

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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| _____) | |
| Three Angels Broadcasting Network, Inc.,) | |
| an Illinois non-profit corporation, and) | |
| Danny Lee Shelton, individually,) | Case No.: 07-40098-FDS |
|) | |
|) Plaintiffs,) | |
| v.) | |
|) | |
| Gailon Arthur Joy and Robert Pickle,) | |
|) | |
|) Defendants.) | |
| _____) | |

DEFENDANTS’ EMERGENCY MOTION FOR HEARING

Pursuant to an order of the Honorable Philip Frazier of the Southern District of Illinois issued on October 22, 2008, the Defendants seek a hearing on the question of their subpoena *duces tecum* of Gray Hunter Stenn LLP (hereafter “GHS”). (Doc. 76-3 pp. 5–7).

A hearing was held on October 22, 2008, before Magistrate Judge Philip Frazier in the Southern District of Illinois (Case No. 08-MC-16-JPG-PMF) concerning the Plaintiffs’ Motion to Quash the Defendants’ subpoena, which was served upon GHS on March 17, 2008. (Affidavit of Robert Pickle (hereafter “Pickle Aff.”) ¶¶ 1–4). The court determined during that hearing:

The Court continues the subpoena served on Gray Hunter Stenn LLP, and directs that Gray Hunter Stenn LLP and Three Angels Broadcasting Network, Inc. make every effort to preserve any documents or records of any kind, electronic or otherwise, which might be produced under the subpoena. **Any further litigation concerning the subpoena is transferred to the District of Massachusetts.**

(Pickle Aff. Ex. A).

The Plaintiffs and Defendants have already filed with this Court documents pertaining to

the aforementioned matter in the Southern District of Illinois. The Defendants' documents, with citations to the record of the instant case, are as follows:

- Defendant Robert Pickle's Motion to Compel Alan Lovejoy and Gray Hunter Stenn LLP. (Doc. 81-5 at pp. 8–12).
- Defendant Robert Pickle's Memorandum in Support of His Motion to Compel and His Response to the Court's Order to Show Cause. (Doc. 81-5 at pp. 13–22).
- Affidavit of Robert Pickle. (Doc. 81-5 at pp. 23–34).
- Exhibits A–Q, T–X. (Doc. 81-6).
- Exhibits R–S. (Associated with Sealed Doc. 93).
- Exhibits Y–DD, HH–MM. (Doc. 81-7).
- Exhibits EE–GG. (Associated with Sealed Doc. 93).
- Exhibits NN–YY. (Doc. 81-8).
- Exhibits ZZ–GGG, III–KKK. (Doc. 81-9).
- Exhibits HHH. (Associated with Sealed Doc. 93).

The Defendants seek to resolve the issues as judiciously as possible for the following reasons: Inasmuch as the compliance date upon the subpoena was April 17, 2008, the requested discovery has already been delayed by six months. The harshness of winter in the Midwest approaches, making it more difficult for the Defendants and their experts to come from as many as six states to review the documents in question. While the Defendants not being able to expeditiously obtain the documents requested from GHS will suit the Plaintiffs' obstructionism just fine, further delay may necessitate that discovery deadlines be extended yet again.

There are currently outstanding issues before this Court pertaining to four discovery motions and the extension of deadlines for discovery. The Defendants and their experts need to review the documents sought from GHS in preparation for the Defendants' interrogatories and/or

depositions, which must be served and conducted prior to extended discovery deadlines. As it is, more than half of the pending requested extension for serving written discovery requests has already passed.

WHEREFORE, the Defendants pray the Court to schedule a hearing in the matter of the subpoena *duces tecum* served upon GHS, preferably simultaneously with the status conference scheduled for October 30, 2008, or in the alternative, to rule upon the motion(s) in question on the basis of the pleadings and/or the record memorialized in the Southern District of Illinois; and to grant whatever further relief the Court deems fair and just.

Respectfully submitted,

Dated: October 23, 2008

/s/ Gailon Arthur Joy, *pro se*

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and

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AFFIDAVIT OF SERVICE

Under penalty of perjury, I, Bob Pickle, hereby certify that this document, with accompanying affidavit and exhibit, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent by U.S. Mail to Jennifer White (attorney for plaintiffs) and Deeana Litzenburg (attorney for Gray Hunter Stenn LLP) on October 23, 2007.

Dated: October 23, 2008

/s/ Bob Pickle

Bob Pickle