concerning 3ABN's actions and operations, contains baseless and untrue allegations of criminal conduct by the organization, and disparaging characterizations of 3ABN and its broadcast network.

28. Defendants have also imbedded the Infringing Website with metatags "3ABN," "3-ABN," and "Three Angels Broadcasting Network" (hereinafter "Infringing Metatags"), which are words and phrases utilized by internet users' search-engines to find and locate websites that use the 3ABN Marks.

29. Defendants have also registered the domain name "www.save3ABN.org," (hereinafter "the Directing Website") and use the Website at that URL to direct visitors to the "www.save3ABN.com" website.

30. The Infringing Website also contains an unauthorized embedded copy of a copyrighted 3ABN broadcast, which visitors can either launch and watch while on the Infringing Website or duplicate by copying the program, via electronic download, from the Infringing Website.

31. The Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags incorporate a trademark that Three Angels Broadcasting Network, Inc. has continuously used for over twenty years in connection with its ministry, broadcasts, and related

audio and video products. Notwithstanding the reputation and goodwill represented by the 3ABN Marks, and Defendants' awareness thereof, and, upon information and belief, precisely because of said awareness, Defendants (a) willfully registered, used, and plan to continue using the Infringing Domain, and (b) willfully used and plan to continue to use the Infringing Website, Directing Website, and Metatags.

32. The registration and/or the use and planned use of the Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags by the Defendants have been without 3ABN's consent or authorization.

33. The registration and/or the use and planned used of the Infringing Domain, Infringing Website, Directing Website, and Metatags by the Defendants have caused and are likely to cause confusion and mistake in the minds of the public and, in particular, tends to and in fact does deceivingly and falsely create the impression that the Infringing Domain, and the content therein, are affiliated with and authorized, sponsored, or approved by 3ABN.

34. Not only would persons familiar with the 3ABN Marks be likely to believe that the Infringing Domain and Infringing Website originate with and are sponsored by 3ABN, but any such confusion could seriously injure 3ABN to the extent that the content of the Infringing Website located at the Infringing Domain negatively reflects upon the reputation, goodwill and character established by 3ABN for its ministry, broadcast, and corporation over the past 22 years. Because of the confusion engendered by Defendants' unauthorized uses of the 3ABN Marks, 3ABN's valuable goodwill with respect to its trademarks is jeopardized by Defendants.

35. The registration and/or the use and planned use of the Infringing Domain by Defendant has been deliberate, designed specifically to trade upon the enormous goodwill and familiarity of the 3ABN Marks, in order to lure the public to a site that disparages and defames

the organization. 3ABN's use of the 3ABN Marks predates any use Defendant may have made in connection with the term "3ABN."

36. The registration and/or the use and planned use of the Infringing Domain, Directing Website, and Infringing Metatags by the Defendant has been deliberate, designed specifically to trade upon the enormous goodwill and familiarity of the 3ABN Marks in order to wrongfully identify Plaintiff as the source of the Infringing "www.save3abn.com" Website.

37. On or about January 30, 2007, 3ABN demanded in writing that Defendants cease and desist from, among other things, all unauthorized use of the 3ABN Marks, including but not limited to the Infringing Domain and Infringing Website. Defendants have to date failed and refused to comply with the demands of that cease and desist letter.

Defendants' Conspiratorial Conduct

38. Upon information and belief, Gailon Joy and Robert Pickle are members of the Seventh Day Adventist Church and met former 3ABN director and employee Linda Shelton through their common religious affiliation.

39. Upon information and belief, Linda Shelton has communicated to Gailon Joy and Robert Pickle statements critical of 3ABN, its board of directors, its officers and/or its employees for them to publish as her agents.

40. Upon information and belief, Gailon Joy and Robert Pickle desire to see Linda Shelton reinstated as an employee and director at 3ABN and intend to discredit and damage the ministry as a means of facilitating Linda Shelton's reinstatement.

41. Gailon Joy and Robert Pickle are visitors and frequent participants in various websites and chat rooms that are frequented by members of the Seventh-Day Adventist Church, where Defendants have, by electronic posting, published numerous statements related to 3ABN

and Danny Shelton. Joy also operates a website at "www.save3ABN.com" where he has also published numerous statements related to 3ABN and Danny Shelton. Joy also operates a website at "www.save3ABN.org" where he directs visitors to the "www.save3ABN.com" website.

42. Gailon Joy and Robert Pickle have, upon information and belief, conspired, and colluded to enable, facilitate, encourage, and promote the publication and dissemination of defamatory, disparaging, and slanderous statements regarding 3ABN and its President Danny Shelton at the internet website "www.save3ABN.com," and other internet websites, wherein numerous false statements regarding 3ABN and its President Danny Shelton have been published by Defendants.

43. Defendants have participated in this conspiracy by jointly authoring many or all of the published statements on "www.save3ABN.com" and by jointly authoring statements published by one or both of them on websites frequented by members of the Seventh-Day Adventist Church, such as "www.blacksda.com," "www.maritime-sda-online.org," "www.christianforum.com," and the Yahoo Prophecy Board forum.

44. Defendants have also participated in this conspiracy by jointly marketing, advertising, and promoting the "www.save3ABN.com" website, which they have done by posting electronic links to the website on numerous bulletin boards and websites frequented by members of the Seventh-Day Adventist Church, by mailing advertising postcards to Seventh-Day Adventist Churches across the United States directing Church Members to the "www.save3ABN.com" website, and by encouraging Internet users to visit the "www.save3ABN.com" website to "learn the truth" about 3ABN and its President Danny Shelton.

45. Defendants have also participated in this conspiracy by each disseminating, distributing, and reprinting the other's published statements.

Defendants' Untrue Statements

46. Gailon Joy and Robert Pickle have published numerous untrue statements that 3ABN and its President Danny Shelton have committed financial improprieties with donated ministry funds. Among those untrue statements made by Joy and Pickle are, *inter alia*, that:

a. For the last several years, the international television ministry known as Three Angels' Broadcasting Network (3ABN) has found itself beset by a growing number of moral, ethical, and financial allegations. Despite the serious nature of these allegations, repeated calls for investigation, reform, and accountability have gone unheeded by its officers and directors.

b. Danny Shelton purchased a 3-year-old van using 3ABN funds, then sold the van to a member of his family for just \$10.00.

c. Danny Shelton purchased new furniture with 3ABN funds, put the new furniture in his residence, and put the old furniture from his residence on the 3ABN television set.

d. Danny Shelton used 3ABN funds to purchase used furniture from his sister, Tammy Chance, at nearly new prices (enabling Ms. Chance to buy brand new furniture for her home), for use in a 3ABN guest house, but, instead of putting the used furniture in the 3ABN guest house, Mr. Shelton gave the furniture to yet another family member and used 3ABN funds to purchase brand new furniture for the guest house.

e. The 3ABN Board of Directors has failed in its responsibility to oversee and manage 3ABN's financial assets.

f. Danny Shelton laundered money through 3ABN donations to Cherie Peters, in order to make payments that had been expressly prohibited by the 3ABN Board of directors.

g. 3ABN Board members have personally enriched themselves as officers and directors of 3ABN in violation of the Internal Revenue Code.

h. 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.

i. Danny Shelton has directed 3ABN Chief Financial Officer Larry Ewing to not answer questions concerning Danny Shelton's personal finances, expenses, bonuses or book royalties in a Family Court proceeding, which was initiated by Linda Shelton regarding division of marital assets and that Mr. Ewing has complied and refused to answer questions posed to him by the Court.

j. Danny Shelton has used the 3ABN corporate plane for personal uses.

k. Danny Shelton spent \$600,000 of 3ABN funds for radio station WDQN without Board approval and paid in excess of its fair market value, which was only \$250,000.

47. 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.

48. Gailon Joy and Robert Pickle have published numerous untrue statements that 3ABN and its President Danny Shelton have committed administrative and operational improprieties at 3ABN and that the organization is not properly or competently managed by its

managers, officers, and directors. Among those untrue statements made by Defendants are, *inter alia*, that:

- a. 3ABN engages in nepotism in the hiring and firing of staff.
- b. 3ABN violated the Federal Equal Opportunity Act by taking adverse employment actions against two whistle-blower employees of 3ABN's Trust Services division.
- c. The 3ABN Board of Directors has failed in its responsibility to oversee the governance and administration of the organization.
- d. Danny Shelton and 3ABN would not permit an ecumenical Seventh-Day Adventist-related, fact-finding tribunal proposed and directed by Adventist-laymen's Services and Industries ("ASI") to investigate all allegations related to the ministry and confined the tribunal to only those allegations involving Linda Shelton's removal and the Shelton's' divorce.

49. 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.

50. Gailon Joy and Robert Pickle have made numerous published untrue statements that 3ABN and its President Danny Shelton acted without grounds in removing Linda Shelton from the 3ABN Board of Directors, that Danny Shelton had no grounds for divorcing Linda Shelton, that 3ABN and Danny Shelton conspired to hide evidence and information concerning the removal and divorce, and that 3ABN and Danny Shelton have lied and made otherwise purposeful misstatements concerning the Shelton's' divorce and Danny Shelton's remarriage. Among those untrue statements made by Defendants are, *inter alia*, that:

- a. Danny Shelton and ASI conspired to exclude Gailon Joy from participating in a fact-finding tribunal regarding Linda Shelton's divorce and removal from 3ABN.
- b. Danny Shelton and ASI conspired to prevent various allegations and issues from being included in the fact-finding tribunal.
- c. It was Danny Shelton that participated in an extra-marital affair by becoming "involved" in "after hours activities" with 3ABN employee Brenda Walsh.
- d. During his marriage to Linda Shelton, Danny Shelton had several inappropriate extra-marital relationships, of which 3ABN staff and board members were aware.
- e. Danny Shelton was preparing to divorce Linda Shelton beginning in 2003.
- f. Danny Shelton conducted an inappropriate relationship with from August 2004 until they were married in 2006, and 3ABN's officers and directors were aware of the relationship.
- g. Danny Shelton lied by claiming to have joint title with Linda Shelton to a Toyota Sequoia automobile.
- h. The 3ABN board of directors had no authority to authorize Danny Shelton's adulterous marriage or to allow his continued employment by and direction of 3ABN.
- i. Danny Shelton perjured himself through the course of court proceedings relating to his divorce from Linda Shelton.

51. 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.

52. 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.

CAUSES OF ACTION

COUNT I: Infringement of Trademark (15 U.S.C. § 1114)

53. Plaintiffs restate and reallege Paragraphs 1 through 52 above, and hereby incorporate them by reference, as though fully set forth herein.

54. Plaintiff 3ABN is the creator and proper owner and holder of the trademarks "3ABN" and "Three Angels Broadcasting Network" and has registered the same with the United States Patent and Trademark Office.

55. Defendant Joy has used Plaintiff 3ABN's Marks in the registered domain names "save3abn.com" and "save3abn.org."

56. Defendant Joy has used Plaintiff 3ABN's Marks in the internet websites "www.save3abn.com" and "www.save3abn.org."

57. Defendant Joy has used Plaintiff 3ABN's Marks in the embedded metatags "3ABN," "3-ABN," and "Three Angels Broadcasting Network" on the Infringing Website.

58. Defendant Joy has used Plaintiff 3ABN's Marks in commerce in connection with 3ABN's provision of ministerial and informational services.

59. Defendant Joy's use of Plaintiff 3ABN's Marks is without Plaintiffs' authorization, permission, or license, and does not otherwise constitute a permissible use.

60. Defendant Joy's use of 3ABN's Marks has been willful and deliberate, designed specifically to trade upon the enormous goodwill associated with 3ABN and its 3ABN Marks.

61. Defendant Joy's unauthorized use of 3ABN's Marks is likely to lead the public to believe the Infringing Website is associated with, sponsored by, related to, affiliated with, or originates with 3ABN when, in fact, it is not.

62. Plaintiff has been damaged by Defendant Joy's infringement of its "3ABN" Marks, in an amount to be proven at trial, and is entitled to treble damages, costs, and attorneys' fees, pursuant to 15 U.S.C. §1117.

63. 3ABN's goodwill is of enormous value, and 3ABN will suffer irreparable harm should Defendant Joy's infringement be allowed to continue to the detriment of 3ABN's reputation and goodwill.

64. Defendant Joy's infringement will continue unless enjoined by this Court and with respect to these continuing violations, Plaintiff has no adequate remedy at law and is therefore entitled to injunctive relief.

COUNT II: Dilution of Trademark (15 U.S.C. §1125(c))

65. Plaintiff restates and realleges Paragraphs 1 through 64 above, and hereby incorporates them by reference, as though fully set forth herein.

66. Through Plaintiff 3ABN's extensive use of the 3ABN Marks to identify its broadcast ministry, through Plaintiffs' development of goodwill surrounding the Marks by its successful operation and expansion of the broadcast ministry, and through Plaintiffs' promotion and marketing efforts utilizing the Marks, the 3ABN Marks are now recognized worldwide as symbols of a dedicated, principled, Christ-centered ministry that is theologically faithful,

operationally sound, and financially conscientious. 3ABN's Marks are famous marks of inestimable value to 3ABN and are relied upon by the public in distinguishing 3ABN from other ministries, broadcasters, and recording producers.

67. After the 3ABN Marks had become famous, Defendant Joy willfully intended to trade upon 3ABN's reputation and the fame of its Marks by using the Marks in the Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags.

68. The use and planned use of the 3ABN Marks by Defendant Joy has tarnished and disparaged, and thereby diluted, and is likely to continue to tarnish, disparage, and thereby dilute, the distinctive quality of and goodwill associated with the Marks.

69. Defendant Joy's willful dilution of 3ABN's Marks has injured Plaintiff in an amount to be proven at trial.

70. 3ABN's trademarks are of enormous value, and 3ABN will suffer irreparable harm should Defendant Joy's trademark dilution be allowed to continue to the detriment of 3ABN.

71. Defendant Joy's dilutive activities will continue unless enjoined by this Court and, with respect to these continuing violations, 3ABN has no adequate remedy at law and is therefore entitled to injunctive relief.

COUNT III: Defamation

72. Plaintiffs restate and reallege Paragraphs 1 through 71 above, and hereby incorporates them by reference, as though fully set forth herein.

73. Defendants have made numerous false statements of fact with regard to both 3ABN and its President Danny Shelton.

74. Defendants have published those statements on the Internet and at the website "www.save3ABN.com" and have thereby communicated those false statements to someone other than the Plaintiffs.

75. Defendants' false statements refer to Plaintiffs' trade, business and profession, contain false accusations of the commission of a crime by both Plaintiffs, and impute serious misconduct to Plaintiffs 3ABN and Danny Shelton and are therefore defamatory *per se*.

76. Defendants' false statements were purposefully and maliciously designed and made 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.

77. Defendants' false statements have tended to and have in fact harmed the reputation and goodwill of both 3ABN and its President Danny Shelton, and have served to lower 3ABN and President Danny Shelton in the estimation of the community.

78. As a direct and proximate result of the damage done to Plaintiffs' reputations by Defendants' defamatory and disparaging statements, viewers have ceased support of the ministry and donors have reduced or stopped donations to 3ABN.

COUNT IV: Intentional Interference With Advantageous Economic Relations

79. Plaintiffs restate and reallege Paragraphs 1 through 78 above, and hereby incorporate them by reference, as though fully set forth herein.

80. Defendants have made numerous false statements of fact with regard to both 3ABN and its President Danny Shelton.

81. Defendants have published those statements in an effort to discredit 3ABN and its President Danny Shelton and in order to cause present and prospective viewers and donors to the ministry to discontinue their financial support of the ministry.

82. Defendants have intentionally interfered, tortiously and/or with improper motive or means, with 3ABN's present and prospective advantageous economic relationships with viewers and donors.

83. As a direct and proximate result of Defendant's actions, viewers and donors have discontinued their financial support of the ministry.

JURY DEMAND

Plaintiff hereby demands a trial by jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray:

1. That judgment be entered in favor of Plaintiffs and against Defendants for all claims in Plaintiffs' Complaint on the grounds that Defendants have knowingly and willfully infringed upon and diluted Plaintiffs' trademarks, have willfully and maliciously defamed plaintiffs, and have willfully and intentionally interfered with Plaintiffs' advantageous economic relations.
2. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from infringing on 3ABN's Marks and dilution of 3ABN's Marks.
3. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from using the 3ABN Marks in any internet domain name, internet website name, or internet website metatags.
4. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from using the Infringing Domain, Directing Domain or the Infringing Website.

5. That Defendant Joy be ordered to immediately surrender the Infringing Domain and transfer registration of the Infringing Domain and Directing website to Plaintiff 3ABN, completing all paperwork necessary to transfer and paying all fees and costs associated with transfer of the domain registration.

6. That Defendants be ordered to immediately remove from all print and electronic publications the false statements of fact alleged herein and otherwise established at trial.

7. That Defendants be ordered to immediately publish a retraction of the false statements of fact alleged herein and otherwise established at trial, and to publish that retraction in the same forms and forum and to the same general and specific audience as the false statements were originally made.

8. That compensatory damages be awarded to Plaintiffs in an amount to be determined at trial, but in no event less than \$75,000 (exclusive of costs and interest).

9. That statutory damages be awarded Plaintiffs in an amount to be determined at trial.

10. That Plaintiffs be awarded all costs and fees, including attorneys' fees, incurred in the prosecution of this action.

11. That Plaintiffs are awarded such other and further relief as this Honorable Court may deem just and equitable.

Dated: April 5, 2007

FIERST, PUCCI & KANE, LLC

By: 

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
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U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Three Angels Broadcasting Network, an)
Illinois non-profit corporation,)
and)
Danny Lee Shelton, individually,)
)
Plaintiffs)
)
vs.)
)
Gailon Arthur Joy)
and)
Robert Pickle)
)
Defendants)

C.A. No. 07-40098-FDS

DEFENDANTS' ANSWERS TO PLAINTIFFS COMPLAINT

NOW COME Robert Pickle and Gailon Arthur Joy and offer this as their Answer to the Complaint of the Three Angels Broadcasting Network and Danny Lee Shelton, including the text of the Complaint for the pleasure and convenience of the Court:

NATURE OF THE ACTION

1. This action arises under the trademark laws of the United States, namely Title 15 of the United States Code (15 U.S.C. § 1051 *et seq.*) and Title 17 of the United States Code (17 U.S.C. §501 *et seq.*), and under state and federal common law and is for trademark infringement, trademark dilution, defamation, and intentional interference with advantageous economic prospective business advantage.

Defendants Answer to 1: a: Trademark Infringement: Plaintiffs are left to their proof as to the applicability of the trademark registration as it relates to the allegations of trademark

EX B

infringement as the trademarks appear to be specifically limited and therefore the defendant Joy denies the applicability of trademark infringement; b: Trademark Dilution: Plaintiffs are left to their proof as to the applicability of the trademark registration and as to the basis for any dilution thereof, therefore the defendant Joy denies the allegation of the applicability of trademark dilution; c: Defamation: Defendant is left to their proof that USC Title 15, USC Title 17, state or federal common law applies to the allegation of defamation and therefore the defendant Joy denies the applicability of the allegation of defamation; d: Plaintiff is left to their proof that USC Title 15, USC Title 17, state or federal common law applies to the allegation of intentional interference with advantageous economic prospective business advantage and therefore the defendant Joy denies the applicability of the allegation.

PARTIES

2. Plaintiff Three Angels Broadcasting Network, Inc. is a non-profit corporation organized and existing under the laws of the state of Illinois, with its principle place of business located at 3391 Charley Good Road, West Frankfurt, Illinois 62896.

Defendants Answer to 2: Plaintiffs are left to their proof that Three Angels Broadcasting Network, Inc is a non-profit corporation organized and existing under the laws of the state of Illinois or that it's principle place of business is located at 3391 Charley Good Road, West Frankfurt, Illinois 62896 and defendant Joy asserts that he has insufficient proof to establish whether Three Angels Broadcasting Network, Inc is a non-profit corporation and therefore asserts the right to amend his answer upon attaining sufficient

evidence to create a foundation for his answer. Therefore denied.

3. Individual Plaintiff Danny Lee Shelton is a resident of Illinois and is the current President of Plaintiff Three Angels Broadcasting Network, Inc.

Defendants Answer to 3: Plaintiff Danny Lee Shelton is left to his proof that he is a resident of Illinois and Defendants has insufficient evidence upon which to base an answer to the allegation that the Plaintiff is the current President of Plaintiff Three Angels Broadcasting Network, Inc as a recent live televised program of the Plaintiff Three Angels Broadcasting Network, Inc demonstrated that the president may have been conferred upon another person not yet a party to this action by referenced agreements relating to a merger. Therefore denied.

4. Defendant Gailon Arthur Joy is a resident of Sterling, Massachusetts. Joy is the register of the internet domain name "save3abn.com" and, upon information and belief, is the host, author, and webmaster of the internet web sites "www.save3abn.com" and www.save3abn.org.

Deft Joy's Answer to 4: Admitted except as to the allegations regarding domain name registration.

Deft Pickle's Answer to 4: Plaintiffs are left to their proof and therefore denied.

5. Defendant Robert Pickle is a resident of Halstad, Minnesota.

Deft Joy's Answer to 5: Defendant Joy has insufficient knowledge to admit or deny.

Deft Pickle's Answer to 5: Defendant is a resident of Norman County, Mn, therefore denied.

JURISDICTION

6. This court has original subject matter jurisdiction over this matter pursuant to 15 U.S.C. §1121 as an action arising under the Federal Trademark Act and pursuant to 28 U.S.C. §1338 as an action arising under an Act of Congress related to copyright and trademark. This court also has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332 as an action where the matter in controversy is between citizens of different states and the amount in controversy exceeds \$75,000 (exclusive of costs and interest). Defendants Answer to 6: The Plaintiffs are left to their proof as to jurisdiction as it relates to 15 U.S.C. §1121 and 28 U.S.C. §1338; Defendant has insufficient knowledge to know whether 28 U.S.C. §1332 applies and Plaintiffs have provided no such evidence to support such a claim, therefore Defendants denies the controversy exceeds \$75,000, therefore, Jurisdiction is left to the proof of the Plaintiffs. Therefore denied.

7. The Court has personal jurisdiction over Defendant Joy as he is a resident of the District and State of Massachusetts. The Court has personal jurisdiction over Defendant Pickle as he has purposefully availed himself of the jurisdiction of this Court pursuant to the Massachusetts Long Arm statute and the United States Constitution. Defendant Joy's Answer to 7: Defendants admits he is a resident of the District and State of Massachusetts; Defendants has insufficient knowledge to determine if the Court has Jurisdiction; Therefore denied.

Defendant Pickle's Answer: Defendant Pickle did not waive or object to personal jurisdiction at the first appearance before the court on this matter, and admitted on that basis.

VENUE

8. Venue in this District is proper pursuant to 28 U.S.C. §1391 because it is the judicial district where one or more of the Defendants resides and because it is a judicial district in which a substantial part of the events giving rise to Plaintiffs' claims and causes of action occurred.

Answer of Defendants to 8: Admitted

FACTUAL ALLEGATIONS RELEVANT TO ALL COUNTS

Three Angels Broadcasting

9. Founded in 1985 and incorporated in 1986, 3ABN is an Illinois non-profit corporation, the primary business of which is to operate and manage a Christian television and radio broadcast ministry. Plaintiff Shelton was an original founder of 3ABN and has been continuously involved in the ministry and its operations since its inception. Today, Shelton serves as President of 3ABN and is one of 3ABN's on-air ministry and music presenters.

Answer of Defendants to 9: Admitted that 3ABN was incorporated as a general not for profit in 1986; However, Defendants has insufficient knowledge to determine if the corporation remains a not for profit entity and in fact alleges sufficient information to question the current status of the corporations non-profit status in as much as the Defendants have, upon information and belief, sufficient information to believe that 3ABN may actually be controlled by Plaintiff Danny Lee Shelton and that Plaintiff treats the corporation as his own asset and purposefully profits from the same.

10. Although many of 3ABN's employees and volunteers, including Plaintiff Shelton, are members of the Seventh-Day Adventist faith, 3ABN is a non-denominational

Christian ministry which is not owned by, affiliated with, or financed by any specific church, denomination, or organization.

Answer of Defendants to 10: Denied as Upon information and belief, 3ABN is largely supported by donations of nearly 100,000 Seventh-day Adventist denominational laymen with nearly five thousand providing regular sustaining gifts, several thousand laymen having entrusted sums as gifts, donations, trusts, and tithes of their earnings to 3ABN fully believing that the network teaches the "undiluted three angels messages", created to "counteract the counterfeit" teachings regarding God's Ten Commandment law of love; a teaching unique to the Seventh-day Adventist Denomination, broadcast via satellite media to all the world; Upon information and belief 3ABN and Danny Lee Shelton enjoys special affiliation with Adventist-laymen's Services and Industries, Inc, an SDA lay businessmen's group having direct affiliation with the General Conference of Seventh-day Adventists; Upon information and belief 3ABN and Danny Lee Shelton still subscribes to a "Joint Declaration of Commitment" between the General Conference of Seventh-day Adventists and 3ABN;

And upon declaration of the parties, the Plaintiffs are currently in the process of a merger with Amazing Facts, upon information and belief, a denominational ministry affiliate; Plaintiffs, upon information and belief, has a direct affiliation and joint venture in an entity referred to as the Atlantic Union [Conference of Seventh-day Adventists] Adventist Media, affiliated with 3ABN. Therefore denied.

11. 3ABN, whose ministry focus is "Mending Broken People," offers a broad, Christ-centered slate of programming for adults and children that includes both spiritual

(worship, Bible study, inspirational music) and lifestyle (health, cooking, smoking cessation) presentations.

Answer of Defendants to 11: Plaintiff is left to their proof as to the ministry's focus; Deft believes that upon information and belief SDA laymen everywhere are under the deceptive assumption that the ministry is an SDA laymen's proselytizing outreach media ministry to the entire world.

12. Since its inception, Shelton and 3ABN have worked tirelessly to promote 3ABN's ministry and to spread its unique, non-denominational "Return to God" message. For over two decades, 3ABN has spent countless hours and hundreds of thousands of dollars publicizing itself through print and broadcast advertisements, special live events, direct-mail campaigns, and group presentations. While building a successful worldwide ministry, Plaintiffs have also successfully built considerable name recognition and goodwill for themselves and for their moniker "3ABN."

Answer of Defendants to 12: Plaintiffs are left to their proof of their tireless effort, however, upon information and belief, SDA laymen everywhere have been under the deceptive assumption that 3ABN promotes the messages unique to the Seventh-day Adventist Denomination and that the ministry deceptively has promoted itself as an SDA proselytizing outreach media ministry to the entire world and promoted to SDA church rallies that it was promoting the SDA message and bringing souls into the SDA churches, therefore, upon information and belief the Moniker "3ABN" is an SDA laymen's media ministry moniker with a unique SDA denominational Three Angels Messages. Therefore denied.

13. Today, 3ABN is one of the larger Christian networks in North America and, operating from its headquarters and primary production facility in West Frankfort, Illinois, 3ABN broadcasts 24-hour television and radio programming through a global satellite network with potential viewers and listeners well into the millions. In support of its global ministry, 3ABN also operates a production facility in Nizhny Novogorod, Russia, and television facilities in the Philippines and New Guinea.

Answer of Defendants to 13:Plaintiff 3ABN is left to its proof as to its size, its global network, its "potential" viewers and listeners vs its actual viewers, its facilities in Russia, the Philippines and New Guinea and the return on investment value by the investors of the Seventh-day Adventist Church for the dollars entrusted as gifts, donations, trusts, and tithes of their earnings to 3ABN;However, upon information and belief, not all sums so entrusted may have been appropriately accounted for. Therefore denied.

14. As a provider of religious, spiritual and ministerial program services, 3ABN depends upon its reputation for theological integrity, operational capability, and financial soundness, in order to attract new viewers and listeners, retain current viewers and listeners, and sustain financial support for the ministry. 3ABN relies extensively and almost exclusively on the donations of viewers and supporters for its continued operation. Answer of Defendants to 14:Plaintiff is left to their proof as to their theological integrity, operational capability, financial soundness, or their ability to attract new viewers and listeners, retain viewers and listeners, and ability to sustain financial support. Upon information and belief, the actions of the Plaintiff Danny Lee Shelton, purportedly a founder and either current or former president of 3ABN, has conducted himself in such a

way as to violate theological integrity, undermine operational capability, to prey upon the financial soundness of the entity 3ABN and to inappropriately redirect large sums to his personal benefit with and without properly constituted corporate authority. Upon information and belief, the entity 3ABN has failed to take appropriate steps to curb the actions of Danny Lee Shelton, to set up appropriate accounting processes to account for sums gifted, and are purported to have in some cases, either failed to discipline or have endorse by vote or by "affirmation" to the actions undertaken by Danny Lee Shelton that had the affect to undermine 3ABN. Therefore denied.

3ABN's Trademarks

15. To protect its rights and goodwill, 3ABN has registered "3ABN" and "Three Angels Broadcasting Network" as trademarks with the United States Patent and Trademark Office.

Answer of Defendants to 15: If the entity 3ABN is a non-profit religious organization, then it would have no good commercial purpose and therefore would have limited trademark rights and would have no known commercially valuable goodwill, other than its actual or perceived theological integrity or operational integrity. It's financial soundness is, therefore, entirely dependent upon its theological integrity, not its trademark. Therefore, the plaintiffs are left to their proof that it even needed to protect its rights and goodwill. Therefore denied.

16. On October 19, 2004, Registration No. 2895078 (Classes 009, 016, 038, and 041) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark 3ABN, claiming

a date of first use of January 1985, as applied to “(a) videocassettes, audio cassettes and compact disks on which are recorded video and audio programs in the fields of religion, health, nutrition, education, family life, and programs directed to children and teenagers;” (b) “books, magazines and newsletters featuring the subjects of religion, health, nutrition, education, family life, and subject matter directed to children and teenagers;” (c) “radio and television broadcast services, satellite broadcasting services, information services provided on a global computer network in the nature of lectures, sermons, articles and study materials in the field of religion, health, nutrition, education, family, life, and subject matter directed to children and teens;” and (d) “production and distribution of radio and television programming for broadcast and audio and video programming for release on a global computer network and directly to the public.” A copy of the Certificate of Registration is attached hereto as **Exhibit A**.

Answer of Defendants to 16: Deft acknowledges that upon information and belief the Plaintiff 3ABN was issued a limited mark for specific limited purposes that the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

17. On May 25, 2004, Registration No. 2844695 (Class 09) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985, as applied to “pre-recorded video cassettes and audio cassettes featuring musical performances, sermons, lectures, and interviews in

the fields of religion, health, education and family life; and prerecorded compact disks and digital video disks featuring musical performances, sermons, lectures and interviews in the fields of religion, health, education and family life." A copy of the Certificate of Registration is attached hereto as **Exhibit B**.

Answer of Defendants to 17: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes and the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

18. On March 23, 2004, Registration No. 2825028 (Class 016) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to "books, magazines, newsletters, pamphlets all in the fields of religion, health, education, and family life." A copy of the Certificate of Registration is attached hereto as **Exhibit C**.

Answer of Defendants to 18: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes and the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

19. On April 20, 2004, Registration No. 2834345 (Class 038) on the Principal Register of the U.S. Patent and Trademark Office was duly and legally issued to Three

Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to "radio and television broadcasting services, satellite broadcasting services." A copy of the Certificate of Registration is attached hereto as **Exhibit D**.

Answer of Defendants to 19: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes that the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

20. On June 28, 2005, Registration No. 2963899 (Class 041) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to "production of radio and television programs; distribution of radio and television programs for others; programming, namely, scheduling of audio and video programs on a global computer network; television and radio programming." A copy of the Certificate of Registration is attached hereto as **Exhibit E**.

Answer of Defendants to 20: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes that the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

21. The registration of the marks set forth in paragraphs 16 through 20 (hereinafter collectively referred to as "3ABN Marks") constitute *prima facie* evidence of 3ABN's exclusive right to use and register the 3ABN Marks or any colorable imitations thereof.

Answer of Defendants to 21: Denied as all marks are limited marks and certain actions of the Plaintiff 3ABN has abrogated its exclusive rights, if any, it would appear it has limited rights or the rights conferred may not be applicable to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under the purported *prima facie* certificate issued. Therefore denied.

22. As a consequence of 3ABN's continuous and widespread global use, promotion, and marketing of the 3ABN Marks, 3ABN has acquired substantial and protectable goodwill in such Marks. 3ABN has also extensively used and advertised the 3ABN Marks for decades, making the 3ABN Marks instantly recognizable to the public consumer as symbols of 3ABN's ministry, message, programming, broadcasting, and audio-visual products.

Answer of Defendants to 22: Plaintiff is left to their proof that they have promoted their marks, limited or otherwise, and defendant asserts that if the entity is deemed a non profit religious organization as asserted by plaintiffs, then goodwill would be of no commercial value and plaintiff is estopped from such claim. Further the defendant asserts that Plaintiff Danny Lee Shelton, and 3ABN by affirmation, has undermined any such goodwill the plaintiffs may have acquired, real or imaginary. Therefore denied.

3ABN's Trademark on the Internet

23. In conjunction with the provision of information services on the global computer network, 3ABN also has a considerable presence on the World Wide Web, with its primary website at "www.3abn.org" (North America) and secondary web sites at "www.3abnaustralia.org.au" (Australia) and "www.3angels.ru" (Russia). These web sites offer pastoral support (prayer requests, online Bible study, etc.), streaming audio and video programs, and information about 3ABN's mission and operations. Visitors can also use the 3ABN website to purchase 3ABN-produced inspirational books and music recordings and to make financial donations to the ministry.

Answer of Defendants to 23: Plaintiff is left to its proof that it has considerable presence on the World Wide Web, or that they offer commercially valuable services. Upon information and belief, the Plaintiff Danny Lee Shelton, can assert no such claim and therefore denied as to plaintiff Shelton. Therefore denied.

24. In further protection of its trademarks and use of the 3ABN Marks on the internet, 3ABN has also registered over three dozen internet domain names, all of which contain Plaintiffs registered "3ABN" trademark, including but not limited to the following:

- 3ABN.com
- 3ABN.org
- 3ABN.tv
- 3ABNtelevision.com
- 3ABNradio.com
- 3ABNmusic.com
- 3ABNbooks.com
- 3ABNtv.com
- 3ABNtv.org

Answer of Defendants to 24: Plaintiff is left to its proof that it has registered any other

domain names on the World Wide Web, However, defendant asserts that such registration does nothing to offer any protection to the 3ABN marks. Further the defendant asserts that the Plaintiffs have not reserved at any time the domain names save3ABN.com or save3ABN.org and therefore have no claim to them. Upon information and belief, the Plaintiff Danny Lee Shelton, can assert no such claim and therefore denied as to plaintiff Shelton. Therefore denied.

Defendants Website

25. In January 2007, 3ABN discovered that Defendant Joy had registered the domain name "save3ABN.com" with NamesDirect.com, Inc. (hereinafter "Infringing Domain"). A copy of the registration information for the domain name is attached hereto as **Exhibit F**.

Answer of Defendants to 25: Affirmed that Defendants registered said domain names, but denied as to such domain names representing an Infringing Domain.

26. In March, 2007, 3ABN discovered that Defendant Joy had registered the domain name "save3ABN.org" with NamesDirect.com, Inc. (hereinafter "Directing Domain"). A copy of the registration information for the domain name is attached hereto as **Exhibit G**.

Answer of Defendants to 26: Plaintiff is left to their proof as to the date the Plaintiffs 3ABN found the domain name. Upon information and belief the Plaintiff Shelton knew or should have known about the domain name at least a month earlier. Therefore denied.

27. Defendants have constructed and published a website at the Infringing Domain URL that contains information antithetical to 3ABN's message. Specifically, the

website, "www.save3abn.com" (hereinafter "Infringing Website"), which is registered to Defendant Joy, contains gross misstatements of fact concerning 3ABN's actions and operations, contains baseless and untrue allegations of criminal conduct by the organization, and disparaging characterizations of 3ABN and its broadcast network.

Answer of Defendants to 27: Denied that the defendant constructed an infringing domain; defendant asserts that the messages were and remain factual representations of actual interviews with current and former employees of 3ABN, other sources, actual documentation, editorial comments and letters to the editor. Plaintiff 3ABN is left to its proof that such statements contain baseless allegations of criminal conduct by the organization, either by direct action or affirmation, and that such statements are disparaging characterization of 3ABN. Defendants assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation that resulted in a disparaging characterization of 3ABN. Defendant requests judicial notice that Plaintiff Shelton has asserted no such allegation as to Plaintiff Shelton and is estopped from such an assertion or recovery. Therefore denied.

28. Defendants have also imbedded the Infringing Website with metatags "3ABN," "3-ABN," and "Three Angels Broadcasting Network" (hereinafter "Infringing Metatags"), which are words and phrases utilized by internet users' search-engines to find and locate websites that use the 3ABN Marks.

Answer of Defendants to 28: Defendants have insufficient knowledge upon which to base a response therefore denied, but reserves the right to amend defendants response.

29. Defendants have also registered the domain name "www.save3ABN.org,"

(hereinafter "the Directing Website") and use the Website at that URL to direct visitors to the "www.save3ABN.com" website.

Answer of Defendants to 29: Denied.

30. The Infringing Website also contains an unauthorized embedded copy of a copyrighted 3ABN broadcast, which visitors can either launch and watch while on the Infringing Website or duplicate by copying the program, via electronic download, from the Infringing Website.

Answer of Defendants to 30: Denied as to an Infringing website; Denied that the excerpts are unauthorized. Denied that it constitutes the entire broadcast. Admitted that visitors can watch the excerpts as factual statements of the participants utilized as real-time media quotes demonstrating actual intonation, expression and characterization of the quoted participants. Plaintiffs are left to their proof that anyone could or has duplicated or copied the excerpts quoted. Therefore denied.

31. The Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags incorporate a trademark that Three Angels Broadcasting Network, Inc. has continuously used for over twenty years in connection with its ministry, broadcasts, and related audio and video products. Notwithstanding the reputation and goodwill represented by the 3ABN Marks, and Defendants' awareness thereof, and, upon information and belief, precisely because of said awareness, Defendants (a) willfully registered, used, and plan to continue using the Infringing Domain, and (b) willfully used and plan to continue to use the Infringing Website, Directing Website, and Metatags.

Answer of Defendants to 31: Denied that the websites or metatags incorporate a

trademark of Three Angels Broadcasting Network, Inc. Plaintiff is left to their proof as to the reputation and goodwill of the 3ABN marks, real or imaginary. a) Admitted that Defendant Joy registered the domain names save3ABN.com, save3ABN.org; Plaintiff is left to their proof that the defendant plans to continue using these domains and metatags, if any, real or imaginary: b) see defendants answer to a). Therefore denied.

32. The registration and/or the use and planned use of the Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags by the Defendants have been without 3ABN's consent or authorization.

Answer of Defendants to 32: Defendants denies the existence of an infringing domain or infringing website, and asserts that plaintiffs assertion is barred by precedence and without a legal foundation upon which to make a claim. Defendants admits that to properly registered domains and denies a directing domain. Plaintiff is left to their proof regarding any metatags, real or imaginary, and the legal foundation for such a claim. Plaintiff is also left to their proof of the necessity that defendants have 3ABN's consent or authorization. Therefore denied.

33. The registration and/or the use and planned used of the Infringing Domain, Infringing Website, Directing Website, and Metatags by the Defendants have caused and are likely to cause confusion and mistake in the minds of the public and, in particular, tends to and in fact does deceivingly and falsely create the impression that the Infringing Domain, and the content therein, are affiliated with and authorized, sponsored, or approved by 3ABN.

Answer of Defendants to 33: Denied as to "infringing"; Plaintiffs are left to their proof

that the Defendants have caused or are likely to cause confusion or mistake in the minds of the public, real or imaginary; Denied that the website tends to or in fact does deceivingly and falsely create the impression it is in any way affiliated with and authorized, sponsored, or approved by 3ABN. Defendant asserts that such an allegation is so factually challenged as to constitute a fraud upon the court by the Plaintiffs and Plaintiffs counsel. Therefore denied.

34. Not only would persons familiar with the 3ABN Marks be likely to believe that the Infringing Domain and Infringing Website originate with and are sponsored by 3ABN, but any such confusion could seriously injure 3ABN to the extent that the content of the Infringing Website located at the Infringing Domain negatively reflects upon the reputation, goodwill and character established by 3ABN for its ministry, broadcast, and corporation over the past 22 years. Because of the confusion engendered by Defendants' unauthorized uses of the 3ABN Marks, 3ABN's valuable goodwill with respect to its trademarks is jeopardized by Defendants.

Answer of Defendants to 34: Denied. Defendants assert that the allegation is so factually challenged as to represent a fraud upon the court. Further, defendant re-assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation that resulted in possibility that 3ABN's valuable goodwill with respect to its trademarks, either real or imaginary, is jeopardized and results in a disparaging characterization of 3ABN. Therefore denied.

35. The registration and/or the use and planned use of the Infringing Domain by Defendant has been deliberate, designed specifically to trade upon the enormous

goodwill and familiarity of the 3ABN Marks, in order to lure the public to a site that disparages and defames the organization. 3ABN's use of the 3ABN Marks predates any use Defendant may have made in connection with the term "3ABN."

Answer of Defendants to 35: Denied; Defendants have not charged for nor expected or received profit from the website and plaintiff is estopped by judicial precedence from such an assertion by Plaintiffs. Further the defendant reasserts that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation by 3ABN that potentially disparages and defames, either real or imaginary, the organization 3ABN. Therefore denied.

36. The registration and/or the use and planned use of the Infringing Domain, Directing Website, and Infringing Metatags by the Defendant has been deliberate, designed specifically to trade upon the enormous goodwill and familiarity of the 3ABN Marks in order to wrongfully identify Plaintiff as the source of the Infringing "www.save3abn.com" Website.

Answer of Defendants to 36: Denied as to deliberate as a state of mind. Denied as to goodwill and familiarity, real or imaginary. Plaintiff is left to their proof that the website wrongfully identifies the Plaintiff as the source of www.save3ABN.com website. Therefore denied.

37. On or about January 30, 2007, 3ABN demanded in writing that Defendants cease and desist from, among other things, all unauthorized use of the 3ABN Marks, including but not limited to the Infringing Domain and Infringing Website. Defendants have to date failed and refused to comply with the demands of that cease and

desist letter.

Answer of Defendants to 37: Admitted that the defendant received a demand. Denied that Plaintiff had any foundation in law or that defendant was required to comply with the foundationless demand. Denied that defendant had any legally binding reason to comply with the plaintiffs illegal demand. Therefore denied.

Defendants' Conspiratorial Conduct

38. Upon information and belief, Gailon Joy and Robert Pickle are members of the Seventh Day Adventist Church and met former 3ABN director and employee Linda Shelton through their common religious affiliation.

Answer of Defendants to 38: Admitted that defendant Joy and Pickle are each members of their respective Seventh-day Adventist company or church. Denied that defendant Joy or Pickle met Linda Shelton through any known common religious affiliation.

39. Upon information and belief, Linda Shelton has communicated to Gailon Joy and Robert Pickle statements critical of 3ABN, its board of directors, its officers and/or its employees for them to publish as her agents.

Answer of Defendants to 39: Admitted that defendants Joy and Pickle have communicated with Linda Shelton. Defendants lack a basis for confirming or denying that any such communication contained a statement that was critical of 3ABN, its board of directors, its officers and/or its employees, and plaintiffs are left to their proof. Denied that the defendants publish anything as an agent of said Linda Shelton.

40. Upon information and belief, Gailon Joy and Robert Pickle desire to see Linda Shelton reinstated as an employee and director at 3ABN and intend to discredit and

damage the ministry as a means of facilitating Linda Shelton's reinstatement.

Answer of Defendants to 40: Denied that the defendants have ever expressed any desire to re-instate Linda Shelton as an employee. Denied that the defendants intend to discredit and damage the ministry as a means of facilitating Linda Shelton's reinstatement.

Defendants re-assert that it was the actions of 3ABN and Danny Lee Shelton, either unrestrained, endorsed or allowed by affirmation by 3ABN that potentially discredit or damages the ministry, whether real or imaginary.

41. Gailon Joy and Robert Pickle are visitors and frequent participants in various websites and chat rooms that are frequented by members of the Seventh-Day Adventist Church, where Defendants have, by electronic posting, published numerous statements related to 3ABN and Danny Shelton. Joy also operates a website at "www.save3ABN.com" where he has also published numerous statements related to 3ABN and Danny Shelton. Joy also operates a website at "www.save3ABN.org" where he directs visitors to the "www.save3ABN.com" website.

Answer of Defendants to 41: Plaintiff is left to their proof that defendant Joy is a frequent visitor or participant in any website or chat-room, other than save3ABN.com. Defendant Joy admits publishing numerous statements related to the plaintiffs and that some statements have been electronically posted to sites other than save3ABN.com, although denied that defendant Joy posted them.

Defendant Pickle admits visiting chat-rooms and has published statements.

42. Gailon Joy and Robert Pickle have, upon information and belief, conspired, and colluded to enable, facilitate, encourage, and promote the publication and

dissemination of defamatory, disparaging, and slanderous statements regarding 3ABN and its President Danny Shelton at the internet website "www.save3ABN.com," and other internet websites, wherein numerous false statements regarding 3ABN and its President Danny Shelton have been published by Defendants.

Answer of Defendants to 42: Plaintiff is left to their proof of conspiracy and collusion. Defendant admits that he has published many reports of actions by Plaintiffs. Plaintiff is left to their proof that such reports constitute "defamatory, disparaging, and slanderous statements". Plaintiffs are left to their proof that any statement is a false statement at bar. Therefore denied.

43. Defendants have participated in this conspiracy by jointly authoring many or all of the published statements on "www.save3ABN.com" and by jointly authoring statements published by one or both of them on websites frequented by members of the Seventh-Day Adventist Church, such as "www.blacksda.com," "www.maritime-sda-online.org," "www.christianforum.com," and the Yahoo Prophecy Board forum.

Answer of Defendants to 43: Denied by defendants that any statement is jointly authored. Admitted that published statements have been posted to save3ABN.com, blacksda.com, And Maritime.org. Plaintiffs are left to their proof of any of defendant joys articles posted to christianforum or the Yahoo prophecy board. Defendant Pickle admits to having published on Christian forum and Yahoo Prophecy Board. Plaintiffs are left to their proof that the separate investigations of Joy and Pickle and the reports resultant constitute conspiracy. Therefore denied.

44. Defendants have also participated in this conspiracy by jointly marketing,

advertising, and promoting the "www.save3ABN.com" website, which they have done by posting electronic links to the website on numerous bulletin boards and websites frequented by members of the Seventh-Day Adventist Church, by mailing advertising postcards to Seventh-Day Adventist Churches across the United States directing Church Members to the "www.save3ABN.com" website, and by encouraging Internet users to visit the "www.save3ABN.com" website to "learn the truth" about 3ABN and its President Danny Shelton.

Answer of Defendants to 44: Plaintiffs are left to their proof that there was any joint marketing, advertising, and promoting of save3ABN.com. Denied that defendant Joy posted electronic links. Admitted that defendant Pickle posted electronic links. Denied as to "learn the truth". Denied that defendants Joy or Pickle mailed any postcards. Admitted that articles written encouraged readers to visit save3ABN.com.

45. Defendants have also participated in this conspiracy by each disseminating, distributing, and reprinting the other's published statements.

Answer of Defendants to 45: Plaintiffs are left to their proof that reprinting or disseminating anyone else's statement, real or imaginary, constitutes conspiracy. Therefore denied.

Defendants' Untrue Statements

50. Gailon Joy and Robert Pickle have published numerous untrue statements that 3ABN and its President Danny Shelton have committed financial improprieties with donated ministry funds. Among those untrue statements made by Joy and Pickle are, *inter alia*, that:

Answer of Defendants to 46: Plaintiffs are left to their proof that the statements published are untrue, that the defendants knew them to be untrue. The defendants assert that they properly researched each such statement now challenged and that the factually challenged statements, or unresponsive statements of the plaintiffs constitute an absolute defense in fact against the presumption of wanton and reckless disregard of the truth or falsity of the claims. Therefore denied.

a. For the last several years, the international television ministry known as Three Angels' Broadcasting Network (3ABN) has found itself beset by a growing number of moral, ethical, and financial allegations. Despite the serious nature of these allegations, repeated calls for investigation, reform, and accountability have gone unheeded by its officers and directors.

Answer of Defendants to 46a: Admitted that the ministry is beset by allegations. Plaintiff is left to their proof that any allegation has been properly acted upon by its officers or board of directors. Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

b. Danny Shelton purchased a 3-year-old van using 3ABN funds, then sold the van to a member of his family for just \$10.00.

Answer of Defendants to 46b: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the

allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

c. Danny Shelton purchased new furniture with 3ABN funds, put the new furniture in his residence, and put the old furniture from his residence on the 3ABN television set.

Answer of Defendants to 46c: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

d. Danny Shelton used 3ABN funds to purchase used furniture from his sister, Tammy Chance, at nearly new prices (enabling Ms. Chance to buy brand new furniture for her home), for use in a 3ABN guest house, but, instead of putting the used furniture in the 3ABN guest house, Mr. Shelton gave the furniture to yet another family member and used 3ABN funds to purchase brand new furniture for the guest house.

Answer of d Defendants to 46d: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

e. The 3ABN Board of Directors has failed in its responsibility to

oversee and manage 3ABN's financial assets.

Answer of Defendants to 46e: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

f. Danny Shelton laundered money through 3ABN donations to Cherie Peters, in order to make payments that had been expressly prohibited by the 3ABN Board of directors.

Answer of Defendants to 46f: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

g. 3ABN Board members have personally enriched themselves as officers and directors of 3ABN in violation of the Internal Revenue Code.

Answer of Defendants to 46g: Defendants do not recall an allegation that Board Members, other than the President, Danny Lee Shelton, have enriched themselves. If it did then it would be that Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response

upon completion of discovery. Therefore denied.

h. 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.

Answer of Defendants to 46h: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

Answer of Defendant Pickle to 46h: Defendant Pickle is unaware of any books that 3ABN has written. Therefore denied.

i. Danny Shelton has directed 3ABN Chief Financial Officer Larry Ewing to not answer questions concerning Danny Shelton's personal finances, expenses, bonuses or book royalties in a Family Court proceeding, which was initiated by Linda Shelton regarding division of marital assets and that Mr. Ewing has complied and refused to answer questions posed to him by the Court.

Answer of Defendants to 46i: Defendants do not recall an allegation that Mr Ewing was posed questions by a court. Otherwise, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

j. Danny Shelton has used the 3ABN corporate plane for personal uses.

Answer of Defendants to 46j: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

k. Danny Shelton spent \$600,000 of 3ABN funds for radio station WDQN without Board approval and paid in excess of its fair market value, which was only \$250,000.

Answer of Defendants to 46k: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

46. 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.

Answer of Defendants to 47: Plaintiffs are left to their proof that the statements published are untrue, that the defendants knew them to be untrue. Therefore the defendants assert that that the factually challenged statements, or unresponsive statements of the plaintiffs, constitute an absolute defense in fact against the presumption of wanton and reckless

disregard of the truth or falsity of the claims. Therefore denied.

47. Gailon Joy and Robert Pickle have published numerous untrue statements that 3ABN and its President Danny Shelton have committed administrative and operational improprieties at 3ABN and that the organization is not properly or competently managed by its managers, officers, and directors. Among those untrue statements made by Defendants are, *inter alia*, that:

Answer of Defendants to 48: Plaintiffs are left to their proof that the statements published are untrue, that the defendants knew them to be untrue. Therefore the defendants assert that that the factually challenged statements, or unresponsive statements of the plaintiffs, constitute an absolute defense in fact against the presumption of wanton and reckless disregard of the truth or falsity of the claims. Therefore denied.

a. 3ABN engages in nepotism in the hiring and firing of staff.

Answer of Defendants to 48a: If the allegation has been made, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

b. 3ABN violated the Federal Equal Opportunity Act by taking adverse employment actions against two whistle-blower employees of 3ABN's Trust Services division.

Answer of Defendants to 48b: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the

allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

c. The 3ABN Board of Directors has failed in its responsibility to oversee the governance and administration of the organization.

Answer of Defendants to 48c: If the allegation has been made, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

d. Danny Shelton and 3ABN would not permit an ecumenical Seventh-Day Adventist-related, fact-finding tribunal proposed and directed by Adventist-laymen's Services and Industries ("ASI") to investigate all allegations related to the ministry and confined the tribunal to only those allegations involving Linda Shelton's removal and the Shelton's' divorce.

Answer of Defendants to 48d: Defendants note that the terms "ecumenical" and "Seventh-day Adventism" are mutually inconsistent, the first not being a part of the tenets of the second, therefore any allegation contained in the statement is denied. However, if such an allegation was actually made, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to

supplement their response upon completion of discovery. Therefore denied.

48. 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.

Answer of Defendants to 49: Plaintiffs are left to their proof that the allegations are false, that the defendants knew they were false and therefore represent wanton and disregard for the truth or falsity. Therefore, denied by the defendants.

49. Gailon Joy and Robert Pickle have made numerous published untrue statements that 3ABN and its President Danny Shelton acted without grounds in removing Linda Shelton from the 3ABN Board of Directors, that Danny Shelton had no grounds for divorcing Linda Shelton, that 3ABN and Danny Shelton conspired to hide evidence and information concerning the removal and divorce, and that 3ABN and Danny Shelton have lied and made otherwise purposeful misstatements concerning the Shelton's' divorce and Danny Shelton's remarriage. Among those untrue statements made by Defendants are, *inter alia*, that:

Answer of Defendants to 49: Plaintiffs are left to their proof that the statements published are untrue, that the defendants knew them to be untrue. Therefore the defendants assert that that the factually challenged statements, or unresponsive statements of the plaintiffs, constitute an absolute defense in fact against the presumption of wanton and reckless disregard of the truth or falsity of the claims. Therefore denied..

a. Danny Shelton and ASI conspired to exclude Gailon Joy from participating in a fact-finding tribunal regarding Linda Shelton's divorce and removal from 3ABN.

Answer of Defendants to 49a: Admitted inasmuch as Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

b. Danny Shelton and ASI conspired to prevent various allegations and issues from being included in the fact-finding tribunal.

Answer of Defendants to 49b: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

c. It was Danny Shelton that participated in an extra-marital affair by becoming "involved" in "after hours activities" with 3ABN employee Brenda Walsh.

Answer of Defendants to 49c: Defendants do not recall such a specific allegation but inasmuch as it is believed to be inferred, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

d. During his marriage to Linda Shelton, Danny Shelton had several inappropriate extra-marital relationships, of which 3ABN staff and board members were aware.

Answer of Defendants to 49d: Defendants do not recall alleging several extra-marital relationships, and in particular not in any publication such as alleged by Plaintiffs, but inasmuch as plaintiffs believe it is inferred, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

a. Danny Shelton was preparing to divorce Linda Shelton beginning in 2003.

Answer of Defendants to 49e: Defendants do believe that upon a preponderance of the evidence that was available to the defendants, it be may be inferred, therefore, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

f. Danny Shelton conducted an inappropriate relationship with from August 2004 until they were married in 2006, and 3ABN's officers and directors were aware of the relationship.

Answer of Defendants to 49f: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without

sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

g. Danny Shelton lied by claiming to have joint title with Linda Shelton to a Toyota Sequoia automobile.

Answer of Defendants to 49g: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

h. The 3ABN board of directors had no authority to authorize Danny Shelton's adulterous marriage or to allow his continued employment by and direction of 3ABN.

Answer of Defendants to 49h: The defendants alleged conclusion relates to ecclesiastical authority and ecclesiastical foundation. However, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

i. Danny Shelton perjured himself through the course of court proceedings relating to his divorce from Linda Shelton.

Answer of Defendants to 49i: Defendants do not recall such an allegation, but inasmuch as the plaintiffs feel it is inferred, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the

allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

50. 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.

Answer of Defendants to 50: Plaintiffs are left to their proof that the statements published are untrue, that the defendants knew them to be untrue. Therefore the defendants assert that that the factually challenged statements, or unresponsive statements of the plaintiffs constitute an absolute defense in fact against the presumption of wanton and reckless disregard of the truth or falsity of the claims. Therefore denied.

51. 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.

Answer of Defendants to 51: Plaintiffs are left to their proof that the statements published are untrue, that the defendants knew them to be untrue. Therefore the defendants assert that that the factually challenged statements, or unresponsive statements of the plaintiffs constitute an absolute defense in fact against the presumption of wanton and reckless disregard of the truth or falsity of the claims. Therefore denied.

CAUSES OF ACTION

COUNT I: Infringement of Trademark (15 U.S.C. § 1114)

52. Plaintiffs restate and reallege Paragraphs 1 through 52 above, and hereby incorporate them by reference, as though fully set forth herein.

Answer of Defendants to 52: Defendants leave the plaintiffs to their proof of all prior claims hereto.

53. Plaintiff 3ABN is the creator and proper owner and holder of the trademarks "3ABN" and "Three Angels Broadcasting Network" and has registered the same with the United States Patent and Trademark Office.

Answer of Defendants to 53: Plaintiff is left to their proof that such limited trademarks are applicable to the allegations by plaintiffs. Therefore denied.

54. Defendant Joy has used Plaintiff 3ABN's Marks in the registered domain names "save3abn.com" and "save3abn.org."

Answer of Defendants to 54: Denied.

55. Defendant Joy has used Plaintiff 3ABN's Marks in the internet websites "www.save3abn.com" and www.save3abn.org.

Answer of Defendants: Denied.

56. Defendant Joy has used Plaintiff 3ABN's Marks in the embedded metatags "3ABN," "3-ABN," and "Three Angels Broadcasting Network" on the Infringing Website.

Answer of Defendants: Denied.

57. Defendant Joy has used Plaintiff 3ABN's Marks in commerce in connection with 3ABN's provision of ministerial and informational services.

Answer of Defendants: Denied

58. Defendant Joy's use of Plaintiff 3ABN's Marks is without Plaintiffs' authorization, permission, or license, and does not otherwise constitute a permissible use.

Answer of Defendants: Denied

59. Defendant Joy's use of 3ABN's Marks has been willful and deliberate, designed specifically to trade upon the enormous goodwill associated with 3ABN and its 3ABN Marks.

Answer of Defendants : Denied

60. Defendant Joy's unauthorized use of 3ABN's Marks is likely to lead the public to believe the Infringing Website is associated with, sponsored by, related to, affiliated with, or originates with 3ABN when, in fact, it is not.

Answer of Defendants: Denied

61. Plaintiff has been damaged by Defendant Joy's infringement of its "3ABN" Marks, in an amount to be proven at trial, and is entitled to treble damages, costs, and attorneys' fees, pursuant to 15 U.S.C. §1117.

Answer of Defendants : Plaintiff is left to their proof that any damage has been incurred.

Defendant denies Infringement. Plaintiffs right to treble damages is denied as they failed to demonstrate that defendants actions were fraudulent, wanton or deliberate.

Plaintiffs claim for costs and attorneys fees are wanton as the action against the defendants is frivolous, without merit and a fraud upon the court.

62. 3ABN's goodwill is of enormous value, and 3ABN will suffer irreparable harm should Defendant Joy's infringement be allowed to continue to the detriment of

3ABN's reputation and goodwill.

Answer of Defendants : Denied

63. Defendant Joy's infringement will continue unless enjoined by this Court and with respect to these continuing violations, Plaintiff has no adequate remedy at law and is therefore entitled to injunctive relief.

Answer of Defendants : Defendants actions do not constitute infringement and are unlikely to be enjoined by the court, therefore, since the Plaintiffs action is frivolous, without merit and a fraud upon the court, Plaintiffs are without a remedy at law and therefore not entitled to injunctive relief.

COUNT II: Dilution of Trademark (15 U.S.C. §1125(c))

64. Plaintiff restates and realleges Paragraphs 1 through 64 above, and hereby incorporates them by reference, as though fully set forth herein.

Answer of Defendants : Plaintiff is left to its proof as to all allegations heretofore.

65. Through Plaintiff 3ABN's extensive use of the 3ABN Marks to identify its broadcast ministry, through Plaintiffs' development of goodwill surrounding the Marks by its successful operation and expansion of the broadcast ministry, and through Plaintiffs' promotion and marketing efforts utilizing the Marks, the 3ABN Marks are now recognized worldwide as symbols of a dedicated, principled, Christ-centered ministry that is theologically faithful, operationally sound, and financially conscientious. 3ABN's Marks are famous marks of inestimable value to 3ABN and are relied upon by the public in distinguishing 3ABN from other ministries, broadcasters, and recording producers.

Answer of Defendants : Denied

66. After the 3ABN Marks had become famous, Defendant Joy willfully intended to trade upon 3ABN's reputation and the fame of its Marks by using the Marks in the Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags.

Answer of Defendants : Denied

67. The use and planned use of the 3ABN Marks by Defendant Joy has tarnished and disparaged, and thereby diluted, and is likely to continue to tarnish, disparage, and thereby dilute, the distinctive quality of and goodwill associated with the Marks.

Answer of Defendants : Denied.

68. Defendant Joy's willful dilution of 3ABN's Marks has injured Plaintiff in an amount to be proven at trial.

Answer of Defendants : Plaintiffs are left to their proof. However, since the Plaintiffs action is frivolous, without merit and a fraud upon the court, Plaintiffs are without a remedy at law and therefore not entitled to damages.

69. 3ABN's trademarks are of enormous value, and 3ABN will suffer irreparable harm should Defendant Joy's trademark dilution be allowed to continue to the detriment of 3ABN.

Answer of Defendants : Denied

70. Defendant Joy's dilutive activities will continue unless enjoined by this Court and, with respect to these continuing violations, 3ABN has no adequate remedy at law and is therefore entitled to injunctive relief.

Answer of Defendants : Defendants assert that since the Plaintiffs action is frivolous, without merit and a fraud upon the court, Plaintiffs are without a remedy at law and therefore not entitled to injunctive relief.

COUNT III: Defamation

71. Plaintiffs restate and reallege Paragraphs 1 through 71 above, and hereby incorporates them by reference, as though fully set forth herein.

Answer of Defendants : Plaintiff is left to its proof as to all allegations heretofore.

72. Defendants have made numerous false statements of fact with regard to both 3ABN and its President Danny Shelton.

Answer of Defendants : Denied inasmuch as Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery.

73. Defendants have published those statements on the Internet and at the website "www.save3ABN.com" and have thereby communicated those false statements to someone other than the Plaintiffs.

Answer of Defendants : Plaintiffs are left to their proof that any allegation is in fact false, otherwise admitted.

74. Defendants' false statements refer to Plaintiffs' trade, business and profession, contain false accusations of the commission of a crime by both Plaintiffs, and impute serious misconduct to Plaintiffs 3ABN and Danny Shelton and are therefore

defamatory per se.

Answer of Defendants : Plaintiffs are left to their proof that any allegation is in fact false.

Defendants do not recall drawing a conclusion that any accusation constitutes a criminal offense, but to the degree that Plaintiffs believe it is inferred, Plaintiff is left to their proof that such an allegation constitutes a crime vs a civil action. As to the legal determination that such allegations are defamatory per se, denied.

75. Defendants' false statements were purposefully and maliciously designed and made 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.

Answer of Defendants : Plaintiffs are left to their proof that defendants statements were, in fact, false, that there were maliciously designed, and inasmuch as said statements were made Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

76. Defendants' false statements have tended to and have in fact harmed the reputation and goodwill of both 3ABN and its President Danny Shelton, and have served to lower 3ABN and President Danny Shelton in the estimation of the community.

Answer of Defendants : Plaintiffs are left to their proof that defendants statements were false. Defendants are without sufficient proof to know if the statements made have done

harm and therefore, plaintiff Danny Lee Shelton is left to his proof. Therefore denied.

77. As a direct and proximate result of the damage done to Plaintiffs' reputations by Defendants' defamatory and disparaging statements, viewers have ceased support of the ministry and donors have reduced or stopped donations to 3ABN.

Answer of Defendants : Denied. Defendant re-assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation of the Board of Directors of 3ABN that resulted in the possibility, either real or imaginary, that viewers have ceased support of the ministry and donors have reduced or stopped donations to 3ABN. Therefore denied.

COUNT IV: Intentional Interference With Advantageous Economic Relations

78. Plaintiffs restate and reallege Paragraphs 1 through 78 above, and hereby incorporate them by reference, as though fully set forth herein.

Answer of Defendants : : Plaintiff is left to its proof as to all allegations heretofore.

79. Defendants have made numerous false statements of fact with regard to both 3ABN and its President Danny Shelton.

Answer of Defendants : Plaintiff is left to its proof that any statement is false, but inasmuch as such a statement was made, Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

80. Defendants have published those statements in an effort to discredit 3ABN

and its President Danny Shelton and in order to cause present and prospective viewers and donors to the ministry to discontinue their financial support of the ministry.

Answer of Defendants : Denied. Defendant re-assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation of the Board of Directors of 3ABN that resulted in the possibility, either real or imaginary, that viewers have ceased support of the ministry and donors have reduced or stopped donations to 3ABN.

81. Defendants have intentionally interfered, tortiously and/or with improper motive or means, with 3ABN's present and prospective advantageous economic relationships with viewers and donors.

Answer of Defendants : Denied. Defendant re-assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation of the Board of Directors of 3ABN that resulted in the possibility, either real or imaginary, that viewers have ceased support of the ministry and donors have reduced or stopped donations to 3ABN.

82. As a direct and proximate result of Defendants actions, viewers and donors have discontinued their financial support of the ministry.

Answer of Defendants : Denied. Defendant re-assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation of the Board of Directors of 3ABN that resulted in the possibility, either real or imaginary, that viewers have ceased support of the ministry and donors have reduced or stopped donations to 3ABN.

JURY DEMAND

Plaintiff hereby demands a trial by jury for all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray:

1. That judgment be entered in favor of Plaintiffs and against Defendants for all claims in Plaintiffs' Complaint on the grounds that Defendants have knowingly and willfully infringed upon and diluted Plaintiffs' trademarks, have willfully and maliciously defamed plaintiffs, and have willfully and intentionally interfered with Plaintiffs' advantageous economic relations.

Answer of Defendants to 1: Judgment be conferred in favor of defendants, that the honorable court find the Plaintiffs action is frivolous, without merit and a fraud upon the court, Plaintiffs are without a remedy at law and therefore not entitled to relief.

2. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from infringing on 3ABN's Marks and dilution of 3ABN's Marks.

Answer of Defendants : Pray the court find the Plaintiffs action is frivolous, without merit and a fraud upon the court, therefore, Plaintiffs are without a remedy at law and therefore not entitled to injunctive relief.

3. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from using the 3ABN Marks in any internet domain name, internet website name, or internet website metatags.

Answer of Defendants : Plaintiffs action is frivolous, without merit and a fraud upon the court, Plaintiffs are without a remedy at law and therefore not entitled to injunctive relief.

4. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from using the Infringing Domain, Directing Domain or the Infringing Website.

Answer of Defendants to 4: That the honorable court find the domain is not infringing and that the Plaintiffs action is frivolous, without merit and a fraud upon the court, Plaintiffs are without a remedy at law and therefore not entitled to injunctive relief.

5. That Defendant Joy be ordered to immediately surrender the Infringing Domain and transfer registration of the Infringing Domain and Directing website to Plaintiff 3ABN, completing all paperwork necessary to transfer and paying all fees and costs associated with transfer of the domain registration.

Answer of Defendants : Plaintiffs are not entitled to the relief requested, there is no "Infringing Domain" or "Directing Website" and Defendant has the right to engage in non-commercial speech even if it is contrary to the public image Plaintiffs seek to display.

6. That Defendants be ordered to immediately remove from all print and electronic publications the false statements of fact alleged herein and otherwise established at trial.

Answer of Defendants : Plaintiffs action is frivolous and without merit and their assertion that any false statements have been alleged will be proven both puffery and sadly untrue.

7. That Defendants be ordered to immediately publish a retraction of the

false statements of fact alleged herein and otherwise established at trial, and to publish that retraction in the same forms and forum and to the same general and specific audience as the false statements were originally made.

Answer of Defendants : Plaintiffs are not entitled to the requested relief and that they request this be ordered of the Defendants is inconsistent with their earlier prayers that the Defendants websites be transferred to them, leaving the Defendants without a soapbox from which to publish any retractions

8. That compensatory damages be awarded to Plaintiffs in an amount to be determined at trial, but in no event less than \$75,000 (exclusive of costs and interest).

Answer of Defendants : Plaintiffs have no claim for any damages but Defendants should be compensated for the need to defend this frivolous action which is without basis in fact or law.

9. That statutory damages be awarded Plaintiffs in an amount to be determined at trial.

Answer of Defendants : Plaintiffs request for statutory damages ignores the similar cases in which Plaintiffs were not entitled to relief, and Plaintiffs here have no entitlement to relief.

10. That Plaintiffs be awarded all costs and fees, including attorneys' fees, incurred in the prosecution of this action.

Answer of Defendants : Plaintiffs action is frivolous and without merit and as such Defendants should be granted their fair and reasonable attorney fees and costs as a sanction.

11. That Plaintiffs are awarded such other and further relief as this Honorable Court may deem just and equitable.

Answer of Defendants : Plaintiffs are entitled to no such relief but the Defendants are confident that this Honorable Court will fashion a fair and reasonable decree.

RESPECTFULLY SUBMITTED this 21st Day of May, 2007,
for the defendants, Gailon Arthur Joy and Bob Pickle.



Laird J. Heal, BBO # 553901
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

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

Plaintiffs

vs.

Gailon Arthur Joy
and
Robert Pickle

Defendants

C.A. No. 07-40098-FDS

CERTIFICATE OF SERVICE

I, Laird J. Heal, do certify that I am over the age of 18 years of age and on this day I have caused service of the within-enclosed Answer of Robert Pickle and Gailon Arthur Joy upon the Plaintiffs by mailing, first-class postage prepaid, to their attorney of record,

John P. Pucci,
Fierst, Pucci & Kane, LLC
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Northampton, MA 01060



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