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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Three Angels Broadcasting)
Network, Inc., and)
Danny Lee Shelton,)
Plaintiffs,)
vs.)
Gailon Arthur Joy,)
and Robert Pickle,)
Defendants.)

Case No. 07cv40098-FDS

BEFORE: The Honorable F. Dennis Saylor, IV

Telephonic Status Conference

United States District Court
Courtroom No. 22
One Courthouse Way
Boston, Massachusetts
December 14, 2007

Marianne Kusa-Ryll, RDR, CRR
Official Court Reporter
United States District Court
595 Main Street, Room 514A
Worcester, MA 01608-2093
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Mechanical Steno - Transcript by Computer

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P R O C E E D I N G S

THE CLERK: Case No. 07-40098, Three Angels
Broadcasting versus Joy.

Counsel and defendants, please identify yourself for
the record.

MS. HAYES: Yes, your Honor. Jerrie Hayes, for
Siegel, Brill, Greupner, Duffy & Foster, for the plaintiffs.

THE COURT: All right. Good afternoon.

MS. HAYES: Good afternoon.

MR. PUCCI: John Pucci for the plaintiffs.

THE COURT: Good afternoon.

MR. JOY: Gailon Joy, pro se.

THE COURT: Good afternoon.

MR. PICKLE: Bob Pickle, pro se.

THE COURT: All right. Good afternoon.

This is a status conference or a case management
conference in this case. I think we have a recently-filed
motion to compel plaintiffs to produce documents and for
sanctions, which I'm going to refer to the magistrate judge,
but I think it was filed either yesterday or today, and I
assume that counsel has not had an opportunity to review it or
file an opposition to it, but it will be --

MS. HAYES: No, your Honor.

THE COURT: Okay. It will be referred to the

1 magistrate judge.

2 MS. HAYES: Okay.

3 THE COURT: All right. Where do matters stand?

4 Ms. Hayes, do you want to take the lead.

5 MS. HAYES: Sure, your Honor. Obviously, the case is
6 in discovery, and the primary issue, I think, in front of us
7 today is discovery, and a number of issues that have sort of
8 come up around that.

9 The first one, I think, the most important is the
10 filing of personal bankruptcy by Defendant Joy. There has been
11 a number of proceedings and things back and forth concerning
12 the bankruptcy. The plaintiff's bankruptcy counsel is not
13 participating in this call today, but we have been in contact
14 with that counsel to kind of keep updated on what's happening
15 with that.

16 Mr. Joy filed for bankruptcy on August the 14th. He
17 did not provide plaintiffs with notice of that bankruptcy and
18 did not list either the save3ABN.com or the save3ABN.org
19 domains as assets on that petition. He did, however, list
20 the -- the electronic office equipment, which would include
21 computers as assets on that bankruptcy.

22 Again, we didn't -- we didn't receive notice of that
23 when it was filed. We then subsequently served on August 20th
24 written discovery on both Mr. Pickle and Mr. Joy, and we did
25 not receive any objections to that discovery by Mr. Joy; so, we

1 moved forward with an understanding that we would get responses
2 to that.

3 About 10 days later on the 29th of August, we received
4 constructive notice of Mr. Joy's bankruptcy. We still haven't
5 heard from him or his bankruptcy counsel Mr. Heal; but after
6 that point, we made no further effort to contact him. We
7 conducted no further discovery. We didn't engage in any
8 additional court proceedings involving him, but we did, of
9 course, continue the litigation against Defendant Pickle.

10 On or about the 2nd of November, Magistrate Hillman,
11 who had been alerted to Joy's bankruptcy by the petitioner, or
12 by the plaintiff, who was apparently concerned about evidence
13 preservation in that case ordered Mr. Joy to produce his
14 electronic equipment for imaging. We had made in front of you,
15 your Honor, a motion for the preservation and imaging of that
16 data, and that had been referred to Magistrate Hillman, and he
17 issued his order on -- an order on the 2nd that that equipment
18 be produced in order to preserve the data. He was not granting
19 the plaintiff access to the information, but wanted the
20 computers produced, because that electronic equipment had been
21 listed as an asset in the bankruptcy, and to the extent that it
22 may have been seized by the trustee and sold in satisfaction of
23 the obligations there was a chance that data would not be
24 preserved.

25 So, once that order was issued, which ordered the

1 documents or the computer data to be produced and imaged by
2 November 9th -- it was a one-week turnaround -- I then
3 contacted -- between the 2nd of November and the 9th of
4 November, I contacted Mr. Joy three times by mail in an effort
5 to arrange that evidence preservation imaging that was ordered
6 by Magistrate Hillman, and that sort of never happened.

7 Every time I would write to Mr. Joy, we just didn't
8 get a response in time for the computer imagers to get out
9 there and do the imaging, and then I would write another
10 letter, and it sort of just never happened.

11 On the 13th of November, there was a status conference
12 with Magistrate Hillman, and we tried to seek a stipulation to
13 grant plaintiffs relief from the automatic stay. It was Mr.
14 Joy's position that our efforts to facilitate that data imaging
15 had been a violation of the automatic stay, and so we then
16 asked for the conference for a stipulation or waiver of release
17 to the stay, but he refused to grant that.

18 So, in the interim then, he filed an adversarial
19 complaint in the bankruptcy proceeding naming the plaintiffs'
20 two law firms and individually naming the plaintiffs' three
21 primary counsel, claiming that we had violated the automatic
22 stay in attempting to arrange that evidentiary preservation
23 imaging.

24 So, plaintiffs then filed -- because we couldn't get a
25 stipulation, plaintiffs filed a motion for relief from that

1 stay. We did try to make efforts to bankruptcy counsel to
2 negotiate a stipulated relief from stay. It was held for
3 hearing on November the 21st; and just a few minutes before the
4 hearing took place, Mr. Joy suddenly changed his mind,
5 stipulated to relief from the stay, and so that was granted on
6 November 21st.

7 So, there were basically three months where there was
8 no movement on discovery, because the automatic stay was in
9 place.

10 THE COURT: Okay. So -- so, has the -- does the
11 relief from stay -- it's in full effect; in other words, it's
12 as if the bankruptcy didn't exist as far as this litigation is
13 concerned?

14 MS. HAYES: Well, the -- we've been granted permission
15 by the Bankruptcy Court to move forward with the injunctive
16 relief. I believe that the monetary claims still remain in the
17 jurisdiction of the Bankruptcy Court --

18 THE COURT: All right.

19 MS. HAYES: -- but we are allowed to continue with all
20 the discovery.

21 THE COURT: Okay.

22 MS. HAYES: There was then in the interim a motion in
23 the Bankruptcy Court to sell to Three Angels Broadcasting the
24 two domain named assets that had not been listed on the
25 petition. The trustee made that motion, I want to say, on the

1 30th or so. The hearing on that motion is scheduled for
2 December 18th. There was an offer by 3ABN to purchase the two
3 domain names and a previously claimed for \$5,000. The trustee
4 has made a motion for the approval of that sale; and then as I
5 said, that's scheduled to be heard the 18th.

6 Mr. Joy's response to that was to file a motion to
7 voluntarily dismiss his bankruptcy petition. That was filed on
8 the 11th and has been set, I believe, sort of in an emergency
9 status or a heightened status to be heard on the same day as
10 the trustee's motion for order authorizing the sale of the
11 assets.

12 So, that's sort of where the bankruptcy lies here, out
13 from under the stay, but our -- plaintiffs' counsel at least
14 has been responding to an adversarial complaint, and we've been
15 working with our plaintiff parties to purchase the assets of
16 the domain names.

17 I guess, basically, the upshot of all of that being
18 sort of plaintiffs' first request as part of the status
19 conference is to seek a -- probably a four-month extension of
20 all case deadlines due to sort of the tolling of our discovery
21 period while the bankruptcy matters have been pending.

22 I guess the second matter would be the issue of a
23 protective order. As I indicated, there's, I guess, a motion
24 has been filed, and I did receive ECF notice of that just a
25 couple of minutes before I got on the phone here, so I know the

1 motion was filed today, but the motion for -- the motion to
2 compel the 26(a)(1) documents and some sanctions. A little bit
3 of background there.

4 I did receive an informal request for the 26(a)(1)
5 documents from Defendant Pickle. Obviously, under the rules,
6 we have no obligation to provide that, unless the request is
7 made formally through written discovery; but despite that,
8 knowing that Mr. Pickle was pro se, I volunteered to provide a
9 time and date for inspection of those materials. I gave him a
10 notice schedule of how much time we would need, either if he
11 wanted to inspect in person, or if he just wanted us to send
12 copies, and then I also brought to Mr. Pickle's attention that
13 the bulk of the information that would be responsive and
14 relevant from our 26(a)(1), you know, assessment of the case
15 were very, very confidential and sensitive trade secret and
16 business information and private financial information on Danny
17 Shelton's part and that we were very concerned about releasing
18 that information to either Mr. Pickle or Mr. Joy knowing
19 they're both pro se counsel. In light of the history in this
20 case of court documents and other public records being put out
21 on the Internet and not just published baldly, but published
22 with fairly colorful and what we believe is mischaracterizing
23 commentary on those documents, and both plaintiffs feel very
24 concerned about releasing any of that information without a
25 protective order in place.

1 We exchanged a number of emails and written
2 communication, Mr. Pickle and myself, trying to -- sort of
3 trying to hammer out the issues on the 26(a)(1) documents, and
4 we just were not successful in doing so. It -- it was sort of
5 a beat-us-to-the-courthouse kind of thing. We have a motion
6 for a protective order that we plan to file as well, and I'm
7 assuming that will be also referred to Magistrate Hillman and
8 likely heard about the same time.

9 Our position, frankly, is that both Mr. Joy and
10 Mr. Pickle should have conferred to the truth of the statements
11 that they made about 3ABN and Danny Shelton or literally
12 satisfied themselves that the statements weren't false, and so
13 they should already have in their possession whatever
14 documents, statements, materials, and other information that
15 they used in order to allay their own concerns about the truth
16 or falsity of those statements. There's nothing, as far as
17 we're concerned, that they would need more to prove a defensive
18 truth at least, and we feel that it's really nothing more than
19 a blatant attempt to harass and abuse the plaintiffs by trying
20 to dig up some scrap of fact that provides post hoc
21 verification of the statements they've made.

22 They've asserted no counterclaim, despite having
23 repeatedly represented to this Court and on the Internet, that
24 they intended to do so. So what facts they might need to mount
25 a defense to a trademark and a defamation allegation is

1 certainly not going to become by rifling through 3ABN and Danny
2 Shelton's private financial, accounting, and auditing
3 information.

4 Basically, the upshot of that is that we are planning
5 again to make a motion for a protective order, and I would
6 assume that will go to Magistrate Hillman for determination;
7 but we would like to -- to -- to have discovery stayed at least
8 until that motion for a protective order can be heard and
9 decided.

10 A couple of smaller matters related to discovery, I
11 guess, that I'll throw in while I'm here. (Telephone) There
12 has been somewhat of a failure to respond to written discovery
13 and to Magistrate Hillman's order by Defendant Joy. The
14 written discovery was served on him, as I indicated earlier, on
15 August the 29th, or the 20th. We still have not received any
16 written answers to those interrogatories or requests for
17 production of documents. If -- even not counting the nine days
18 of service before our constructive notice of the discharge,
19 30 days following the listing of the automatic stay would be
20 December 21, and we would just ask that those materials be
21 provided to us on or before the 21st.

22 Last, but unfortunately, this is certainly not the
23 least. There has been, we believe, some improper discovery
24 happening here. We are doing our very best to be patient with
25 the fact that both Mr. Pickle and Mr. Joy are representing

1 themselves pro se. That said, however, both must still follow
2 the rules concerning discovery, subpoenas, and concerning the
3 contact of party witnesses.

4 We have been informed that there have been contacts
5 made and attempts to depose, without having ever received
6 formal deposition notices or any kind of communication through
7 us, counsel, our client representatives, members of the 3ABN
8 Board of Directors, and employees that definitely should not be
9 contacted.

10 We have also been notified that four subpoenas have
11 issued, at least two of which are improper, and were not issued
12 from the correct court. I know one -- a third one, has already
13 been objected to by the recipient, and -- and all of this sort
14 of behind-the-scenes discovery is happening, but no formal
15 discovery has yet been served on either of the plaintiffs.

16 And I guess we -- we just want to take this
17 opportunity to make it very clear on the record that we expect
18 Mr. Pickle and Mr. Joy, who are, you know, I guess, admirably
19 trying to represent themselves pro se, that they are still
20 obligated to follow the rules of procedure; that they are not
21 allowed to contact party witness -- witnesses or party
22 representatives without contacting counsel; and that we are to
23 receive notice of subpoenas at the time they are issued and
24 served, not sometime thereafter and not when the subpoenas have
25 been improper.

1 So, to that extent, I think that's what we're looking
2 for out of this conference. That's, as far as I know, the
3 status of things; and, again, there has been a considerable
4 delay in discovery, and -- and I suppose the ultimate upshot of
5 all that being that we are looking for a three- to four-month
6 extension in all of those deadlines in order to kind of get
7 back into the case again, get out of the bankruptcy issues, and
8 move forward with -- with the matter at hand.

9 THE COURT: All right. Who wants to take the lead
10 responding?

11 Mr. Joy? Mr. Pickle?

12 MR. JOY: Well, let me -- let me start.

13 THE COURT: Uh-huh. Who's this? I'm sorry.

14 MR. JOY: This is -- this is Gailon Joy here.

15 THE COURT: Okay.

16 MR. JOY: Let me begin by stating that counsel is very
17 colorful in her statements, but, in fact, they mischaracterize
18 repeatedly what has actually happened here.

19 When I have received or when I did receive the request
20 for the copy of the computers, we made an appropriate offer to
21 them to come in and actually make those available. She then
22 sent me specific -- specific letters stating that it was not in
23 their interest, because I -- at the time, your Honor, I was ill
24 with colitis and pneumonitis, secondary to some sort of
25 infection that I received. In any event, the bottom line is

1 they didn't want to be subject to that. We then elected to use
2 the third-party location, specifically Mr. Heal; and once
3 again, they -- we had it scheduled, and they failed to -- to
4 follow through and actually do that recording. So we made
5 every reasonable effort.

6 In addition -- and I'd like to point out, your Honor,
7 that at this point in time, we, within the time frame
8 necessary, made available virtually every single document that
9 we had planned on using both in the ecclesiastical request or
10 the ecclesiastical process, as well as this particular trial.
11 We did that in both the digital format as well as copies
12 to -- to the counsel on the other side, and we also made
13 available to them a complete copy of the appropriate e-mail and
14 hard drive information that was available on the -- on the
15 machines that we had used for the use of any 3ABN, et cetera,
16 and that was done and given to and recommended and acknowledged
17 by their, quote, computer expert, unquote. So, they have
18 substantial amounts of information from us, and have yet to
19 produce document one on their part, not document one.

20 Counsel at the time for Mr. Pickle made an attempt to
21 schedule a time to view and copy the information that was
22 available at Mr. Pucci's office. That was obviously refused.
23 Mr. Pickle then followed with a request to do the same thing
24 at -- at Ms. Hayes' office; and frankly, that fell apart under
25 some premise that the information of the 500 pages that they

1 supposedly had pursuant to the 26 -- 26(f) report, those
2 documents are suddenly supposedly privileged and trademark
3 secret and on and on and on.

4 The bottom line is I think it was made pretty clear at
5 the conference that we had regarding that that if they had
6 specific documents, which they felt needed protected -- a
7 protective order, they were to make an appropriate motion to do
8 so. They haven't done that.

9 In addition, they were given permission to redact.
10 They haven't done that. They haven't provided document one.
11 Now, the other -- the other important thing is they have made
12 claims -- they have made claims, per se, frankly, I think that
13 those claims are going to fail shortly on the very simple
14 premise that the evidence is growing; that, in fact, the things
15 that we've stated were, in fact, factually correct, and
16 obviously that would put the onus back on them to have to prove
17 their case, and we've done what we had to do to demonstrate
18 what we needed to do to defend our case. We gave them an
19 extensive witness list. And let me see here. Just let me go
20 over this a moment here.

21 Regarding the bankruptcy, we did not view -- we did
22 not view the save3ABN site as an asset. It's hardly an asset.
23 It's not a commercial process. There's plenty of case law on
24 that. It certainly didn't constitute any commercial value.
25 This attempt -- this attempt to work with the trustee to

1 purchase the domain name is just an underhanded, precalculated
2 effort to try to undermine the process of this Court, and we'll
3 be addressing that at the appropriate time.

4 It certainly is -- the only person that would even be
5 interested in paying for something like this, obviously, would
6 be 3ABN, and we just didn't view it as an asset. Nobody ever
7 made an offer to purchase it before. It certainly has no
8 commercial value. Therefore, it was not listed as an asset.
9 In fact, it's more of a liability, if you put this case into
10 the scenario, and we did, by the way, declare the case in the
11 bankruptcy filing.

12 Now, indeed we did do a motion to dismiss the
13 bankruptcy, because frankly the situation that -- the situation
14 that prevailed at the time that I had to file the bankruptcy,
15 specifically the company that I was working with literally had
16 its license taken away, and we were left virtually unemployed;
17 and virtually, as there were other issues as well, so the
18 bottom line is we found ourselves in a very tough spot. We
19 also had to negotiate issues relating to the buy-back of loans,
20 et cetera, and we had to do that without the company there as a
21 protected entity.

22 All those issues have been pretty much resolved at
23 this point. We only had about 20,000 in personal creditors,
24 and, frankly, those are obviously manageable. So we made a
25 legitimate motion to dismiss on the very singular premise, but

1 we pretty much have resolved the issue that forced us into a
2 situation where we needed to protect ourselves from creditors.
3 Pardon me. And that's where the bankruptcy stood.

4 Now, regarding the bankruptcy, there was some going
5 back and forth with, you know, with the -- with Judge Hillman.
6 Judge Hillman himself put -- put an end to the copying of the
7 machines by order, because of the automatic stay; and, in fact,
8 I think the record will reflect that these people knew about
9 the bankruptcy, knew constructively about the bankruptcy, if
10 nothing else, by that time, and yet they continued to pursue
11 the claim; and that's, again, an issue that will be, I guess,
12 resolved in the Bankruptcy Court under separate -- under
13 separate counsel. And I'm not going to belabor that issue, but
14 they can -- you know, they can deal with that appropriately;
15 however -- pardon me -- it is true that I did not complete my
16 interrogatory responses, again, because of the automatic stay.
17 Pardon me. And so I had left -- I left those. I could
18 easily -- you know, I could easily complete those and get them
19 back. I don't have any problem with that. We've been very up
20 front and forward. We provided all the documentation that we
21 had. We'll continue to do so. We have nothing to hide.

22 Let's see here. The other thing I wanted to address,
23 this contact of Mr. McNeilus, and that's who she would
24 obviously be referencing. Okay. Mr. McNeilus is a witness on
25 our list. He is not a witness on their list. That's the first

1 thing. Okay. So --

2 THE COURT: By whom is he employed?

3 MS. HAYES: He's a member of the Board of Directors of
4 3ABN, your Honor.

5 THE COURT: All right.

6 MR. JOY: He's a belated member of the Board of
7 Directors of 3ABN, and they did not include him on their
8 witness list that they sent to us. He is not listed as a
9 witness by them. We had him listed, because we knew that he
10 had done -- that he had paid for and/or participated in certain
11 investigative roles in 2004 relating to some of the information
12 that was necessary to the defense of our case. He has
13 investigative reports that he paid for.

14 So there is nothing improper with our contacting
15 Mr. McNeilus directly. And by the way, your Honor, just for
16 the record, there was a -- there was a -- there was a note sent
17 to them regarding who was to -- who was to be -- who was to be
18 available for -- let me see -- interrogatory -- no, I'm
19 sorry -- for depositions. And Ms. Hayes responded back that
20 the directors were not parties. Now, she's claiming they're
21 parties. I find that a rather inconvenient situation. We
22 can't tell from talking to Ms. Hayes what's what from day to
23 day.

24 THE COURT: All right. Let -- let me cut this issue
25 short, this particular one about the contacting a director.

1 Even though you're proceeding pro se, both of you, I'm going to
2 require you to act like attorneys in this regard. An attorney
3 is required by the rules of ethics to -- to only contact a
4 party, who's represented by counsel, by going through counsel,
5 and that applies not only to -- to a party, that is, a human
6 being like Mr. Shelton, but to the officers or directors or
7 employees of a corporation, in this case, the Three Angels
8 Broadcasting Network, Inc.; and so from this point forward, if
9 nothing else, I will expect that if you want to contact any
10 officer, director, or employee of that corporation, that you go
11 through counsel, because that's what a lawyer would have to do,
12 and I'm going to require you to do the same.

13 MR. JOY: Okay. Very well, your Honor.

14 THE COURT: Okay. Mr. Pickle, do you have anything to
15 add?

16 MR. PICKLE: Let's see. I think so, but I might not
17 be as fluent as Mr. Joy.

18 As far as giving proper notification on subpoenas,
19 it's my understanding that the -- the last two subpoenas that
20 there was proper notification given on that, and I intend to
21 continue to do that henceforth.

22 THE COURT: Okay. Let -- let me just cut to the quick
23 on that issue --

24 MR. PICKLE: Okay.

25 THE COURT: -- as well. Basically, you are -- you all

1 are free to contact witnesses and to interview them and so
2 forth with the exception I've indicated of people who are
3 represented by counsel or an opposing party.

4 If you use legal process, if there's a subpoena or
5 serving someone with a notice of deposition, you're going to
6 have to provide a copy to the other side.

7 MR. PICKLE: Yes.

8 THE COURT: Okay. And provide them at the same time.
9 In other words, you want to take someone's deposition, and you
10 need to do the necessary paperwork, such as the notice of
11 deposition and subpoena, you have to give a copy to opposing
12 counsel at the same time that you file it with the Court or
13 serve it on a witness. Okay?

14 MR. JOY: Okay. Your Honor, it's Mr. Joy again.

15 I -- my recollection of that is that he indeed has.
16 These are actually requests for production of documents, and,
17 in fact, he did mail Ms. -- Mrs. -- I'm sorry. I can't
18 remember. Ms. Hayes made it clear that she wanted him to mail
19 those to her, and he did. The fact that it takes three or four
20 days to get across Minnesota is pathetic, a pathetic statement
21 on the mail service, but he, in fact, is aware of that, and as
22 far as I know, has indeed copied them on that. That's why
23 they're obviously aware of those subpoenas.

24 THE COURT: Well, I'm expressing no view as to what's
25 happened in the past, but at a minimum, on a going-forward

1 basis, you'll have to follow the same rules a lawyer would
2 follow. Okay? And, you know, if there's a problem arising out
3 of what has happened in the past, if someone files a motion
4 requiring Court attention, I'll take it up.

5 MR. PICKLE: A concern I have, your Honor, is that
6 this process not get bogged down any more than necessary. The
7 initial disclosures were filed on August 3rd, and -- or were
8 given to us on August 3rd, and we still don't have any of those
9 Rule 26(a)(1) materials that were disclosed on the plaintiffs'
10 disclosures.

11 Your Honor, we'd like to save as much in the way of
12 costs as possible. So, one idea we had was to -- to depose the
13 board members that are on the witness -- the 12 board members
14 that are listed on the plaintiffs' witness list at the time of
15 their January 4th meeting. They're in Southern Illinois. That
16 list of 12 comes from eight different states, and -- and after
17 the two new board members have been added, we're up to 14 board
18 members, I guess, 14 or 15. Now, they're from nine states and
19 British Columbia. So, we'd like to depose them at the time of
20 their board meeting. So I've asked Attorney Hayes on four
21 different occasions when the board meeting is so that we could
22 issue a notice of deposition and so forth and arrange to do
23 that. I have yet to find out when the board meeting is. She
24 would not -- she would not disclose that. She said that she
25 wouldn't.

1 Second, it's just now we're getting kind of close to,
2 you know, the proper amount of time of notice. If it is like
3 towards the end of January, we're running out of time to give
4 the proper notification. And their next board meeting would be
5 in May, and I just hate to see it drag on longer than is
6 necessary. So, that's a concern I have.

7 I'd hate to see discovery stayed while there is an
8 order -- when they're going to, you know, file this order for
9 the -- or file a motion for -- asking for a protective order.
10 Yeah, this commercial and business -- the bulk of their
11 materials have to do with commercial and business, sensitive
12 confidential information. I just have a hard time imagining
13 that it's that -- if the bulk of their material is really of
14 that nature, and it's that top-secret how they really have a
15 case against us.

16 THE COURT: All right. I'm not going to prejudge
17 that.

18 MR. PICKLE: Yes.

19 THE COURT: Let -- let me -- let me take that issue up
20 as well at the risk of hopping around unduly. I'm not going to
21 stay discovery. If counsel wants to file a motion for a
22 protective order, they should file a motion. It ought to be
23 narrowly tailored, and counsel should consider alternatives to
24 blanket protections, things such as redactions and so forth,
25 but I'm not going to impose a blanket stay of discovery. If a

1 motion for protective order is appropriate, the thing to do is
2 to get the motion on file, and that will be referred to the
3 magistrate judge as well.

4 And I -- I will offer only the general view. It's
5 going to be the magistrate judge's issue to decide, but things
6 do tend to be overdesignated as confidential, which is a
7 constant plague in civil litigation, and so I just ask counsel
8 to be -- to pick your spots and to tailor things as narrowly as
9 you think appropriate under the circumstances.

10 All right. Unless there's anything further, let
11 me -- I've addressed the motion for a protective order, number
12 one.

13 I think I've addressed the issue of contacts with
14 represented parties. I think I've addressed the issue of the
15 requirement of notification of opposing counsel on things, such
16 as depositions, and other events.

17 The motion to compel will be referred, as I indicated,
18 in due course to the magistrate judge. My understanding,
19 plaintiffs have indicated that written discovery responses are
20 due December 21st, and I believe that counsel have indicated
21 that -- or I'm sorry -- Mr. Joy, I think, indicated that he
22 could respond in a timely fashion, given that that's only one
23 week away; and given the holidays, I will assume either that
24 Mr. Joy can respond on time, or that counsel will grant a week
25 or two extension, if reasonably necessary, under the

1 circumstances, without further intervention from the Court.

2 I do think some extension of deadlines is appropriate
3 given what sounds like a somewhat chaotic situation ensuing,
4 because of the bankruptcy and because the defendants are
5 pro se, and some slack obviously needs to be given to them
6 under the circumstances.

7 What I think I will do is I will add 90 days to all
8 the current deadlines and the scheduling order, although I'm
9 going to hold the status conference of May the 6th so that this
10 matter doesn't slip away unduly.

11 And then lastly, I think this issue of depositions at
12 the time of the board meeting, the basic rule, Mr. Pickle and
13 Mr. Joy, is that depositions may occur either where a witness
14 lives or has his usual place of residence. As I sit here, I
15 don't remember whether that rule is different for the directors
16 of a plaintiff corporation or not. You might want to look that
17 up.

18 Certainly what you say sounds practical, but I'm not
19 sure that counsel is required to assent to it, and it may be
20 that these individuals have a sufficiently busy schedule at the
21 time of their board meeting that this is not going to work out,
22 but I'm going to leave that where it is for the time being.
23 I'm not -- there's no motion in front of me, and I'm not going
24 to compel anyone to do anything at this stage.

25 You also should be aware that there's a presumptive

1 limit in terms of the number of depositions, which is ten.

2 Is that right, Mr. Pucci?

3 MR. PUCCI: I believe so.

4 MS. HAYES: Yes.

5 THE COURT: And you'll need leave of court to take
6 more than ten depositions; so you'll want -- you're going to
7 want to pick your spots.

8 MR. PUCCI: And there's also a time limit, your Honor.

9 THE COURT: And there's a presumptive one day or
10 seven-hour limit, and I'm -- this will probably wind up in
11 front of Magistrate Judge Hillman. I am reasonably flexible in
12 that regard. You know, it's a one-size-fits-all rule that
13 doesn't apply to every case, but I think you'll find,
14 Mr. Pickle and Mr. Joy, most judges will probably look askance
15 on an attempt to simply depose everyone, and you will probably
16 want to try to at least do some sort of triage there and make
17 sure that you are focusing on the people who you think will
18 have significant evidence and will move the ball forward.

19 Have I missed an issue?

20 Ms. Hayes.

21 MS. HAYES: Well, no, your Honor. I believe that's
22 everything I had on my list.

23 THE COURT: Okay. Mr. Joy or Mr. Pickle, have I
24 missed any issues that you wish to raise?

25 MR. PICKLE: Yeah, I've got one here. The

1 conference -- the Rule 26(a) conference report said that
2 plaintiffs propose 20 depositions for each party; defendants
3 propose no limits for factual depositions.

4 So, in that kind of scenario, is that ten something
5 that's still limited?

6 THE COURT: Well, it's -- I don't think there has been
7 any ruling. I would look equally askance, but if plaintiffs
8 want to -- I'm going to make no ruling here. I just simply
9 don't have a good enough handle on the case, particularly in
10 its current posture, to make a ruling in the abstract. If
11 plaintiffs want to file a motion for leave to take more than
12 ten, I'll either rule on it or refer it to the magistrate
13 judge.

14 MS. HAYES: Your Honor, may I speak to that briefly?

15 THE COURT: Yes.

16 MS. HAYES: We were not -- the parties were not able
17 to agree to their recommendations as part of the 26(f) report
18 that went to the Court in advance of the scheduling order. I
19 don't remember -- I don't know if you recall us standing in
20 front of you, but we had somewhat disparaging suggestions in
21 terms of many of the deadlines, and I believe what happened --

22 THE COURT: I think they were disparate, not
23 disparaging. They may have been disparaging, too.

24 MS. HAYES: Sorry. They were very far apart in some
25 cases and a little closer in others, but one of the things that

1 did happen was there were situations where neither of the
2 parties' recommendations were accepted, and we have been
3 operating at least to date under the assumption that the
4 Court's scheduling order is what's going to bind all parties on
5 this.

6 THE COURT: Yes, it is an order of the Court.

7 MS. HAYES: Okay.

8 THE COURT: Yes.

9 MS. HAYES: All right.

10 THE COURT: But I don't think there's anything in
11 there about the number of depositions.

12 MS. HAYES: I -- I thought there was, actually,
13 but I -- I apologize, because I'm speaking frankly to the
14 scheduling order.

15 THE COURT: Yeah. Hold on. Let me see if there's
16 something on the docket. I don't remember off the top of my
17 head.

18 I don't see anything in the docket, and I don't have
19 my notes in front of me; so, again, I don't -- I'm not a
20 fanatic on this issue. One size does not fit all. There are
21 lots of cases where 11 depositions are appropriate or 15 or 20,
22 but whether this is one of those cases, I don't know, and I
23 think probably if you want to go beyond ten, you ought to file
24 a motion. It's like so many other things, it's just a question
25 of reasonable -- reasonableness under all the circumstances.

1 MR. PICKLE: Your Honor, I could use a little
2 clarification on this, how this ten is calculated.

3 THE COURT: It's just in the rule. It's more or less
4 an arbitrary number, but it's ten. I don't know -- it's ten
5 per side, or is it --

6 LAW CLERK: I think it's ten per side.

7 THE COURT: I think it's ten per side, but hold on.
8 Let's see if we can get ahold of the rule.

9 Where are we?

10 Mr. Pucci, do you have it handy?

11 MR. PUCCI: I don't, but I recall it being ten per
12 side.

13 THE COURT: That's what I think it is.

14 MR. PICKLE: Ten per side, not ten per party?

15 THE COURT: Yes, ten per side in the sense
16 that -- well, you mean whether Joy and Pickle each have ten or
17 Shelton and 3ABN?

18 MR. PICKLE: Yes.

19 THE COURT: I think it's ten per side.

20 And anyway, the rule is what it is; and if you need
21 relief from the rule, however it's framed, you can file a
22 motion; and my own view is, you know, if you want to take an
23 extra deposition or ten extra depositions, my question will be
24 why. And if you convince me you need it, I'll let you have it;
25 and if I think it's overkill, I'll put a limit on it. Okay.

1 MR. PICKLE: I have a similar question regarding
2 interrogatories. I don't have the federal rule in front of me,
3 but a Rule 26(f) conference report, all parties propose 25 per
4 each party interrogatory.

5 THE COURT: There's a limitation in the rule as well.
6 I don't remember what it is, but it's, I think, 25 would be
7 within the limit.

8 MR. PICKLE: So is that 25 -- that's 25 different
9 questions, correct?

10 THE COURT: Right. Yeah, but including subparts. So
11 you can't break -- you can't take ten questions and cram them
12 into one.

13 MR. PICKLE: And that would be regardless of -- okay.

14 THE COURT: I don't know. You'll have to look at the
15 rule. I'm obviously showing here how often the magistrate
16 judges handle this, as opposed to me, since I don't have the
17 rules in front of me and can't remember what they say, but my
18 own prejudice, for what it's worth, is that depositions and
19 document exchanges are valuable, and interrogatories rarely
20 produce anything useful. So, I'm -- I'm less sanguine about
21 providing extra ones.

22 MR. PICKLE: I guess, your Honor, one last issue, I
23 also filed a motion for relief from the Court to be able to
24 file electronically, and so would that be also delegated to
25 Magistrate Hillman?

1 THE COURT: I will. Did I -- did I miss that motion?

2 LAW CLERK: I printed it out there.

3 THE COURT: Sorry. That one didn't come to -- oh, I'm
4 sorry. It was stuck on the bottom.

5 Well, it -- I certainly am strongly in favor of
6 electronic filing, even by pro se litigants. What I'm not
7 sure, as I sit here, is how this works when you're not an
8 attorney, and you don't have a number. So, why don't I do
9 this -- Marty, are you on the line?

10 THE CLERK: Yes, I'm still here, Judge.

11 THE COURT: Can you tell me the answer to this?

12 THE CLERK: I believe he needs leave of court to do
13 it, but if he wants to do it, he can.

14 THE COURT: All right. I will grant it then. I will
15 grant that motion --

16 MR. PICKLE: Thank you, your Honor.

17 THE COURT: -- which is document 38, and you'll have
18 to follow whatever the rules and requirements are of the Court;
19 and if you have any questions, you can contact Mr. Castles or
20 someone in the clerk's office.

21 MR. JOY: Your Honor, this is Mr. Joy. Do I have the
22 same leave?

23 THE COURT: Yes. I will deem you to have moved, and
24 that motion will be granted as well.

25 MR. JOY: Thank you, your Honor.

1 THE CLERK: They're going to have to register and do
2 what everyone else has to do to get a password and everything.

3 MR. JOY: Is it, your Honor, that we have to do a
4 class; is that correct?

5 THE COURT: I don't know. I don't know the answer to
6 that. If you have any questions, contact the clerk's office.

7 MR. JOY: Okay. Thank you, your Honor.

8 THE COURT: Okay. Anything else?

9 MS. HAYES: No, your Honor.

10 MR. PICKLE: Just one other issue.

11 THE COURT: Yes.

12 MR. PICKLE: In the plaintiffs' Rule 26(f) conference
13 reports, they said that they would be giving a demand to settle
14 by August 31st, and I -- we've yet to receive anything.

15 THE COURT: Okay. At this point, I'm not going to
16 interject myself in that. If you -- if they want to
17 demand -- make a demand on you, they're free to do that; if
18 they choose not to, they're free at this stage to do that as
19 well.

20 MR. PICKLE: Thank you, your Honor.

21 THE COURT: Okay. All right. Thank you, all, and
22 I -- the -- as I indicated, the deadlines are deemed extended
23 in the scheduling order 90 days, except the status conference
24 will be held on May the 6th, as previously scheduled.

25 MR. PICKLE: I'm sorry, your Honor. What time?

1 THE COURT: May the 6th at two o'clock.

2 MR. PICKLE: Two o'clock. Thank you.

3 THE COURT: Okay. Anything further?

4 Okay. Thank you all.

5 MS. HAYES: Thank you.

6 MR. PICKLE: Thank you.

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8 (At 2:34 p.m., Court was adjourned.)

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C E R T I F I C A T E

I, Marianne Kusa-Ryll, RDR, CRR, Official Court Reporter, do hereby certify that the foregoing transcript, consisting of 32 pages, is a true and accurate transcription of my stenographic notes in Case No. 07cv40098-FDS, Three Angels Broadcasting Network, Inc., and Danny Lee Shelton versus Gailon Arthur Joy and Robert Pickle, before F. Dennis Saylor, IV, on December 14, 2007, to the best of my skill, knowledge, and ability.

/s/ Marianne Kusa-Ryll
Marianne Kusa-Ryll, RDR, CRR
Official Court Reporter