UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation, and Danny Lee Shelton,
Plaintiffs,

vs.

Gailon Arthur Joy and Robert Pickle,
Defendants.

CA No. 07-40098

BEFORE: The Honorable F. Dennis Saylor, IV

Motion Hearing

United States District Court
Courtroom No. 2
595 Main Street
Worcester, Massachusetts
May 10, 2007

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P R O C E E D I N G S

THE CLERK: All rise. Court is now open. You may be seated.

Case No. 07-40098, Three Angels Broadcasting Network, et al., versus Gailon Joy and Robert Pickle.

Counsel, please note your appearance for the record.

MR. PUCCI: Good afternoon, your Honor. John Pucci for the plaintiffs in this matter.

THE COURT: Good afternoon.

MR. HEAL: Good afternoon, your Honor. Laird Heal for the defendants.

THE COURT: Good afternoon.

MR. PUCCI: And I have with me Gerry Duffy, your Honor, who the Court has admitted pro hac vice. To my immediate left, and to his left, is Lizette Richards, another lawyer from my office.

THE COURT: All right. Good afternoon.

All right. This is a hearing on plaintiffs' motion for permanent impoundment. I signed what was in effect a TRO temporarily impounding the complaint and exhibits in this matter.

I received today, a very short while ago, defendants' opposition, which I've read quickly.

Mr. Pucci, have you had a chance to see this?

MR. PUCCI: I received it moments ago. I have scanned it, but I wouldn't say I've read it.

THE COURT: All right. Why don't I hear from plaintiffs.

Mr. Pucci, do you want to take the lead, or Mr. Duffy, who wants to?

MR. PUCCI: I would be pleased to speak for Mr. Sheldon, your Honor, and Three ABN.

THE COURT: Okay.

MR. PUCCI: Your Honor, this case and this issue presents the Court with a very, very unusual set of circumstances, and it's unusual, because the Court has before it evidence of their -- the parties, the defendants' clear intent to abuse the process of the Court, as it has the process of other Courts, to achieve scandalous and defamatory aims.

It distinguishes itself from most any other cases and any other case that I've read or heard about with regards to the impoundment issues. The defendants have submitted a brief, which omits the most important First Circuit law on impoundment issues; and having just received the brief, I would welcome the opportunity at the conclusion of the hearing to submit a reply brief raising the core First Circuit cases on the issue that rebut and underline their claims based on their late filed brief.

At the outset, your Honor, the First Circuit in the

case called In re: Providence Journal Company in 2002, which is a First Circuit case, quoted -- quoted its own determination that the Supreme Court, in fact, had not established there was a Constitutional right of access to pleadings in civil cases, so that the law in this circuit, as recognized by the First Circuit in 2002, is that there is no constitutional protection that allows the publication of those -- of pleadings, and that is a case. It's 293 F.3d 1, a case not cited by opposing counsel.

There is a common law presumption that pleadings in civil cases are published, and that they should be accessed to such pleadings, and that was -- has been recognized by the First Circuit for many years. The leading case on it is FTC versus Standard Financial Management, 830 F2d. 404, a 1987 case, but that common law right, according to the First Circuit and the other circuits that have looked at it, is not absolute, and this Court has the right under its supervisory powers to deny access and publication to Court files -- and deny access to Court files where they have become or might become a vehicle for improper purposes.

And examples from the First Circuit case law are where the common law right to inspection gets trumped by in circumstances where records are used to gratify private spite or promote scandal, and the First Circuit has recognized that as a basis to impound records. The First Circuit has also

recognized a basis to impound records where, in its words, they become -- the files become, quote, reservoirs of libelous statements for public consumption.

So there are well-grounded exceptions to the common law right to public access to pleadings, and those exceptions are grounded in the Court's supervisory powers over the proceedings that appear before it.

What the First Circuit cases require is a weighing of the public's right to know against competing private interests; and that weighing, according to the Providence Journal case, the First Circuit case, requires the Court to take, and I quote, relevant facts and circumstances of the particular case into account, and that is really what I want to address here is what is unique about this case and what makes it a case in which impoundment would be proper.

There are no First Circuit cases in which the balancing test has been applied in similar circumstances. There are criminal cases. There are cases where there was a finding of a waiver, and there was a case, FTC case versus Standard Financial Management, in which the parties seeking to impound couldn't show particularized tangible harm, and I think we can do that; but under any circumstances, this Court, I think under the First Circuit law, is required to weigh the particular and peculiar circumstances at hand.

The evidence in this case, and I say evidence, Judge,

and I mean evidence, because there -- the evidence that I'm about to speak to is drawn from the defendant's own words. It's not surmise, suggestion, or innuendo on our part. It starts with the defendant's declaration, public declaration to their audience, Mr. Joy's public declaration, the lead defendant in the case, on November 20th, 2006, that if he didn't have his way with Mr. Shelton, with regards to resolving their disputes, that he would indict him in the public eye, and that was his word. That's not my garnishment on it. He would indict Mr. Shelton in the public eye, beginning with the setting up of his website in early 2007, and he has done that.

So this is not a case where the Court needs to guess, speculate, or work very hard to figure out what the motive is here. The motive is, as declared by Mr. Joy, to indict Mr. Shelton in the public eye.

Their actions since then verify that that is their intention, and they have -- they're not mere words, but they are, in fact -- have taken a course of action in their publications on the web, which prove that they intend to have done it and intend to do it going forward, and there has been absolutely no indication of any reeling back from the modus operandi that Mr. Joy and Mr. Pickle have embraced in this matter.

They have -- if I may have a moment, your Honor.

THE COURT: Yes.

MR. PUCCI: They have, and I cite now to an affidavit. I cite now in support of our memorandum filed in this Court, which is filed in this Court, we filed a collection of postings from the website, and there is a posting, for instance, that talks about Mr. Shelton purloining book profits, a clear -- from -- from the Three ABN ministry, a clear declaration that Mr. Shelton, you know, is stealing -- stealing fr the enterprise he has fiduciary obligations to. And that particular e-mail, or posting is under the posting captioned Danny Shelton's book deals. If the Court filters down to Danny appears to confirm the problem, you can see there the allegation that he has been stealing profits from book deals. It's defamation per se. It accuses him of a crime. Under Massachusetts law that's defamation per se, and it accuses his -- it injures his reputation and his business and profession, which again is -- is defamation per se in Massachusetts.

Towards the end of that filing, the last posting is captioned by Mr. Joy, Financial allegations against Danny Shelton, and it has a collection of bullet points, one, two, three and four. They're not numbered, but they're bullet points, and each of those bullet points alleges a crime by Mr. Shelton.

So, this is not a case, I submit, in which the Court needs to weigh the likelihood of how close to the line of

propriety the defendants will get. They are already well over it, and they've already documented their intention to indict Mr. Shelton in the public eye, and they have already done it.

What they're seeking in this case, as I read their brief, as I scan their brief, Judge, is a situation in which they're going to file pleadings, and only thereafter would the plaintiffs have the right to seek their impoundment. So there would be a period of time between their filing a pleading and our ability to go in and seek its impoundment in which it would be fair game for Mr. Joy to publish those documents on the web; and in that window is where I submit Mr. Joy will continue his activities; and in this instance, impounding it after the fact won't preclude him from doing that.

If the Court doesn't impound -- find a vehicle, and I do have a suggestion, as to a vehicle to impound that isn't a blanket impoundment, but if the Court doesn't come up with or agree with our proposal for an impoundment mechanism, they will publish everything that happens before this Court and everything they file. They've done it directly in other cases, and we've provided documents which show that they've taken -- they have taken litigation documents from Danny Shelton's divorce file in Illinois and then published them on the web, his financial affidavit, and other pub -- other documents, which were filed in that litigation and have put them on the web.

They have gone so far to file the cease and desist order, which Mr. Duffy sent to them some months ago, indicating again their intention is to publish everything that happens in any litigation that is brought.

And at some other level of venality, they have obtained the e-mails between Mr. Shelton and his wife as their marriage unravels, and they've published those e-mails, those very private and very confidential e-mails, many, many of them, and we've submitted a small number of the postings in this case with the Court, Judge, but I have here, and I don't intend -- need to burden the Court by making it a record, but there are pages, and pages, and pages of these postings, which are dominated, dominated by Mr. Joy taking litigation documents from Illinois and very personal e-mails between spouses, whose marriage is unraveling, publishing them for all the world to see on the web, interspersed with his commentary about Mr. Shelton.

So, there are no limits, apparently in decency, to Mr. Joy's willingness to indict Mr. Shelton in the public eye, and -- I should digress for a moment to say that the word indict is well familiar to Mr. Joy, since he has been convicted of a felony, the felony of embezzlement in the State of Vermont, in a case that was upheld and affirmed by the Vermont Supreme Court some years ago.

So he stands before the Court in those shoes.

There is, your Honor, a litigation privilege that exists that makes the circumstances in which we seek impoundment that much more high risk for Mr. Shelton and Three ABN, because under that privilege, what gets presented to the court here orally, or what gets filed with the Court is entitled to a presumptive privilege against a claim of defamation. And so if the pleadings are not impounded, what happens in Mr. Joy's hands is he can then publish with a privilege further and deeper and darker allegations of misconduct, knowing that he can't be found libel, because they fall within the litigation privilege that exists for pleadings before the Court.

And it's an unusual circumstance, your Honor, but the Pacer system, the electronic filing system, which this Court uses, and the whole district has embraced, can be misused in this circumstance, because the Pacer system is open to examination by anybody on the face of the earth with a computer, and it's -- it would take nothing for Mr. Joy to identify pleadings on the Pacer system and direct people to them where he has published further defamatory and scandalous allegations; and that may seem, and would normally seem, an unusual suggestion for -- for a party to make against another, except that in this instance Mr. Joy and Mr. Pickle undertook to write postcards to every single Seventh Day Adventist church advising them that they should go to their own website to see

their publications about Mr. Shelton. So they have done that already. They've taken it on themselves to find a way to publish on the worldwide web a one-sided view by directing people to their website through postcards. They'll do it again, and I submit if they do it through the Pacer system, they will be here telling you that everything they've said in their pleadings is privileged and protected and cannot conceivably be the basis for further defamation claims, regardless of its truth or falsity, regardless of its impact on my clients.

So, this case in some way, Judge, represents for my clients a sort of perfect storm of electronic technology. It's -- Joy has the ammunition in the personal e-mails, which Mr. Shelton exchanged with his wife. He has the worldwide web as a -- as a way to publish it to everybody in the world. He has demonstrated his ability to -- to draw the attention of an audience to -- to his web postings, and he now, unless the pleadings are impounded, he now will have a way to publish them that is privileged and protected by the Court.

The First Circuit cases do suggest that a party seeking impoundment needs to show some sort of particularized harm, and it's certainly an inquiry that the Court needs to make based on the First Circuit cases, and I would like to address that at this time.

The First Circuit cases that look at the issue are

generally not defamation cases, and this case is a trademark and defamation case, defamation at the core of the issues before the Court in this impoundment proceeding. And under Massachusetts law -- it's a state tort. Under Massachusetts law, there are two types of defamation, which Mr. Joy has engaged in, which are defamation per se in which damages are presumed, and I would submit at the outset that -- and I cite -- I'm not sure if I can pronounce this -- it's 438 Mass. 627. It's the Massachusetts case, which specifically holds that statements that charge a plaintiff with a crime amount to defamation per se in which the Court would be required to -- to instruct the jury that damages are assumed and not presumed. That case also holds that damages may be presumed where statements are made that prejudice to the plaintiff's profession or business, and certainly the allegations that Mr. Shelton has fleeced his flock by stealing book proceeds and the other allegations set forth under Mr. Joy's own postings about financial impropriety satisfy that test.

So there is the defamation per se damages, which is the law here, but more than that, your Honor, I have prepared, and I'm happy to provide the Court with affidavits from management members at Three ABN, which verify the financial impact that the postings have had on Three ABN and its ministry, and I have those affidavits here. I'm happy to provide them to the Court. I have not provided them to

opposing counsel. I wasn't sure if they would be necessary. I would seek the Court's guidance on that. If the Court is inclined to accept them at this time, I'm happy to provide them. If the Court would prefer it by way of a reply brief, I would be happy to provide them --

THE COURT: I think, and I may be jumping ahead of myself, but I think what I'm likely to do is take this under advisement, give you an opportunity to file a reply brief and additional affidavits, and Mr. -- I would like to keep this on a fairly fast track, and we can talk about that, but that would be my assumption is that I'll give you an opportunity to make another filing, as well as for Mr. Heal to respond to that, if necessary.

MR. PUCCI: Thank you, your Honor.

In conclusion, your Honor, this is -- while this is the very beginning of this litigation, it's a litigation that is likely to last for a substantial period of time regardless of how fast track the Court or the parties might wish it to be. And it's in that period before a jury gets to pass judgement on Mr. Joy and Mr. Pickle that my client and my client's reputation and its economics interests are most vulnerable. And I'm asking the Court on this record, which is extraordinary and unusual in its substantive -- in its substance as to the improprieties and the wrongfulness of the conduct that has gone so far as to its declared intent by Mr. Joy to indict my client

in the public eye, to take the unusual step of entering into an impoundment process, which would permit the Court, not me, not us, but the Court to weigh whether pleadings should be impounded prior to them hitting the public document where they would be available on Pacer and available to everybody on earth, including Mr. Shelton's flock.

THE COURT: You had suggested or hinted at an alternative vehicle to impound them.

What did you mean by that?

MR. PUCCI: Well, what I mean by that is I think that if the Court were to enter an order -- well, let me -- let me be concrete. If, for instance, the answer to the complaint that we have filed is a -- is a classic answer, which is a capture of denials, admissions, some affirmative defenses that we're all very familiar with, we're not going to seek to impound that document, but we, I think, need the opportunity to be able to review a document, have it reviewed, and file a motion, a separate motion for impoundment before it hits the Pacer system. So what I'm proposing is that the Court under its supervisory powers enter an order, which says something like all pleadings in this matter are, you know, preliminarily impounded for a period of 14 days to allow a party to file a motion to impound. Absent a motion to impound, you know, the Court orders that a document or a pleading be entered in the Pacer system. And so that would satisfy the local rule, which

requires individual consideration of each pleading. It would satisfy, I think, what we're looking for in terms of protection from further defamatory and scandalous postings.

We do not intend, and I do not intend to try this Court's patience by -- suggested by coming forward and seeking impounded documents that are neutral, or even normally adversarial in their nature, and I know that the Court will apply the test, the balancing test, in a thoughtful way; and to the extent we are able to convince you that things are scandalous and inappropriate be able to have them; and if not, then so be it. But it at least allows us a chance to protect against further damage from Mr. Joy and Mr. Pickle before the damage is incurred.

THE COURT: Okay. Mr. Heal.

MR. HEAL: Thank you, your Honor. And I do apologize for not filing the opposition until today, but time was short.

THE COURT: I understand.

MR. HEAL: And to introduce this case in a different light, what we have here is a plaintiff, who is going through a divorce and has a lot of money, and he wants to hide it; and he comes to this Court. As a matter of fact, he serves the complaint in my office on me that's destined for Mr. Joy, and I look and see the impoundment order, and I can't tell my client, who is Linda Shelton, in Illinois, about the case -- nobody can -- and the information that she's trying to find about her

ex-husband's assets.

You know, there is one more little roadblock in the way. They had a separation agreement in which Linda Shelton was prevented from --

THE COURT: Let me, before I forget the thought. Have you been served with complaint, that is, have Mr. Joy and Mr. Pickle been served?

MR. HEAL: I'm not sure if Mr. Pickle has been served, although I'm sure he would have said if he hadn't.

THE COURT: Just so that it's clear, and perhaps I should have made it clear. It was not my intention by this preliminary order of impoundment. I signed a proposal that was presented to me. It's not intended to prevent service of the complaint or to prevent counsel from reviewing the matter with their clients. Obviously, to the extent there is any suggestion along those lines, it is hereby limited. You are free to discuss it with your client.

You represent both Mr. Pickle and Mr. Joy; is that right?

MR. HEAL: I had entered an appearance to represent Mrs. Shelton; and then when it was served on me, it became logical that I represent Mr. Joy and Mr. Pickle --

THE COURT: Okay.

MR. HEAL: -- because he wouldn't be able to come to Massachusetts.

THE COURT: All right.

MR. HEAL: Now, as I said, there was a nonmutual restraining order that prevented Mrs. Shelton from disparaging her husband, but that was only nonmutual, and there was a cavalcade of, you know, accusations. They're reflected in the exhibits you have, and the exhibits I posted were just complete versions of what the other counsel had redacted, and you can have the gist of that, but Mr. Joy and Mr. Pickle are essentially saying the things that Linda Shelton couldn't say.

Mr. Pickle himself is, as he says, an apologist. He attempts to keep any matters of dispute in the church very quiet, very private, and completely out of the public eye, but he has told me that that couldn't be possible in this case.

Now, with respect to the cases that my brother has cited, they were not in the motion, and I didn't know that that was the basis that he was complaining that things should be impounded on, but when I looked at it, it seemed that the public has, as in case after case says, a very strong interest in knowing what's going on in the courts, and you don't want to have any intimation that there's a private, you know, Court that is secret from everybody, unless there is a very good reason.

My brother talks about evidence, and you know, if you are -- what can I say. You've got one person writing a letter and saying this is not for publication. There is a common law

copyright, and, well, Mr. Joy puts that up and says, look here, there is no common law copyright. It's over and over again just a, you know, an effort to squelch one side of the story while he continues to say his own.

I got information that he shared the existence of this lawsuit as early as the 6th of April with the Canadian Conference of Seventh Day Adventists, all the while trying to tell this Court that it should be kept private.

I can't -- your Honor, I can't understand why the, you know, the suggestion that there should be an impound master in this case. You know, the parties are liable for scandalous pleadings, but just to copy what's published somewhere else as an exhibit is -- this is not defamation. The harm that might be caused, well, it's as I said, the harm that's going to come out in a divorce where the parties can't get along, and they start calling each other the worse person on the earth, the other party has to defend themselves.

The personal e-mails that my brother referred to, they were gotten through, first, the, you know, Mrs. Shelton handed them to a good friend to go through, and he released them; and at that point she understood that, you know, she had as much of a tiger by the tail as, you know, the plaintiff here has, because by then she had not been able to work for several years. You know, she was branded an adulterous, which in Seventh Day Adventists' eyes is really a very bad thing. She

was not allowed to go behind any of the pulpits. Women in the Seventh Day Adventist Church can't be ministers, but they can preach, and she was watching the remainder of her savings as she was going through the divorce dwindling to nothing, and at that point she decided that, yes, it had to be done.

I want to note, too, that in the complaint, there are a couple of little liturgical kind of gaffs, and by, you know, having this material impounded, you know, yes, you're preventing the defendant from using the plaintiff's words against him. They say that Three ABN is a nondenominational institute, and they say it's ecumenical. And when the Seventh Day Adventists read that, they would howl. It's absolute sacrilege to them; and, you know, it's the kind of thing which looks innocent, but when it's read by somebody, who is schooled in the bible and who's determined that they're the only church that is schooled in the bible, will cause a firestorm. My brother has said that their defamatory comments that are hurting the plaintiffs, they've really hurt themselves; and you know, to have this matter impounded, well, I would say the public's interests, as I mentioned in my opposition, is really paramount. There is nothing that they brought up that hasn't -- it's been documented.

Mr. Joy has for the past 20 years run a newspaper in which he talks exclusively about Seventh Day -- excuse me -- exclusively about Seventh Day Adventists' affairs; and

when he does that, he checks his sources, and he states his opinion based on those sources. There is nothing in the exhibits before you, especially as supplemented, that will suggest otherwise. There really is a much stronger interest in preserving the freedom of speech than in impounding materials, and I can't see the benefit of having essentially an impoundment master to say whether any given items should be in the public eye.

Three ABN and Danny Shelton are public figures. They present a picture of themselves to the world, and there is no reason, if they don't live up to that picture, that it couldn't be the only picture shown that if they don't live up to that picture. The exhibits speak for themselves that, you know, can't -- that should be shown to them. That is what the public needs.

Thank you, your Honor.

THE COURT: All right. Mr. Pucci, any reply?

MR. PUCCI: Briefly, your Honor, if I may have a moment.

THE COURT: Yes.

MR. PUCCI: Very briefly, your Honor. To the extent that I can understand what Mr. Heal is arguing, I discern that his declared intent is somehow to use this litigation to publish materials that Linda Shelton, one of his other clients, is precluded from publishing under some Illinois -- in some

Illinois proceeding before another court. That's what I understood him to be suggesting; and by way of background, there -- there was a divorce proceeding. There was an agreement in the proceeding, which --

MR. DUFFY: The agreement was separate from the divorce. Do you want me to cover it? I can.

MR. PUCCI: I would defer to Mr. Duffy with regard to the particulars.

THE COURT: Mr. Duffy.

MR. DUFFY: Your Honor, Gerald Duffy. I think the agreement to which Mr. Heal made a reference was an agreement between Three ABN and Linda Shelton when she left the employment of Three ABN. That agreement requires any disputes under that agreement to be submitted to an arbitration process that really looks to the church for -- for how it gets done, and the -- that process hasn't been started. The divorce proceedings in Illinois are a separate matter. Mr. Heal just, as far as we know, has just -- just -- he appeared, it turned out that his license in Illinois at the time he made his appearance was no longer in force. That has been put on hold until June. I think it's the 8th, or it's sometime fairly early in June both, and there has been no order in that preceding period that would prevent Mrs. Shelton from putting anything out. In fact, one of the things we're going to be doing shortly after this is asking that Court to impose some

confidentiality, because as some of the materials we filed show, there has been some fairly significant leakage, some of which isn't even accurate, but it was filed with the Court.

So, there really are three separate things out there. There is this matter involving Three ABN and Danny Shelton and Mr. Pickle and Mr. Joy, which is completely separate.

There is a -- not even a divorce proceeding. It's a property dispute in Illinois involving Linda Shelton and Danny Shelton, where there is currently no confidentiality restrictions on either party. And there is a -- there is an agreement between Three ABN and Linda Shelton, which imposes on her obligations not to disparage the ministry. That's a separate issue, and we intend to take that up with Linda Shelton under the terms of that agreement.

THE COURT: Okay.

MR. PUCCI: And to just then finish, your Honor, what Mr. Heal was really, as I understand it, telling you is that they intend to try to use this litigation to be able to make disclosures of information that his other client Linda Shelton is precluded from making under this other agreement, and I would submit that that underscores the -- the -- that this -- this Court's ability and this Court should be willing to exercise its supervisory powers to not allow Mr. Shelton and this Court to be used in this litigation for those kinds of purposes.

THE COURT: All right. Mr. Heal, anything further?

MR. HEAL: Thank you, your Honor. To respond to that last comment, I guess, that there is no such intent. You know, Mr. Joy and Mr. Pickle have indeed put up a website. They have a topic for their website, which is obvious, but what we have here is simply an attempt to quiet what's becoming a storm against one of the litigants in a divorce when he has raised the same storm against the other. It's not a matter of intent. It's a matter of nature.

Thank you very much, your Honor.

THE COURT: All right. What I'm going to do is take the matter under advisement. I want to keep it, as I indicated, on a fairly fast track.

Mr. Pucci, how long do you think you need to respond to the most recent filings?

MR. PUCCI: Two weeks, your Honor.

THE COURT: All right. And Mr. Heal, if I give him two weeks, how much time would you need to respond to that?

MR. HEAL: I'll try to keep it less than two weeks, but I would ask for two.

THE COURT: All right. I will order then that plaintiff shall file any reply by the close of business on Thursday, May the 24th; and defendants by close of business on June the 7th. I will advise you, for what it's worth, is that my instinct here is my preliminary order is overbroad; and Mr.

Pucci, you may give some thought to whether a more narrowly-tailored order is appropriate. I'm not prejudging it. It may be that no order at all is appropriate, but my sense is in its current form, it is overbroad.

And you may want to consider redaction and other potentially less intrusive means of limiting dissemination, but I'll leave that to you to suggest alternatives.

MR. PUCCI: Your Honor, may I make one inquiry on that --

THE COURT: Yes.

MR. PUCCI: -- on that point. I'm open to suggestions. We are looking for a practical solution and not to a practical problem and not be a victory in the global sense here. So if the Court has other ideas or suggestions, we're open to that. We would like to consider them. Mr. Heal actually threw out the idea, it was his words about a discovery master. I'm not sure where that came from, but to the extent that the Court would want to utilize the clerk magistrate -- I'm sorry -- not the clerk magistrate -- the magistrate judge for that purpose, I think we could be open as well for -- for having a stringing mechanism through -- through the magistrate. If the Court has other ideas, you know, that it would like us to consider, we would be happy to weigh them.

THE COURT: Before I can get to that point, I need to be convinced that -- that impoundment is appropriate at all, so

I will take it up in due course.

In the meantime what I think makes sense is I think I'm going to set this for a further conference either the week of June 11th or June 18th, and we can see at that point where we are. I'll have issued my order by that point, and we can talk about what makes sense on a going-forward basis.

We could call that the scheduling conference, but I think it probably makes more sense at this point just to call it a status conference, and the parties ought to at least have given some thought to scheduling issues.

Marty, what --

MR. PUCCI: There is something on the week of June 18th that would -- I have an issue on in the week of the 11th.

THE COURT: I'm sorry. The 18th is good or bad?

MR. PUCCI: The 18th -- the week of the 18th would be a good week.

THE COURT: June the 21st at three o'clock; does that date work for everyone?

MR. PUCCI: Yes.

MR. HEAL: You said three o'clock, your Honor?

THE COURT: Yes. Three o'clock for a status conference. In the meantime, I am going to keep the impoundment order in place while I'm waiting for the parties' briefing. It is an extraordinary circumstance, and just so that it's clear, the order is not intended in any way, shape or

form, to prevent either service of the complaint, or any exhibits, or any pleadings, or their use in the normal course by which I mean a meeting -- meetings between counsel and clients to discuss and defend the litigation. That is absolutely all fair game at this stage; and as I indicated, I may lift the order entirely. I may modify it. I don't really know at this point, but regardless, counsel does have the right to go over the pleadings with their clients.

Mr. Pucci.

MR. PUCCI: And clients meaning the clients in this litigation, because what Mr. Heal has suggested is he wants to share it with a separate client, not a party to this litigation, Linda Shelton. So, I certainly have no problem, and I certainly agree that he should be able to share all the pleadings with Mr. Joy and Mr. Pickle, who are parties, but I would -- I would ask the Court to -- to limit it to the parties to this litigation.

THE COURT: Well, let's leave it this way. As it stands now, it will be so limited, but that is without prejudice to Mr. Heal seeking leave to disseminate it further. I don't know what the issues are there, and it's without prejudging the case, but certainly at a minimum, he can discuss the matter with Mr. Joy and Mr. Pickle.

MR. HEAL: Your Honor, if I may. I did not suggest. What I said was that because of attorney-client

confidentiality, I could not speak on it, and I did not.

THE COURT: All right. And again, I'm speaking somewhat in the abstract here not having a very good handle on what some of the issues are. If Mr. Heal were to come in, for example, and say that he cannot defend against the claims without discussing them with person X over the next three or four weeks, I would hear him out on that without prejudging him; but for the time being, we'll leave matters where they are pending further briefing and resolution of the issue.

Okay.

MR. HEAL: Thank you.

THE COURT: Anything else, Mr. Pucci?

MR. PUCCI: No, sir.

THE COURT: Mr. Heal, anything further?

MR. HEAL: Thank you very much.

THE COURT: Okay. Thank you. We'll stand in recess.

(At 2:44 p.m., the Court was adjourned.)

C E R T I F I C A T E

I, Marianne Kusa-Ryll, Certified Realtime Reporter, do hereby certify that the foregoing transcript, consisting of 28 pages inclusive, is a true and accurate transcription of my stenographic notes in Case No. 07-40098, Three Angels Broadcasting Network, Inc., and Danny Lee Shelton versus Gailon Arthur Joy and Robert Pickle, before F. Dennis Saylor, IV, on May 10, 2007, to the best of my skill, knowledge, and ability.

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Marianne Kusa-Ryll, RMR, CRR

Official Court Reporter