

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.)	
_____)	

DEFENDANTS’ MOTION TO TAKE LEAVE TO EXTEND THE TIME TO 6:00 PM EASTERN STANDARD TIME (7:00 PM EASTERN DAYLIGHT SAVINGS TIME), OR IN THE ALTERNATIVE, TO EXTEND THE TIME BY 45 MINUTES, TO FILE DEFENDANTS’ OPPOSITION TO PLAINTIFFS’ MOTION FOR PROTECTIVE ORDER

Defendants Gailon Arthur Joy and Robert Pickle seek leave of the Court to extend to 6:00 PM Eastern Standard Time (7:00 PM Eastern Daylight Savings Time) on July 9, 2008, or in the alternative, to extend by 45 minutes, the deadline for filing Defendants’ opposition to Plaintiffs’ Motion for a Protective Order. They seek such an extension pursuant to Fed. R. Civ. P. 6(b)(1), which states in relevant part:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: ...

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Plaintiffs’ counsel considers this motion reasonable, and has represented to the Defendants that the Plaintiffs do not intend to oppose this motion.

While the *Electronic Case Filing Administrative Procedures* for the District of Massachusetts states that “All electronic transmissions of documents must be completed prior to 6:00 PM, **Eastern Standard Time**, in order to be considered timely filed that day” (§ G, bold added), the ECF help desk has informed the Defendants that the actual deadline during this time of year is 6:00 PM Eastern Daylight Savings Time. Thus, any filing after 5:00 PM Eastern Standard Time would be considered untimely when Daylight Savings Time is in effect, even though § G makes no note to that effect. Since the Defendants’ filings on July 9, 2008, were at 6:02 pm (opposition), 6:05 pm (memorandum), 6:23 pm (affidavit), 6:30 pm (motion to file certain exhibits under seal), and 6:40 pm (certificate of service) Eastern Daylight Savings Time, the Defendants file this motion to extend the time.

MEMORANDUM IN SUPPORT OF DEFENDANTS’ MOTION TO TAKE LEAVE

On June 16, 2008, the Plaintiffs filed a Motion to Quash in the Southern District of Illinois (Doc. 76-3 p. 33–45), which resulted in an order on June 18 to show cause by July 9. Showing cause required extensive writing, considerable exhibits, and research (Doc. 81-5 at Ex. L–N; Doc. 81-6–81-9), even as responding to the Plaintiffs’ Motion for a Protective Order has. And the Honorable Judge Gilbert’s order of June 30, 2008, that Defendant Pickle’s response to the order to show cause be limited to ten pages necessitated a late rewriting of that response, since SD. IL. Local Rule 7.1(d) permits briefs to be twenty pages.

The Defendants must also respond by July 11 to Remnant Publications, Inc.’s motion to reconsider the Honorable Magistrate Judge Carmody’s order (Doc. 76-3 pp. 52–53) commanding production of documents to Defendant Pickle.

An additional burden has been the analysis of the allegedly responsive documents belatedly produced by the Plaintiffs in response to Defendant Pickle’s Requests to Produce. These documents were produced without indexes and with little indication of what they were

responsive to. Preliminary analysis prior to July 9 was necessary since the responsiveness of these documents had a bearing on the various pending motions in three districts as well as Plaintiffs' Motion for a Protective Order that the Defendants needed to respond to.

The United States Supreme Court discussed the meaning of "excusable neglect" in *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. Partnership*, 507 U.S. 380, 395 (1993). To determine whether neglect is "excusable," the Court must take account of all relevant circumstances surrounding a party's delay, including (1) the danger of prejudice to the other party or parties, (2) the length of the delay and its potential impact on the case, (3) the reason for the delay, including whether it was within the reasonable control of the party seeking relief, and (4) whether the movant acted in good faith.

1. The extending of the filing deadline to 6:00 PM Eastern Standard Time (7:00 PM Eastern Daylight Savings Time) in accordance with § G of the *Electronic Case Filing Administrative Procedures*, or in the alternative, by a mere 45 minutes, thus enabling Defendants' opposition to Plaintiffs' motion to be considered timely filed, does not create any prejudice whatsoever for the Plaintiffs.

2. The length of the delay is but slight, and results in no impact upon the case.

3. The extensive writing, rewriting, research, and analysis required in producing responses in three districts is a bit burdensome, and was not within the Defendants' reasonable control.

4. The Defendants acted in good faith in endeavoring to complete their filing on time.

WHEREFORE, the Defendants pray the Court to grant an extension to 6:00 PM Eastern Standard Time (7:00 PM Eastern Daylight Savings Time) on July 9, 2008, or in the alternative, an extension of 45 minutes, to the deadline to file their opposition to Plaintiffs' Motion for a

Protective Order.

Respectfully submitted,

Dated: July 10, 2008

/s/ Gailon Arthur Joy, pro se

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and

/s/ Robert Pickle, pro se

Robert Pickle, *pro se*
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LOCAL RULE 7.1 CERTIFICATE

The undersigned hereby attests that the Defendants have complied with the requirements of Local Rule 7.1 by having, in good faith, through counsel conferred with Plaintiffs, and that this conferring resulted in all parties agreeing that this motion for extension is reasonable, and Plaintiffs' counsel has represented that the Plaintiffs do not intend to oppose this motion.

Dated: July 10, 2008

/s/ Bob Pickle

AFFIDAVIT OF SERVICE

Under penalty of perjury, I, Bob Pickle, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on July 10, 2008.

Dated: July 10, 2008

/s/ Bob Pickle