

# United States Court of Appeals For the First Circuit

## DOCKETING STATEMENT

No. 09-2615

Short Title: Three Angels Broadcasting et. al. v. Joy et. al.

### Type of Action

- Civil  
 Criminal/Prisoner  
 Cross Appeal

#### A. Timeliness of Appeal

1. Date of entry of judgment or order appealed from April 13 & 15, & October 26, 2009
2. Date this notice of appeal filed November 23, 2009  
If cross appeal, date first notice of appeal filed \_\_\_\_\_
3. Filing date of any post-judgment motion filed by any party which tolls time under Fed. R. App. P. 4(a)(4) or 4(b) April 27, 2009
4. Date of entry of order deciding above post-judgment motion October 26, 2009
5. Filing date of any motion to extend time under Fed. R. App. P. 4(a)(5), 4(a)(6) or 4(b) \_\_\_\_\_  
Time extended to \_\_\_\_\_

#### B. Finality of Order or Judgment

1. Is the order or judgment appealed from a final decision on the merits?  Yes  No
2. If no,
  - a. Did the district court order entry of judgment as to fewer than all claims or all parties pursuant to Fed. R. C. P. 54(b)?  Yes  No  
If yes, explain \_\_\_\_\_
  - b. Is the order appealed from a collateral or interlocutory order reviewable under any exception to the finality rule?  Yes  No  
If yes, explain \_\_\_\_\_

#### C. Has this case previously been appealed? Yes No

If yes, give the case name, docket number and disposition of each prior appeal  
Three Angels Broadcasting Network, Inc. et. al. v. Gailon Arthur Joy et. al., 08-2457, Pending

#### D. Are any related cases or cases raising related issues pending in this court, any district court of this circuit, or the Supreme Court? Yes No

If yes, cite the case and manner in which it is related on a separate page. If abeyance or consolidation is warranted, counsel must file a separate motion seeking such relief.

- E. Were there any in-court proceedings below?  Yes  No  
 If yes, is a transcript necessary for this appeal?  Yes  No  
 If yes, is transcript already on file with district court?  Yes  No (Most are, some aren't)

F. List each adverse party to the appeal. If no attorney, give address and telephone number of the adverse party. Attach additional page if necessary.

1. Adverse party Three Angels Broadcasting Network, Inc. and Danny Lee Shelton  
 Attorney John P. Pucci, J. Lizette Richards  
 Address 64 Gothic Street, Suite 4, Northampton, MA 01060  
 Telephone (413) 584-8067; (413) 585-0787 (fax)

2. Adverse party Three Angels Broadcasting Network, Inc. and Danny Lee Shelton  
 Attorney Kristin Kingsbury, Wm. Christopher Penwell, Jerrie Hayes\*, Gerald Duffy  
 Address 100 Washington Avenue South, Suite 1300, Minneapolis, MN 55401  
 Telephone (612) 337-6100; (612) 339-6591 (fax)

\* Jerrie Hayes has not withdrawn her appearance, but is no longer with Siegel Brill.

3. Adverse party Three Angels Broadcasting Network, Inc. and Danny Lee Shelton  
 Attorney M. Gregory Simpson  
 Address 33 South Sixth Street, Suite 4400, Minneapolis, MN 55402  
 Telephone (612) 337-9672; (612) 877-3138 (fax)

G. List name(s) and address(es) of appellant(s) who filed this notice of appeal and appellant's counsel. Attach additional page if necessary.

1. Appellant's name Gailon Arthur Joy, pro se  
 Address P.O. Box 37, Sterling, MA 01564  
 Telephone (508) 872-8000

Attorney's name \_\_\_\_\_  
 Firm \_\_\_\_\_  
 Address \_\_\_\_\_  
 Telephone \_\_\_\_\_

2. Appellant's name Robert Pickle, pro se  
 Address 1354 County Highway 21, Halstad, MN 56548  
 Telephone (218) 456-2568; (206) 203-3751 (fax)

Attorney's name \_\_\_\_\_  
 Firm \_\_\_\_\_  
 Address \_\_\_\_\_  
 Telephone \_\_\_\_\_

Will you be handling the appeal? (In criminal cases counsel below will handle the appeal unless relieved by this court.)  Yes  No

Fed. R. App. P. 12(b) provides that each attorney who files a notice of appeal must file with the clerk of the court of appeals a statement naming each party represented on appeal by that attorney. 1st Cir. R. 12.0 requires that statement in the form of an appearance.

A copy of this docketing statement must be served on all other parties to the appeal. In civil cases it must also be served on First Circuit Settlement Counsel, Civil Appeals Management Program, 1 Courthouse Way, Suite 3440, Boston, MA 02210. Proof of service must be attached.

Signature s/ Gailon Arthur Joy

Signature s/ Robert Pickle

Date December 9, 2009

**ATTACHED NOTE FOR ANSWER TO QUESTION (D)**

*Three Angels Broadcasting Network, Inc. et. al. v. Gailon Arthur Joy et. al.*, 1st Cir. Case No. 08-2457, is a pending appeal of the order(s) of voluntary dismissal entered on October 31 and/or November 3, 2008, in its varied parts.

The issues of the above appeal and the instant one overlap but are not identical. Both appeals concern, *inter alia*: (a) The validity of Plaintiffs' reasons for voluntary dismissal. (b) Whether the sole condition for dismissal adequately cured Defendants' prejudice. (c) Whether the record suggests abuse of process and malicious prosecution by Plaintiffs concerning their complaint, discovery, confidentiality designations, etc. (d) Whether the confidentiality order requires parties to return any documents. (e) The filing of certain documents produced by Remnant Publications, Inc. and Three Angels Broadcasting Network, Inc.

If the related appeal renders the dismissal a dismissal with prejudice or negates the dismissal entirely, then the issues of the instant appeal concerning costs could become somewhat or entirely moot, or could be considerably narrowed.

As necessary to conserve resources, since both appeals involve the entire record, and to the extent that Plaintiffs were correct in maintaining that this Court had no jurisdiction over the related appeal due to a lack of finality, submissions in the instant appeal will incorporate the facts, arguments, appendix, exhibits, and/or requested relief of the related appeal.

## CERTIFICATE OF SERVICE

I, Bob Pickle, hereby certify that on December 9, 2009, I served copies of this docketing statement on the following registered parties via the ECF system:

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

M. Gregory Simpson  
*Attorney for Danny Lee Shelton*  
*and Three Angels Broadcasting Network, Inc.*

And on the following parties by way of First Class U.S. Mail:

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

**Siegel, Brill, Greupner, Duffy & Foster, P.A.**  
100 Washington Avenue South, Suite 1300  
Minneapolis, MN 55401

First Circuit Settlement Counsel  
Civil Appeals Management Program  
1 Courthouse Way, Suite 3440  
Boston, MA 02210

Dated: December 9, 2009

s/ Bob Pickle  
\_\_\_\_\_  
Bob Pickle