

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

**THREE ANGELS BROADCASTING NETWORK, INC.,
an Illinois Non-Profit Corporation;
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

**DEFENDANTS' REPLY TO APPELLEE'S RESPONSE
TO DEFENDANTS' MOTION TO AMEND CAPTION**

Appellees refer to Fed. R. Civ. P. 10. Paragraph (a) of that rule states in relevant part, "The title of the complaint must name all the parties;" The Appellees themselves chose the following as the case title on their complaint:

Three Angels Broadcasting Network, Inc.,
an Illinois non-profit corporation, and
Danny Lee Shelton, individually,
Plaintiffs,

v.
Gailon Arthur Joy and Robert Pickle,
Defendants.

The Appellees' use of "individually" clarified who the parties are in the case. Danny Lee Shelton ("Shelton") as an individual, not as an officer or director of Three Angels Broadcasting Network, Inc. ("3ABN"), is a party. Every motion, proposed order, response, reply, and affidavit subsequently filed by the Appellees always included the word "individually" in the caption, and the Defendants conformed the caption of all their filings to this case title chosen by the Appellees.

Appellees argue that the instant motion makes no substantive difference, and wastes the Court's time. If this be true, why did Appellees waste the Court's time by filing a response? Additionally, 3ABN's payment of Shelton's private legal expenses incurred in a suit seeking to refute allegations against Shelton of private inurement goes to the question of bad faith on the part of the Appellees. Bad faith is a factor to consider in motions under Fed. R. Civ. P. 41(a)(2) (8 *Moore's Federal Practice* § 41.40[6] (3d ed. 2003)), and will be raised by Defendants on appeal.

WHEREFORE, Defendants pray the Court to amend the caption to include the word "individually," conforming the caption to how all parties have always designated the district-court case, and avoiding the misunderstanding that Shelton is a party as a 3ABN officer or director, when he is in fact a party as an individual.

Respectfully submitted,

Dated: January 16, 2009

/s/ Gailon Arthur Joy, pro se

Gailon Arthur Joy, *pro se*

P.O. Box 37

Sterling, MA 01564

Tel: (978) 333-3067

and

/s/ Robert Pickle, pro se

Robert Pickle, *pro se*

1354 County Highway 21

Halstad, MN 56548

Tel: (218) 456-2568

Fax: (206) 203-3751

CERTIFICATE OF SERVICE

I, Bob Pickle, hereby certify that on January 16, 2009, I served copies of this reply on the following parties and the Clerk of the Court of Appeals by way of U.S. mail:

Gerald Duffy
M. Gregory Simpson,
Jerrie M. Hayes
Kristin L. Kingsbury
William Christopher Penwell
*Attorneys for Danny Lee Shelton, individually,
and Three Angels Broadcasting Network, Inc.*

Siegel, Brill, Greupner, Duffy & Foster, P.A.

100 Washington Avenue South

Suite 1300

Minneapolis, MN 55401

John P. Pucci
J. Lizette Richards
*Attorneys for Danny Lee Shelton, individually,
and Three Angels Broadcasting Network, Inc.*

Fierst, Pucci & Kane, LLP

64 Gothic Street

Northampton, MA 01060

Dated: January 16, 2009

/s/ Bob Pickle

Bob Pickle