
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. Attached hereto as **Exhibit A** are printouts that I made of the tracking information that the shipper DHL International, Ltd. (“DHL”) provides its customers online. The tracking information in Exhibit A is for # 28878311652, a package shipped from MidCountry Bank (“MidCountry”) in Minnetonka, Minnesota, on September 8, 2008, which was delivered to the U.S. District Courthouse in Worcester, Massachusetts, on September 12, 2008, at 12:27 pm.

2. On page 1 of Exhibit A is a summary of the itinerary the package from MidCountry took, and on page 3 is a more detailed itinerary. Page 5 has an image of the signature of “S. Jones,” the clerk of court that signed for the package at the federal courthouse in Worcester on September 12, 2008.

3. I have ordered the transcript of the July 24, 2008, motion hearing before

Magistrate Judge Timothy S. Hillman, and already have a recording of that hearing. In that hearing Magistrate Judge Hillman stated: “When this first landed, we communicated.” He was speaking of having communicated with Magistrate Judge Arthur Boylan of the District of Minnesota regarding Plaintiffs’ attempts to quash Defendants’ second subpoena of MidCountry.

4. Attached hereto as **Exhibit B** are selected pages from my Qwest long distance telephone bills for the months of June, September, and October 2008. These selected pages detail (a) calls (952-843-5222) I made and faxes (952-697-2074) I sent to Deborah Nielsen (“Nielsen”) of MidCountry, (b) calls I made to Richard (“Dick”) Hills (“Hills”), MidCountry’s attorney (404-888-7419; 404-888-7475), and (c) calls I made to Lisa Roland (“Roland”) (508-929-9905), Martin Castles (508-929-9904), and Magistrate Judge Timothy S. Hillman’s chambers in Boston (617-748-4446).

5. These telephone bills tell a story. Toward the end of May 2008, I made final arrangements to order and pay for subpoenaed bank records from MidCountry (“MidCountry records”). (Ex. B pp. 1–2). Nielsen faxed me an estimate of costs on May 21, attached hereto as **Exhibit C**. At 1:09 pm on May 28, 2008, I signed and faxed back that estimate (attached hereto as **Exhibit D**), and followed up with a telephone call on May 29 at 3:36 pm. (Ex. B pp. 3–4). My personal check # 3116 for \$3,682.50 for these records is dated May 28, 2008.

6. Production of the subpoenaed MidCountry records was to take 6 weeks after instructions were faxed to Nielsen, and thus should have been produced by July 9, 2008. (Doc. 63-30 p. 6). However, they were not produced until September 8, 2008, 14 weeks 5 days after I faxed my instructions to Nielsen, or 8 weeks 5 days longer than expected.

7. Beginning on September 9, 2008, I began telephoning Nielsen, Roland, and Magistrate Judge Hillman’s chambers in Boston, but was never able to track down the whereabouts of the package of MidCountry records. (Ex. B pp. 6–10). I recall that Gailon Arthur

Joy (“Joy”) was also involved in these efforts. Those we spoke with at the courthouse told us they could not locate the package of MidCountry records.

8. The calls on September 11, 2008, may concern an unrelated, clerical error in a court order that was then corrected. (Doc. 106; Doc. 107). But that court order is relevant to the MidCountry records, since that order denied Plaintiffs’ request to conduct an *in camera* review of the MidCountry records before those records were given to us. (Doc. 75 pp. 16–17; Doc. 107 p. 5). That decision removed Plaintiffs’ last legal obstacle hindering Joy and me from obtaining the MidCountry records, and so we were quite eager to track down their whereabouts.

9. I recall Nielsen telling me that the MidCountry records had arrived at the courthouse and had been signed for, which would explain why I called Roland right after I called Nielsen on September 26, 2008. (Ex. B p. 8). Still, Joy and I could not locate the MidCountry records.

10. Probably on October 6, 2008 (Ex. B p. 9), I asked Nielsen for the DHL tracking number, and she told me that she could not give it to me since the documents were under seal. That did not make sense to me, so I telephoned MidCountry’s attorney, Richard (“Dick”) Hills (“Hills”) in Atlanta. His law firm at the time had two Richard Hills, it seemed, and so I had two telephone numbers, one which seemed to work and one which seemed not to work, but eventually I reached the right Richard Hills. (Ex. B pp. 9–10). Hills and I had spoken before when MidCountry had objected to our first subpoena because it was issued from the wrong district. Hills didn’t think there was a problem with our obtaining the DHL tracking number, and so on October 8, 2008, Nielsen faxed me the tracking number, which fax is attached hereto as **Exhibit E**.

11. Sometimes Joy and I would make conference calls to the courthouse and to other places using a telephone system that Joy had access to. Thus, there may have been other relevant

calls that would not appear on my telephone bills. At any rate, I am fairly certain that after we found out that Ms. Sherry Jones had signed for the MidCountry records, we inquired of her as to their whereabouts. But we never could locate the whereabouts at the courthouse of the MidCountry records, or find someone who knew where they were. Neither did we ever receive notice from the Court that the subpoenaed MidCountry records had been located.

12. Attached hereto as **Exhibit F** is the October 1, 2008, email of Greg Simpson (“Simpson”), Plaintiffs’ counsel. This email was Simpson’s follow up to his telephone calls to myself and Joy, and it memorializes that Simpson as of that date could not locate the MidCountry records either, and that he was concerned that we might have them in our possession.

13. Attached hereto as **Exhibit G** is the briefing schedule filed on December 9, 2008, in First Circuit Case No. 08-2457, which declares that the record on appeal is now complete.

FURTHER DEPONENT TESTIFIES NOT.

Signed and sealed this 8th day of December, 2009.

/s/ Bob Pickle

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

Subscribed and sworn to me
this 8th day of December, 2009.

/s/ Lori J. Rufsvold
Notary Public—Minnesota

My Commission Expires Jan. 31, 2010