

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.

**JOINT RULE 26(f) CONFERENCE REPORT (Submitted by Defendants)**

The counsel identified below participated in the meeting required by Fed.R.Civ.P. 26(f), on July 2, 2007, and prepared the following report. The pretrial conference in this matter is scheduled for 3:30 p.m. on July 23, 2007 before United States District Judge F. Dennis Saylor at the United States Courthouse, 595 Main Street, Worcester, Massachusetts 01608. The parties do not request that the pretrial be held by telephone.

A copy of the following was submitted to the Plaintiffs who requested that the Defendants submit a separate report because they could not agree to much of what the Defendants submitted. Items marked removed were taken from a facsimile copy and the better copy is the statement of the Plaintiffs.

**(a) Description of Case**

**(1) Concise Factual Summary of Plaintiff's Claims;**

[removed at request of counsel for Plaintiffs]

**(2) Concise Factual Summary of Defendant's claims/defenses;**

Defendants vehemently deny the Plaintiffs' allegations of defamation and in defense assert that Plaintiffs are participating in a conspiracy of misinformation, have issued factually challenged statements, and have failed to deliver any proof of their own defamatory and factually challenged claims against their victims and the Defendants, despite repeated requests from the Defendants, some victims, and others.

The Defendants further assert the record will demonstrate as a matter of fact, statute, and precedent that the allegations regarding Trademark Infringement, Copyright Violation, and Trademark dilution are willfully and wantonly frivolous claims, without merit, and consequently an abuse of process intended to silence the plaintiffs' critics and not to recover any purported damages. Indeed, the defamation *per se* that the plaintiffs have so repeatedly emphasized to this Court is characterized by its standing as a legal theory worthy of bringing to trial even in the absence of actual damages.

The Defendants took the notice contained in the Complaint that the repetition of the asserted trademarks of Three Angels Broadcasting Network, Inc., in the referrer tags contained in the web pages of save3ABN.com was asserted as an infringement and removed those references, which were never visible on the online display anyway and even were ignored by the search engines that many years ago relied on them. Thus, under applicable statutory and case law, there is no infringement, as "save3ABN" is not going to confuse any member of the public that the web site is a product or part of the business or even a competitor of Three Angels Broadcasting Network, Inc.

The defamation cause relates to Defendants' ecclesiastical investigation of allegations and charges relating to the personal and professional conduct of the self-appointed managing director and purported founder, other employees, past and present, and the members/ directors of Three Angels Broadcasting Network, Inc. Defendants have conducted hundreds of hours of interviews and collected a substantial record of documents and statements from dozens of witnesses, victims, and employees, past and present. Defendants have provided ecclesiastical reports accurately reflecting the historical record of events during the twenty years of 3ABN history.

The plaintiffs' personal, professional and corporate conduct is chimeral and duplicitous as they profess adherence to Seventh-day Adventist conservative theology while Three Angels Broadcasting Network, Inc., allows their self-appointed leader to conduct himself in such a way as to prove violative of the clear and rigorously enforced standards required of ministry leadership within the Seventh-day Adventist Faith just as they are expected of the churches' membership. They collusively have repeatedly violated the code of conduct expected of an institution that professes an absolute faith in, and teaches, the doctrines of the Seventh-day Adventist Church. Plaintiffs have in concert violated

the code of conduct required as a member of Adventist-laymen's Services and Industries, a Seventh-day Adventist, denominationally-affiliated businessmen's organization. Defendants intend to prove that the plaintiffs have colluded to underwrite and allow this self-appointed leader to stoop to a level best described as institutional and personal corruption unbecoming of a leader of a Seventh-day Adventist supporting ministry. Such a violation of the rules of their faith that the Seventh-day Adventist membership abides by is a regular topic of member discussion and the only difference the defendants brought to the discussion was to uncover the proof of the truth. In response, the plaintiffs are, in a familiar and oft-repeated scenario, seeking to silence them by bringing suit.

Plaintiffs have fraudulently relied upon the Seventh-day Adventist world-wide congregation for the funds to operate, claiming to proclaim the unique-to-Seventh-day Adventists Three Angels' Messages, while coming to this court and representing themselves as operating a non-denominational institution. Plaintiffs have colluded repeatedly to misinform or delude the various Seventh-day Adventist congregations in such a way as to fraudulently continue to collect donations, trusts, wills, tithes, bequests, and gifts both outright and in trust, and have willfully attempted to cover up conduct that was clearly violative of the rights of their victims. The actual record demonstrates a willfully deceptive effort to deceive victims and contributors to the clear benefit of Plaintiff Danny Lee Shelton and demonstrates that the very limited membership of 3ABN willfully and repeatedly ignored clear warnings of corruption and misuse of financial assets entrusted to 3ABN and its affiliates. The actual record demonstrates a willfully deceptive effort to deceive cast-aside victims of corruption and to deprive them of due process, to willfully set about to defame or undermine the character and personalities of its cast-aside victims, and to deprive them of their livelihood after the fact, all contrary to the standards expected of a Seventh-day Adventist supporting ministry and violative of the trust of more than 100,000 contributors to 3ABN. The actual record will demonstrate that the membership of 3ABN failed to show due diligence and to investigate the various warnings, wantonly electing to rely upon the factually challenged representations and statements of its self-appointed leader and purported founder, Danny Lee Shelton, to their ultimate detriment.

Defendants reassert their constitutional right pursuant to the US Constitution and the First Amendment thereto to continue to investigate and to report on the conduct of the Plaintiffs. Further, by their written statements the Plaintiffs and Plaintiffs' counsel clearly intended the filing of this action to result in the silence of the press and as such would be a misuse of process pursuant to the Defendants' right to freedom of the press, freedom of religion, and freedom of speech inherent in the US Constitution. Defendants further assert that the Plaintiffs' proposed STIPULATED PROTECTIVE ORDER GOVERNING CONFIDENTIALITY is a contempt of the Honorable Court and a veiled effort to impound discovery grossly violating the clear order of the court as the Plaintiffs

continue their efforts to sidestep local rule 7(a) in an effort to avoid full disclosure to the contributing public.

**(3) Statement of Jurisdiction (including statutory citations);**

Original subject matter jurisdiction under 15 U.S.C. § 1121 (action arising under the Federal Trademark Act).

Original subject matter jurisdiction under 28 U.S.C. § 1388 (action arising under an Act of Congress related to copyright and trademark).

Diversity jurisdiction under 28 U.S.C. § 1332 (action where the matter in controversy is between citizens of different states and the amount in controversy exceeds \$75,000 (exclusive of costs and interest)).

**(4) Summary of Factual Stipulations or Agreements;**

The parties have not successfully stipulated to any facts nor executed any agreements related to discovery, trial or case management other than jointly authored statements contained in this report.

**(5) Statement of whether jury trial has been timely demanded by any party.**

Jury request has been made by plaintiffs and defendants [inserted by Mr. Joy].

**(b) Pleadings**

**(1) Statement of whether all process has been served, all pleadings filed and any plan for any party to amend pleadings or add additional parties to the action;**

Defendants have been served with the Summons and Complaint. The Summons and Complaint have been filed. Defendants have both answered the Complaint. All motions pleadings to date have been filed. Defendant Joy has indicated he intends to move to amend the pleadings to include affirmative defenses and a counterclaim. Defendant Joy does intend to amend the pleadings and add additional parties as appropriate. The other parties have reserved the right to add parties.

**(2) Proposed date by which all hearings on motions to amend and/or add parties to the action shall be heard:**

**August 15, 2008** [date disputed by Plaintiffs]

**(c) Discovery Limitations**

- (1) The Defendants recommend that the Court limit the use and numbers of discovery procedures as follows:
- |     |   |                               |
|-----|---|-------------------------------|
| (A) | 25 (for each party)                     | <b>interrogatories;</b>       |
| (B) | No Limit                                | <b>document requests;</b>     |
| (C) | No Limit                                | factual depositions;          |
| (D) | No Limit                                | requests for admissions;      |
| (E) | N/A                                     | Rule 35 medical examinations; |
| (F) | 6 expert depositions<br>for each party; | other                         |

**(d) Discovery Schedule Deadlines**

- (1) The parties recommend that the Court establish the following discovery deadlines:
- (A) July 15, 2008 deadline for completion of non-expert discovery, including service and response to interrogatories, document requests, requests for admission and scheduling of factual depositions;
- (B) deadline for completion of all Rule 35 medical examinations; N/A
- (C) other.

**(e) Experts**

**The parties anticipate that they will require expert witnesses at time of trial.**

- (1) [removed at request of counsel for Plaintiffs]
- (2) The defendant anticipates calling at least six experts in the field(s) of:
- First Amendment Expert; Trademark and Copyright Expert; Defamation, slander and libel; Forensic accounting; theology, denominational and ASI standards; Broadcast license and acquisition experts;
- (3) **The parties pursuant to Local Rules, recommend the disclosure and discovery option as follows:**

[Plaintiffs suggested each party submit a recommendation]

Defendants suggest that copies of all relevant documents be made and sent to parties or their counsel of record. Electronic documents will be archived and if electronic copies are made and sent they will be exact copies of the electronic documents in media such as CD or DVD which are generally readable.

The parties agreed not to destroy relevant documents during the pendency of the litigation.

**(4) The parties recommend that the Court establish the following deadlines for disclosure of experts and experts' opinions consistent with Rule 26(a)(2):**

**(A) Deadlines for all parties' identification of expert witnesses (initial and rebuttal). (Fed.R.Civ.P. 26(a)(2)(A).)**

December 15, 2008

**(B) Deadlines for completion of disclosure or discovery of the substance of expert witness opinions.**

February 15, 2009

**(C) Deadlines for completion of experts witness depositions, if any.**

February 15, 2009

**(f) Motion Schedule**

**(1) The parties recommend that motions be filed and served on or before the following date:**

(A) October 15, 2008 non-dispositive motions;

(B) October 15, 2008 dispositive motions.

**(g) Trial-Ready Date:**

(1) The parties agree that the case will be ready for trial on or after March 15, 2009.

(2) The final pretrial conference should be held on or before March 1, 2009.

**(h) Insurance Carriers Indemnitors:**

List all insurance carriers/indemnitors, including limits of coverage of each defendant or statement that the defendant is self-insured.

Defendant Joy is un-insured;

Defendant Pickle may be insured for some allegations;

**(i) Settlements**

**(1) The parties will discuss settlement before August 31, 2007, by the plaintiff making a written demand for settlement and each defendant making a written response/offer to plaintiff's demand.**

**(2) The parties believe that a settlement conference is appropriate and should be scheduled by the Court before May 15, 2009.**

**(3) The parties have discussed whether alternative dispute resolution (ADR) will be helpful to the resolution of this case and recommend the following to the Court:**

The parties have not discussed alternative dispute resolution, within the context of this case, to the point that they could offer the Court a joint recommendation.

The defendants actively sought to resolve all matters through alternative dispute resolution, namely the Seventh-Day Adventist formal hearing procedure, but ultimately the plaintiffs refused to participate as the nature and format of the hearings became clear.

**(j) Trial by Magistrate Judge**

**(1) The parties have not agreed to consent to jurisdiction by the Magistrate Judge pursuant to Title 28, United States Code, Section 636(c). (If the parties agree, the consent should be filed with the Rule 26(1) Report.)**

**RESPECTFULLY SUBMITTED BY:**

**Gailon A. Joy**

Date: July 19, 2007

By: /s/ Gailon Arthur Joy  
Gailon A. Joy  
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Sterling, MA 01564

**PRO SE FOR DEFENDANT  
GAILON A. JOY**

**Laird Heal Esq.**

Date: July 20, 2007

By: /s/ Laird J. Heal  
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