

**Ex. A**

**No. 08-2457; No. 09-2615**

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**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT**

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**THREE ANGELS BROADCASTING NETWORK, INC.,  
an Illinois Non-Profit Corporation;  
DANNY LEE SHELTON,**

*Plaintiffs-Appellees,*

**v.**

**GAILON ARTHUR JOY; ROBERT PICKLE,**

*Defendants-Appellants.*

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On Appeal from the United States District Court  
for the District of Massachusetts  
Case No. 07-40098

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**DEFENDANTS' AMENDED  
SECOND STATUS REPORT**

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This Court's August 19, 2009, order set forth Defendants' obligation to inform this Court of (a) the status of motions below that impede the progress of Defendants' appeals here, and (b) the resolution of such motions below. Pursuant to that order,<sup>1</sup> Defendants now file this status report.

On December 9, 2009, Defendants moved this Court to hold in abeyance Defendants' appeals until copies of subpoenaed bank statements produced by MidCountry Bank ("MidCountry") ("MidCountry records") were forwarded to this Court as part of the record on appeal. Defendants also moved the district court to forward the MidCountry records. (Record on Appeal Docket Entry ("RA") 204).

After Plaintiffs' counsel informed Defendants that Plaintiffs' counsel was in possession of the MidCountry records, and after the district court informed Defendants that it had not retained a copy, Defendants moved the district court on December 18, 2009, (a) for an order compelling Plaintiffs' counsel to return the MidCountry records, properly certified pursuant to the Federal Rules of Evidence, and (b) for a stay of the yet-unexecuted October 30, 2008, order calling for the return of the MidCountry records to MidCountry. (RA 210). That same day,

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<sup>1</sup>Defendants originally filed this report on February 5, 2010, with an opening paragraph that stated that this status report was not required. At the time, Defendants believed that the August 19 order was no longer in effect, but were unsure if this was true, and did not want to risk dismissal of their appeals due to failure to file a status report.

Upon further reflection, Defendants realize that thus far no court order has vacated the August 19 order's requirement to file status reports every sixty days, and that the opening paragraph of this status report must be amended.

December 18, the district judge referred the case to the magistrate judge for rulings on Defendants' two motions. The magistrate judge had previously been removed from the case on April 13, 2009.

On January 15, 2010, the district judge recused himself, making public the fact that a complaint of judicial misconduct had been filed against him, and that his "impartiality might reasonably be questioned by an objective observer." (RA 226). A new district judge was immediately assigned to the case.

Two weeks later, on January 29, three electronic orders or docket entries were entered between 3:40 and 3:42 pm EST by the magistrate judge's courtroom clerk. The first two orders were as follows:

Electronic ORDER entered denying [204] Motion to Forward Part of the Record by Gailon Arthur Joy, Robert Pickle.

Electronic ORDER entered denying [210] Motion to Compel Plaintiffs' Counsel to Return the MidCountry Records by Gailon Arthur Joy, Robert Pickle.

The third docket entry withdrew the reference to the magistrate judge.

On February 3, 2010, Defendants filed objections to the magistrate judge's orders, which objections and accompanying affidavit are attached hereto as **Exhibits A–B**. Defendants thereby seek a *de novo* review of these orders by the district judge newly assigned to the case.

Defendants continue to request that this Court hold Defendants' appeals in abeyance until the MidCountry records are forwarded to this Court as part of the

record on appeal, properly certified pursuant to the Federal Rules of Evidence.

Respectfully submitted,

Dated: April 16, 2010

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