

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 07-40098-RWZ

THREE ANGELS BROADCASTING NETWORK, INC.,
an Illinois Non-Profit Corporation,
and DANNY LEE SHELTON, Individually

v.

GAILON ARTHUR JOY
and ROBERT PICKLE

ORDER
October 19, 2010

ZOBEL, D.J.

This case began as a straight forward trademark infringement action with claims for defamation and interference with business by a non-profit corporation, Three Angels Broadcasting Network, Inc. ("Network"), and its founder and president Danny Lee Shelton. The primary business of Network is to operate and manage a Christian television and radio broadcast ministry. Although, according to the complaint, plaintiff Shelton, is a member of the Seventh Day Adventist faith, Network is non-denominational and is not affiliated with any specific church. Defendants, who are pro se, are also members of the Seventh Day Adventist Church. This straight forward case rapidly degenerated into a discovery morass accompanied by a series of ad hominem attacks on plaintiff and his counsel and, eventually, on the district judge initially assigned to this case.

One issue which has occupied considerable time of the court revolved around

defendants' efforts to obtain, and keep, plaintiff Shelton's personal financial records at MidCountry Bank in Minnesota. Defendants sought these records with a subpoena issued by the Federal District Court in Minnesota which ordered them to be sent under seal to Magistrate Judge Hillman who, by reference from the District Judge, was managing the discovery in the case. Plaintiffs moved for a confidentiality order which was allowed. (Docket # 60.)

When, on October 23, 2008, plaintiffs moved to dismiss the case voluntarily, they included a request that the MidCountry Bank records be returned to them. The district judge, after a hearing on October 30, 2008, orally allowed the motion to dismiss with conditions and ordered all confidential records to be returned to plaintiffs. A written order was docketed on November 3, 2008. Defendants filed a notice of appeal on November 13, 2008. Magistrate Judge Hillman returned the records to plaintiffs.

On December 9, 2009, more than a year after defendants' notice of appeal from the order of dismissal, defendants moved to designate as part of the record and forward to the Court of Appeals the MidCountry Bank documents (Docket # 204). On December 18, 2009, they moved for an order to plaintiffs to return them to this court (Docket # 210). Magistrate Judge Hillman denied both motions on January 29, 2010, and defendants filed objections to both rulings on February 3, 2010 (Docket # 229). Because the case was pending in the Court of Appeals, this court failed to rule on the objections.

Upon consideration of the parties' briefs, the objections are overruled.

Magistrate Judge Hillman's orders, while entered well after dismissal of the case, are properly considered part of pretrial discovery and, as such, may be reconsidered by the district judge only if clearly erroneous or contrary to law, 28 U.S.C. § 636 (b)(1)(A).

The magistrate judge committed no error. Contrary to defendants' assertion, brevity, even extreme brevity, does not mean, nor suggest impropriety on the part of the judge.

The fact that defendants paid for the copying of these records does not confer ownership on them and until a ruling by the magistrate judge that defendants were entitled to these documents, plaintiff Shelton's right to this private information trumped defendants' right to see and distribute them.

Defendants' objections to the Magistrate Judge orders (Docket # 229) are overruled.

October 19, 2010

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE