

No. 08-2457

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

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

Plaintiffs-Appellees,

v.

GAILON ARTHUR JOY; ROBERT PICKLE,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Massachusetts
Case No. 07-40098

**DESIGNATION OF APPENDIX AND ISSUES FOR REVIEW BY
APPELLANTS GAILON ARTHUR JOY AND ROBERT PICKLE**

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Pursuant to Fed. R. App. P. 30(b), the defendants-appellants hereby serve and file a designation of the parts of the record the defendants-appellants intend to include in the appendix, and a statement of the issues the defendants-appellants intend to present for review.

MATERIALS FOR THE APPENDIX

- Docket entries for D.Ma. Case No. 07-cv-40098-FDS.
- Docket Entry of Case No. 07-cv-40098-FDS (hereafter “Doc.”) # 9 and # 9-2.
- Doc. # 129.
- Doc. # 3-2, pages 2-3, 5-6, 8-10, 12-15, 17-20, 22-24, 26.
- Doc. # 8-2, pages 2-12, 14-33, 61-63.
- Doc. # 10-3, pages 1-5.
- Doc. # 10-4, pages 4, 6, 8, 10, 12, 14-17, 21-22.
- Doc. # 10-5, pages 2-5.
- Doc. # 15-2, page 2.
- Doc. # 17, pages 1-2, 8, 13-14, 18-21, 24.
- Doc. # 18, pages 1-4.
- Doc. # 19, pages 1-4.
- Doc. # 23.
- Doc. # 30-2.
- Doc. # 32.
- Doc. # 33-2, pages 1, 3-7.
- Doc. # 34-2, pages 2-3.
- Doc. # 34-3, pages 2-3.
- Doc. # 34-4, page 2.
- Doc. # 34-5, pages 2-3.

- Doc. # 34-7, pages 2-4.
- Doc. # 37.
- Doc. # 37-2, pages 2-7, 10, 12-14, 16-17, 19, 22, 24, 27-28, 30-34, 36-39.
- Doc. # 40-2, pages 1-3, 7.
- Doc. # 42, pages 1-3, 38, 43, 47, 49.
- Doc. # 44, pages 4-5.
- Doc. # 46, pages 1-2.
- Doc. # 49.
- Doc. # 49-2, pages 14-23, 28, 35-43, 45.
- Doc. # 56, page 1.
- Doc. # 58, pages 1, 4-6.
- Doc. # 60, pages 1-6.
- Doc. # 63.
- Doc. # 63-14.
- Doc. # 63-15.
- Doc. # 63-16.
- Doc. # 63-17.
- Doc. # 63-18.
- Doc. # 63-19, pages 1-2, 11-12.
- Doc. # 63-20.
- Doc. # 63-21, pages 1-2, 16-17.
- Doc. # 63-22.
- Doc. # 63-24.
- Doc. # 63-25.

- Doc. # 63-26.
- Doc. # 63-29.
- Doc. # 63-30, pages 5, 10-27, 28.
- Doc. # 63-31, pages 9, 11.
- Doc. # 63-32, pages 27-35.
- Doc. # 63-33, pages 2-6, 16-19.
- Doc. # 63-34.
- Doc. # 63-35.
- Doc. # 63-36.
- Doc. # 63-37.
- Doc. # 68, pages 1-3, 9-11.
- Doc. # 68-2, pages 1, 3.
- Doc. # 71.
- Doc. # 73-2, pages 1-2.
- Doc. # 73-3, pages 1-6.
- Doc. # 73-4, pages 1-2.
- Doc. # 73-5.
- Doc. # 76, pages 1, 3-4.
- Doc. # 76-3, pages 31-32, 47-49.
- Doc. # 76-5, pages 1-28, 33.
- Doc. # 77, pages 1-2, 6-13, 15-18.
- Doc. # 81.
- Doc. # 81-2, pages 103-105, 117-120, 133-143.
- Doc. # 81-3, pages 2-3, 8-10, 12.

- Doc. # 81-4, pages 1-13, 46-56.
- Doc. # 81-5, pages 23-34.
- Doc. # 81-6, pages 3-4, 12-18, 25-30.
- Doc. # 81-7, pages 1-3, 4-6, 8-13, 18-21.
- Doc. # 81-8, pages 3, 5-20, 22, 31-36, 40-41.
- Doc. # 81-9, pages 14, 15-16, 18-19.
- Doc. # 81-10, pages 1-6, 8-9, 11-12, 14-15, 17-18, 20-47, 49-53, 55-56.
- Doc. # 81-11, pages 3, 6-40.
- Doc. # 89, pages 1, 4-5, 10, 14-16, 19-27, 30-33, 36-42.
- Doc. # 92, pages 4-5, 7-10, 17-29, 33-35, 37, 39, 50-53.
- Doc. # 93, pages 1, 4-40 (filed under seal).
- Doc. # 96-2.
- Doc. # 96-3.
- Doc. # 96-4.
- Doc. # 96-5.
- Doc. # 96-6.
- Doc. # 96-7, pages 1, 17.
- Doc. # 96-8.
- Doc. # 96-10.
- Doc. # 96-11, pages 1-5, 9-16, 18-22, 24-38, 45-63.
- Doc. # 100, page 1, 3-5.
- Doc. # 100-2, pages 1-3.
- Doc. # 100-3.
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- Doc. # 100-5.
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- Doc. # 100-9, pages 1-5.
- Doc. # 100-10.
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- Doc. # 100-18, pages 1-2.
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- Doc. # 100-20, page 1.
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- Doc. # 109-13.
- Doc. # 109-14, page 1-2.
- Doc. # 109-15, pages 1-7.
- Doc. # 109-16.
- Doc. # 109-17.
- Doc. # 114, pages 1-3, 5-6.
- Doc. # 114-3.
- Doc. # 114-4, pages 1-2.
- Doc. # 114-5.
- Doc. # 114-6, pages 1-3.
- Doc. # 114-7, pages 1, 3.
- Doc. # 114-8, pages 1-2.
- Doc. # 114-9, pages 3, 5.
- Doc. # 114-10.
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- Doc. # 114-21.
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- Doc. # 114-23.
- Doc. # 114-26, pages 1-2.
- Doc. # 116.
- Doc. # 122, pages 1-2.
- Doc. # 122-2, pages 1-6, 8-9.
- Doc. # 123.
- Doc. # 125.
- Doc. # 127.
- Doc. # 127-2, pages 1-2.
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- Doc. # 127-7, pages 1-6.
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- Doc. # 127-9, pages 1, 8.
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- Doc. # 127-38.
- Doc. # 127-39.
- Doc. # 127-40.

- Doc. # 127-41, pages 1, 4.
- Doc. # 127-42, page 1.
- Doc. # 127-43, pages 1, 3-5.
- Doc. # 127-44.
- Doc. # 127-45.
- Doc. # 127-46.
- Doc. # 132.
- Doc. # 141, pages 1-18.
- Doc. # 144, pages 1-2, 9-17, 21-23, 29.
- Doc. # 146, pages 1-2, 4-5, 7-10, 13-16.

Some of the above materials may instead be included in the addendum to the appellants' brief. Exhibits will be bound in separate volumes.

ISSUES FOR REVIEW

The defendants-appellants will ask the Court to review the orders entered on October 31 and/or November 3, 2008 in regards to the following issues:

- Not allowing for a normal briefing schedule, given the complexity of the case.
- Granting the motion without familiarity with various facets of the case.
- Granting the motion without reading the defendants' opposition brief.
- Depending on the uncorroborated testimony of Walt Thompson.
- Depending on deceptive or false testimony.
- Failing to schedule an evidentiary hearing.
- Granting the motion without making any findings of fact.
- Granting the motion despite the insufficiency and falsity of the reasons given for the need for dismissal.

- Dismissing both plaintiffs when one plaintiff gave no reasons whatsoever for his need to dismiss.
- Granting the motion despite abundant evidence of bad faith and vexatiousness on the part of the plaintiffs.
- Granting the motion despite the lack of diligence on the part of the plaintiffs to litigate the case.
- Granting the motion despite the lack of diligence on the part of the plaintiffs to bring the motion.
- Granting a motion which was but yet another attempt to evade discovery.
- Granting the motion despite the tremendous effort and expense invested in the case by the defendants.
- Granting the motion so late in the case, and at a critical juncture in the case.
- Granting the motion despite the plaintiffs' failure to comply with Local Rule 7.1(a)(2).
- Imposing terms that protect the plaintiffs and their counsel.
- Imposing a condition upon the plaintiffs that may not be enforceable.
- Not imposing terms that would adequately protect the defendants.
- Imposing terms upon the defendants.
- Imposing terms that threaten the defendants' First Amendment freedoms of speech and press.
- Failing to impose terms that would preserve evidence from spoliation.
- Revoking without due process certain terms of the confidentiality order of April 17, 2008.
- Depriving the defendants of property without due process.

Respectfully submitted,

Dated: December 23, 2008

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CERTIFICATE OF SERVICE

I, Bob Pickle, hereby certify that on December 23, 2008, served copies of this Designation of Appendix and Issues to Review on the following parties by way of U.S. mail:

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