

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)		
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.)		
_____)		

AFFIDAVIT OF ROBERT PICKLE

NOW COMES Robert Pickle of Halstad Township, Norman County, Minnesota, who deposes and testifies to the following under pain and penalty of perjury:

1. On September 22, 2008, Remnant Publications, Inc. (hereafter "Remnant") served upon the Defendants documents ordered to be produced by Magistrate Judge Ellen S. Carmody in compliance with the Defendants' subpoena *duces tecum*.

2. The Defendants will seek to file under seal as **Exhibit A** a selection of the documents from Remnant pertaining to payments of kickbacks and/or royalties from Remnant to DLS Publishing, Inc. (hereafter "DLS") from 2005 through 2007. These documents, coupled with statements by Walter Thompson and Gerald Duffy that the law firm had done a thorough review of the Plaintiffs' finances, demonstrate whether or not the Plaintiffs and their counsel knew that the instant suit was frivolous.

3. Attached hereto as **Exhibit B** is information from Delta Airlines regarding Linda

Shelton's ticket to Florida purchased by Three Angels Broadcasting Network, Inc. (hereafter "3ABN") at the request of Brenda Walsh. While Brenda Walsh claims that Linda Shelton's ticket was used, the records of Delta Airlines reveal that it was never used.

4. The Defendants spent a considerable amount of time preparing a motion asking leave of the Court to issue subpoenas *duces tecum* upon the EEOC and the California Department of Fair Housing and Employment in order to obtain the investigative files regarding the 3ABN Trust Services Department whistleblowers.

5. Refreshingly, Plaintiffs' counsel represented that he thought the Defendants should be entitled to obtain from those agencies the documents the Plaintiffs had produced during the course of the investigations.

6. By these subpoenas the Defendants wanted to explore the possibility that the Plaintiffs had tainted those agencies' investigations by failing to disclose key documents and information, similar to what the Plaintiffs did in this case and in 3ABN's property tax case. (Doc. 126 pp. 3, 16–17; Doc. 81-4 p. 48; Doc. 127-42; Doc. 127-43 pp. 3–4).

7. As I was pondering being deposed by the Plaintiffs, it occurred to me that Plaintiffs' counsel ought to be able to show me where I said such and such before I testified under oath that I had actually said such and such. It's been more than two years now since I initially wrote about Danny Shelton's (hereafter "Shelton") handling of the sexual assault allegations made by his former step-daughter, the child molestation allegations against Tommy Shelton, the refusal of 3ABN to produce as promised the alleged phone card phone record evidence against Linda Shelton, and other matters. I characteristically try to make sure every word I say is 100% accurate, so I wanted to review the alleged statements the Plaintiffs have accused me of writing.

8. Such a course as the above would alleviate another difficulty: Some statements in

the Plaintiffs' complaint are not correctly worded or properly attributed. Requiring the Plaintiffs to produce the actual document containing the alleged statements before I testify whether I said something would allow the correct wording and attribution to be entered into the record.

9. For example, Derrell Mundall (hereafter "Mundall"), Shelton's former son-in-law, was the source of the allegations found at ¶¶ 46b–d of the complaint. Mundall has given me permission to reveal his identity. Since Mundall claims to have bought the van of ¶ 46b from 3ABN for around \$10, and since Mundall claims to have been the recipient of the furniture of ¶ 46d, the allegations appear credible.

10. Even so, Save-3ABN.com's article on these allegations refers to these incidents as allegations, allowing for the possibility that these incidents never occurred. However, the complaint words ¶¶ 46b–46d as if the Defendants claimed that these incidents actually occurred, something they never did, to my knowledge.

11. 3ABN never produced documents pertaining to how much Mundall paid for the van he bought from 3ABN, even though such documents should have been produced in response to my requests to produce served on November 29, 2007, and my revised requests served on September 26, 2008.

12. Another example of a wrongly worded or attributed allegation in the complaint is ¶ 46j. Attached hereto as **Exhibit C** is the closest thing I could find to the Defendants accusing Shelton of using 3ABN's planes for personal travel among material the Defendants wrote prior to the filing of the lawsuit. But this posting was little more than a quotation from page 42 of Administrative Law Judge Barbara Rowe's January 28, 2004, property tax case opinion (attached hereto as **Exhibit D**), and was followed by the suggestion by Gregory Matthews (also in Exhibit B) that Shelton had used the jet for his honeymoon. Thus, if the charge is really defamatory, Rowe and/or Matthews should have been sued, not the Defendants.

13. I told Attorney Gregory Simpson (hereafter “Simpson”) in a telephone conversation that I expected him to be able to show me a document where I said what the Plaintiffs alleged that I said. In more than one telephone conversation I challenged him to find anywhere prior to the filing of this lawsuit where I had said that Shelton used the 3ABN jets for personal use. I also challenged him to show where we had ever stated that the allegations of ¶¶ 46b–46d had indeed occurred.

14. Attached hereto as **Exhibit E** is a private message written by Defendant Joy on October 18, 2008, in which he refers to Simpson’s verbal settlement offer of October 17, 2008. Defendant Joy refers to the fact that Simpson had told me on October 17 that he would not file a motion to dismiss.

15. Attached hereto as **Exhibit F** is the transcript of the October 22, 2008, motion hearing in our miscellaneous case in the Southern District of Illinois.

16. Attached hereto as **Exhibit G** is Simpson’s October 23, 2008, email in which he states that he will not be producing documents by October 27, which contradicts what he said in southern Illinois the day before on page 35 of Exhibit F.

17. Attached hereto as **Exhibit H** is Simpson’s October 30, 2008, email, sent not 90 minutes after the end of the status conference of that day, in which he threatens us if we disclose anything pertaining to “confidential” documents. His list of “confidential” documents includes ones obtained from the Community Church of God pertaining to the child molestation allegations against Tommy Shelton, and a video of a public piano concert by Tommy Shelton.

18. Neither Defendant Joy nor myself can locate any pre-dismissal notice from the Plaintiffs that they considered confidential the documents we obtained by way of third-party subpoenas from Kathy Bottomley and the Community Church of God. We do not believe we ever received any such notice.

19. Attached hereto as **Exhibit I** is Simpson's October 31, 2008, email in which he threatens Defendant Joy because Defendant Joy had insinuated that Shelton received at least \$300,000 a year in book deals, a figure given us by Nicholas Miller in the fall of 2006.

20. Attached hereto as **Exhibit J** are relevant pages of Remnant's 2007 IRS Form 990.

21. Attached hereto as **Exhibit K** is an email from Mundall, quoting an internet post attached hereto as **Exhibit L**. Mundall told me in this email that, even though the instant lawsuit was dismissed, Shelton will not stop until "he has you completely ruined and incapable of ever living a normal life again."

22. Attached hereto as **Exhibit M** are relevant pages of my September 20, 2007, answers to the Plaintiffs' interrogatories. Of the 64 pages of answers, 41 pages (64%) concerned information regarding potential witnesses. Below are the 121 potential witnesses I listed in my answers to the interrogatories:

Arild Abrahamsen	Sherry Avery
Keeper of the records at Absher-Arnold Motors	
Vicki Barnard	Cheri Bethune
Richard Bethune	Kathi Bottomley
Bruce Chance	Tammy Chance
Carole Chapman	May Chung
Duane Clem	Roger Clem
Scott Clem	Tracy Clem
Cindy Conard	Ron Cristman
David Cronin	Brenda Cullum
Jerry Cullum	Larry Cullum
Robert 'Bob' Davis	Roger Deason
Troy Deason	Kenneth A. Denslow
Brad Dunning	Glenn Dryden
Gerald Duffy	Mable Dunbar
Bonnie Ensminger	David Everett
Larry Ewing	Mark Finley
Greg Firestone	Melody Shelton Firestone
Merlin Fjarli	Herald Follett
Oriana Frost	Trenton Frost
Jay Gallimore	Robert Gentry
Everlina Germany	Jim Gilley

[Ann] Greer	[Jim] Greer
Barbara Hall	Gary Hall
Dee Hildebrand	Bill Hopper
Charlotte Hopper	Greg Houseworth
Bill Hulsey	Stan Jensen
Barbara Kerr	Kay Kuzma
Harold Lance	Hope LeBrun
Stephen Lewis	John Lomacang
Alice Loucks	Alan Lovejoy
Gregory Matthews	Ellsworth McKee
Donna McNeilus	Garwin McNeilus
Fred Millea	Nick Miller
Alyssa Moore	Nathan Moore
Greg Morikone	Derrell Mundall
C A Murray	Samantha Nelson
Steve Nelson	Joel Noble
Joe O'Brien	Nancy O'Brien
Greg Owen	Jan Paulsen
Kevin Paulson	Wintley Phipps
Darlene Pickle	Frank Pitts
Shelley Quinn	D. Michael Riva
Sharon Robberson	Larry Romrell
Joan Russell	Robert Russell
Brandy Shelton	Brenda Shelton
Carol Shelton	Danny Shelton
Ema Lou Shelton	Kenny Shelton
Linda Shelton	Rick Shelton
Ronnie Shelton	Steve Shelton
Teresa Shelton	Tommy Shelton
William Shelton	Stan Smith
Hal Steenson	Mollie Steenson
Bruce Steh	Gregory Scott Thompson
Walter C. Thompson	Ervin Thomsen
Johann Thorvaldson	Carmelita Troy
Cindy Tutsch	Alex Walker
Brenda Walsh	Larry Welch
Leonard Westphal	Bill Whittington
Gloria Wilson	Dude Wood
Judy Wood	Deb Young

23. Attached hereto as **Exhibit N** are my non-document Rule 26(a)(1) disclosures.

My Rule 26(a)(1) disclosures contained the following 14 additional potential witnesses:

Gary Avery	Byford Barnard
Doris Barnard	Jack Barwick
Pat Barwick	Leland Hale
Ben Jordan	Janet McLerren

Charlie Meadows
Dorothy Mitchell
Melody A. Shelton

Sue Meadows
Holly Price
Lou Westphal

24. Attached hereto as **Exhibit O** is Defendant Joy's witness list that was part of his Rule 26(a)(1) disclosures. This list contains the following 28 additional potential witnesses not found in the above two lists:

Dava _____	Doug Batchelor
J. Wayne Coulter	Yoneide Dinzey
Idalia Dinzey	Brian Dodge
Brian Drew	Ethel T. Everett
Elora Ford	Robert Ford
Keeper of the records of Hartland Investigative Services	
Keeper of the records of Hodds Investigations	
William Kerr	Rodney Laney
Tammy Larson	Denzil McNeilus
James Pederson	Mark Rogers
Bob Shelton	Rob Shelton
Kim Smith	Scott Tanner
G. Ralph Thompson	Owen Troy
Dave Turner	Brad Walker
Lynda Welch	Walter Wright

25. Attached hereto as **Exhibit P** is Defendant Joy's notice of self discovery pursuant to Fed. R. Civ. P. 26(a)(1). It states that Defendant Joy produced "all 3ABN digitalized documents found on" his computer, and a "CD of all stored and saved e-mails relating in any way to 3ABN From August 2006 to July 18, 2007."

26. All discovery documents that the Plaintiffs ever produced were produced as PDF's on CD's, except for about 207 pages, a booklet, and some video presentations. Of the thousands of pages in PDF's, none were indexed. I spent a considerable amount of time putting each separate document into its own PDF, giving each PDF a descriptive name that would give us some sort of idea of its contents. None of the PDF's the Plaintiffs produced were text-based, meaning that we would not be able to search them using standard Adobe Acrobat tools. All of the Plaintiffs' productions in this case were nearly entirely non-substantive.

27. Shelton never produced any of his tax records or accounting records for our inspection. Neither did he produce any corporate records for DLS or any other non-3ABN company he controls.

28. 3ABN produced its financial statements and its federal, Illinois, Oregon, and California tax returns for most years from 2001 through 2005. However, except for the California returns (which in part were illegible), and perhaps an Oregon return or two, the Defendants already had these since they are part of the public record.

29. Attached hereto as **Exhibit Q** is the letter with enclosed motion that I served on January 3, 2008, upon Plaintiffs' counsel and Tommy Shelton, putting them on notice that the Defendants were planning on adding Tommy Shelton and 3ABN's officers and directors as named plaintiffs in the instant case. On the last page are the certified mail receipts for these two mailings.

30. Attached hereto as **Exhibit R** is the letter with enclosed motion that I served on January 3, 2008, upon Nicholas Miller, Linda Shelton's counsel, and Mundall, putting them on notice that the Defendants were planning on adding them as third-party defendants in the instant case using the grounds of detrimental reliance. On the last page are the certified mail receipts for serving Nicholas Miller and Mundall.

31. I served Simpson with copies of Exhibit A of the confidentiality order, signed by the four experts we had retained. Attached hereto as **Exhibit S** is the letter I sent to GHS's counsel, which had attached copies of three of the four signed Exhibit A's. This letter was also filed as pages 20–21 of Docket Entry # 28-32 for Case No. 08-mc-40019-FDS here in the District of Massachusetts. I served Simpson copies of the same three signed Exhibit A's at or about the same time. Thus, we did disclose to Simpson that Lynette Rhodes was one of our experts.

32. I have traveled to the Franklin County area on two occasions in order to conduct research and to gather documents pertaining to and necessary for the instant case. The mileage pertaining to the lawsuit that is associated with those trips appeared correctly in Table 1 of Docket Entry # 132.

33. These two trips resulted in our securing quite a bit of helpful material. Just as two examples, we were able to secure deeds from the Franklin County Courthouse which documented that Shelton had bought a house from 3ABN for \$6,139 and sold it one week later for \$135,000.

34. Another suspicious transaction we secured deeds of was when Charles Lane (hereafter "Lane") sold a piece of property to 3ABN the same day that Lane bought a piece of property from Shelton. The sale to 3ABN gave Lane the cash to buy from Shelton, thus representing yet another instance of money from 3ABN clandestinely flowing into Shelton's pockets.

35. On the second trip we again got quite a bit of helpful material, not the least of which was the securing of the 1757-page record from 3ABN's property tax case, using the Brother 8860DN I had purchased to process documents from Gray Hunter Stenn LLP (hereafter "GHS"). This record contained a lot of interesting tidbits, like when Mollie Steenson and Linda Shelton testified under oath that 3ABN's programming was not copyrighted. This disproves the Plaintiffs' allegation in this case that the Defendants committed copyright infringement by posting on the internet a portion of a 3ABN broadcast.

36. Yet another tidbit was when Shelton testified under oath in 2002 that he did not receive housing or retirement benefits, and that he had not asked the board for any. This fatally contradicted 3ABN Board chairman Walter Thompson's assertion that Shelton had asked to be able to purchase a house from 3ABN in 1998 for \$6,139 so that he could build up equity for

retirement.

37. Various miscellaneous and necessary expenses I have paid for in the course of this litigation were listed correctly in Table 2 of Docket Entry # 132. I will now make some comments of the value of some of these items not already referred to elsewhere.

38. *Mending Broken People, inter alia*, helped establish that Shelton was funneling money attributable to his pre-divorce activities through DLS, since this book was mostly done before Shelton's divorce in June 2004, DLS wasn't incorporated until November 30, 2004, and DLS was being paid royalties on sales of this book.

39. The postage, certified mail fees, faxing fees, miscellaneous case filing fee, and service of process fees are pretty much self-explanatory. Table 2 of Docket Entry # 132 certainly didn't include all the postage I paid during the course of this case.

40. There were times I had copies made of necessary court filings at my local bank before mailing those filings. The costs appearing in Table 2 of Docket Entry # 132 represent the actual costs paid.

41. I received an old 3ABN promotional CD that was terribly scratched. I was able to retrieve the material from the CD through the application of various substances to the surface of the CD, but in the process of doing so my DVD burner ceased functioning properly. Thus the \$35.50 expense for a replacement.

42. The \$395 I paid to have John Kannenberg assist me on my second fact-finding trip was well worth it. We were able to cover many more miles much quicker than if I had driven alone, and his real estate experience was helpful in the Franklin County Courthouse. He was able to research some things while I researched others, and I appreciated his help in lugging equipment around. His cellphone came in handy, though I had to pay the excess minutes that my usage caused, which amounted to \$50.40.

43. In preparation for processing GHS's documents, besides the Brother 8860DN, I also purchased a hard drive and an external enclosure for that hard drive for \$86.95. We needed to have enough redundance as far as electronic storage goes so that documents would not be lost if the hard drive crashed on my laptop computer. This setup would also facilitate the transfer of documents from one computer to another, and the processing of those documents.

TABLE 1: Copying Costs

Date	Documents	Pages	Sets	Copies	Rate	Cost
05/01/08	Motion to Compel Remnant	2	4	8	\$0.10	\$0.80
	Proposed Order	1	4	4	\$0.10	\$0.40
	Memorandum for Motion	12	4	48	\$0.10	\$4.80
	Affidavit of Joy for Motion	7	4	28	\$0.10	\$2.80
	Affidavit of Pickle for Motion	4	4	16	\$0.10	\$1.60
	Exhibits	110	4	440	\$0.10	\$44.00
	Affidavit of Service	1	4	4	\$0.10	\$0.40
06/10/08	Motion to Appear by Telephone	2	4	8	\$0.10	\$0.80
	Proposed Order	1	4	4	\$0.10	\$0.40
	Memorandum for Motion	3	4	12	\$0.10	\$1.20
	Affidavit of Pickle for Motion	2	4	8	\$0.10	\$0.80
	Affidavit of Service	1	4	4	\$0.10	\$0.40
07/03/08	Motion to Compel GHS	5	4	20	\$0.10	\$2.00
	Memo. for Motion/Response	10	4	40	\$0.10	\$4.00
	Affidavit for Motion/Response	12	4	48	\$0.10	\$4.80
	Exhibits Including Sealed	224	3	672	\$0.10	\$67.20
	Exhibits Excluding Sealed	218	1	218	\$0.10	\$21.80
08/20/08	Opposition to Remnant's Appeal	10	4	40	\$0.10	\$4.00
	Affidavit of Pickle for Opposition	7	4	28	\$0.10	\$2.80
	Exhibits	105	4	420	\$0.10	\$42.00
	Motion to File Under Seal	2	4	8	\$0.10	\$0.80
	Sealed Exhibits	6	4	24	\$0.10	\$2.40
	Affidavit of Service	1	4	4	\$0.10	\$0.40
09/12/08	Status Report to S.D.IL	5	4	20	\$0.10	\$2.00
	Affidavit of Pickle	2	4	8	\$0.10	\$0.80
	Exhibits	14	4	56	\$0.10	\$5.60
Total						\$219.00

44. PACER charges, the cost of sleeves for CD's or DVD's of data produced in the case, and the cost of downloaded news articles used as exhibits (Doc. 109-12 through Doc. 109-14) appear to be the only other miscellaneous expenses in Table 2 of Docket Entry #132 not

already mentioned. These are pretty self-explanatory.

45. I purchased a Brother 8860DN in order to scan or copy the large number of documents we asked Gray Hunter Stenn LLP (hereafter “GHS”) to produce, since we needed to protect GHS as far as possible from undue expense. The unit, toner, and drum which I purchased cost a total of \$522.66. I used the unit to prepare necessary filings for the courts in the Western District of Michigan and the Southern District of Illinois, where ECF filing was not permitted. Table 1 below correctly presents the total number of copies run off of this unit for those filings (including copies for opposing counsel), times 10¢ per copy.

46. I will list a few additional notes on Table 1. I have in this Table 1 broken down the numbers on Table 3 of Docket Entry #132 into further detail, for it never dawned on me that Plaintiffs’ counsel would quibble about the necessity of these copies, since he had received copies of all the above filings.

47. In breaking the numbers down, I discovered that I had omitted the emergency motion to appear by telephone, the sealed exhibits filed in Michigan, and three copies of the status report, items highlighted in yellow above. Thus the above total is a little higher than the total on Table 3 of Docket Entry # 132.

48. In the Western District of Michigan, two copies were served upon the court, one copy upon Remnant’s counsel, and one copy upon Plaintiffs’ counsel, a total of four copies.

49. In the Southern District of Illinois, one copy was served upon the court, one copy upon counsel for GHS, one copy upon Plaintiffs’ counsel in Minnesota, and one copy upon Plaintiffs’ counsel in Illinois, a total of four copies. (Plaintiffs counsel in both Illinois and Minnesota had both been identified as attorneys to be noticed.)

50. The motion to compel Remnant was necessary since Remnant took the position that documents pertaining to royalties Shelton received from Remnant were irrelevant to the

question of how much royalties Shelton received from Remnant. The emergency motion to appear by telephone was necessary because ordinarily either the parties or their counsel must appear in person for motion hearings, and appearing by telephone saved considerable expense. After Remnant appealed from the magistrate's decision, it became necessary to file our opposition to that appeal.

51. The motion to compel Gray Hunter Stenn LLP served also as the necessary response to an order to show cause that was issued because of the Plaintiffs' obstructive and untimely-by-30-days motion to quash our subpoena *duces tecum* of GHS. The order to show cause was issued before the Defendants had received the motion to quash by mail. The proceedings in that court resulted in an order that a status report be filed after this Court ruled on the motion to limit the scope of discovery, which is why the filing of the status report was necessary.

52. The exhibits served upon counsel for GHS was six pages shorter than the exhibits served on the court and Plaintiffs' counsel since certain documents had been designated as confidential by the Plaintiffs, and GHS's counsel, to my knowledge, was not authorized to see them.

53. Table 4 of Docket Entry 132 is a summary of the hours I have logged working on my defense. There were times when I did not record my hours, but for when I did, the totals given are both correct and necessary. These hours represent considerable loss of income because preparing my defense has amounted to practically a full time job. Thus, the expense of preparing my defense is represented by that loss of income. For work I do in this locality where I live, I charge \$25 an hour, which is but a small fraction (8.33%) of the \$300 an hour Simpson charges. (Doc. 73 ¶ 11).

FURTHER DEPONENT TESTIFIES NOT.

Signed and sealed this 8th day of December, 2008.

/s/ Bob Pickle

Bob Pickle
Halstad, MN 56548
Tel: (218) 456-2568

Subscribed and sworn to me
this 8th day of December, 2008.

/s/ Lori J. Rufsvold

Notary Public—Minnesota

My Commission Expires Jan. 31, 2010