

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case No.: 4:07-cv-40098 FDS

Three Angels Broadcasting Network,
Inc., an Illinois non-profit
corporation, and

Danny Lee Shelton, individually,

Plaintiffs,

v.

Gailon Arthur Joy and

Robert Pickle,

Defendants.

AFFIDAVIT OF LAIRD J. HEAL

I, Laird J. Heal, hereby depose and state as follows.

1. I am an attorney duly licensed to practice in the state and federal courts of this Commonwealth and I participated as counsel of record for the Defendants Gailon Arthur Joy and Robert Pickle.

2. Following graduation from Suffolk University School of Law in 1988, I was admitted to the practice of law in 1988 in New Hampshire, 1989 in Massachusetts and 1990 in Illinois.

3. I already had, however, a career as a software engineer which I continued with.

4. After many years as an inactive member of the bar, with rare court appearances and occasional other uses of the legal education, most particularly involving intellectual property and

software copyright and patentability, I have been actively practicing law since 2004.

5. I am familiar with the rates charged by private attorneys in the area and field of practice, most often by seeing fee applications and observing hearings on the same. The billing rate for attorneys in the Commonwealth and my practice areas is most commonly quoted at \$250 per hour. My currently quoted rates range from \$175 to \$200 per hour, with consideration given to clients who have a genuine inability to pay; this is indicative more of the clients I choose to represent than the value of my services.

6. An award of fees is not based on the contracted value agreed by the opposing party and counsel, but rather on the reasonable value of the services provided.

7. The billing submitted to the Defendant Robert Pickle represents a reasonable or even modest charge for the required work involved in the defense of complaint of defamation and infringement upon intellectual property.

8. Defendant Pickle chose to enter his appearance pro se but in the transition period this office continued to provide considerable service, first to forward all court orders until he had full ECF access, second to review the documents Mr. Pickle was preparing and third to provide access to the Court when needed. It is to Mr. Pickle's credit that he very quickly showed that he could rely on his own devices – although he has continued to ask when new situations have arisen.

9. The initial billing was prepared after being requested by Defendant Pickle after the case was dismissed. The amount of this invoice was \$53,600.25. The additional assistance rendered Defendant Pickle is detailed in the invoice covering the period from October 1, 2007 to January 1, 2008, with a few telephone calls shown in a later period. This amounted to an

additional \$9,524.00.

10. The invoices were prepared by taking time records and charges and adding the unbilled items in Quickbooks Professional. Each item has a source from a contemporaneous record; the preparation was complicated in that there is more than one source file and the software does not support combining sets of transactions other than by reentering them. The second invoice was prepared using these other records, for instance. While there is a standard charge for each document such as an electronic mail message which is, as a rule of thumb, the amount of time taken to review the document and electronically file it for later easy access as required (experience has shown this indexing step is essential), this time charge is adjusted where time records show that more or less time was taken.

11. The time spent by this office on behalf of Defendant Pickle in connection with the defense of the complaint and the fees billed are reflected in the invoices attached as Exhibit A. The rates charged and fees incurred are reasonable given the time and labor required, fees customarily charged in this area for similar legal services, the amount of work required and the results obtained and my experience, reputation and ability as a lawyer.

RESPECTFULLY SUBMITTED BY:

**Laird J. Heal Esq.
COUNSEL FOR DEFENDANT
ROBERT PICKLE**

By: /s/ Laird J. Heal
Laird Heal, Esq.
78 Worcester Road
P.O. Box 365
Sterling, MA 01564
978-422-0135

Date: December 8, 2008