

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS

In Re)	Case No. <u>07-43128-JBR</u>
)	
Gailon Arthur Joy,)	Chapter 7
)	
Debtor.)	Adversary No. <u>07-04173</u>
)	
Gailon Arthur Joy,,)	
)	
Plaintiff,)	
)	
v.)	
)	
Three Angels Broadcasting Network, Inc.,)	
)	
Danny Lee Shelton,)	
)	
John P. Pucci, Esq.,)	
)	
Jerrie M. Hayes, Esq.,)	
)	
Gerald S. Duffy, Esq.,)	
)	
Fierst, Pucci & Kane, LLP.,)	
)	
and)	
)	
Siegel Brill Gruepner Duffy & Foster P. A.)	
)	
Defendants.)	
)	
)	

DEBTOR'S OPPOSITION TO THE MOTION TO DISMISS [#4]

Now comes GAILON ARTHUR JOY and submits the following in Opposition to the Motion to Dismiss [#4] ("Motion") filed by Danny Shelton and Three Angels Broadcasting Network, Inc.:

1. The Defendants Danny Shelton and Three Angels Broadcasting Network, Inc. ("Defendants") have filed the Motion. The other defendants will be referred to as "Other Defendants" if necessary.
2. The Motion at once complains that the matter should be treated as a contested matter under Rule 9014 but the bulk of the Motion consists of extraneous matter related to the claims of the Defendants against the Debtor, which shows why the simplicity of deciding an issue in which the facts are not really in dispute or in which the disputed issues can be decided after hearing, which is afforded by treating the debtor's claims as a contested matter, are less appropriate than the procedures set out in Rules 7001 and following (Part VII of the Federal Rules of Bankruptcy

Procedure).

3. The effect of the Adversary Proceeding is to create a conflict of interest between the Defendants and the Other Defendants, who are representing the Defendants against the Debtor and another in the district court case. The issue of whether facts have arisen which merit disqualification of the Other Defendants as attorneys for the Defendants can as well be heard by this Court as the district court, and, since the issue is one under Title XI of the United States Code, this Court is better placed to hear those facts. Procedurally, it can be brought before the same district court either by appeal or a motion to remove the reference, but as a parliamentary matter hearing the issue in this Court relieves the Other Defendants (and the Defendants) of the need to present two faces to the same court in the same proceeding. It should be noted that the Other Defendants have come to the other court complaining of the conflicts of interest of this attorney - and without such disclaimer - and this attorney found such complaining both unseemly and prejudicial to the presiding judge.
4. The Defendants have moved for relief from the Automatic Stay in the bankruptcy case but did not move for a retroactive order. Their violations of the Automatic Stay prior to their filing of the Motion for Relief are still not yet sanctioned by this Court, and the issue to be decided in this case. Whether the Defendants have a valid claim is scarcely relevant here, except that their attempts to collect against that claim from the Debtor is made more sanctionable by their reiteration, here, that their claims surmount the proceedings in bankruptcy.
5. The Debtor moves to strike the portions of the Motion which do not have any bearing on the issue of dismissal. The Debtor has his right to free speech and is not engaged in commercial competition with the Defendants, who are in any event a non profit entity whose commercial existence is by no means threatened. The Debtor has an additional right to practice his religion and engage in ordinary religious activities free from governmental interference, and it is just this interference which the Defendants are engaged in pursuing through their case in the district court. These issues are already before the district court and hearing them again in this forum both is a waste of time and can only have a prejudicial effect, as the legal effect is minimal.
6. Rule 9014 allows for an order which specifies which portions of Part VII of the Federal Rules of Bankruptcy Procedure should apply to a contested matter. The Debtor agrees that the case should be able to be resolved by this Court after due consideration, and as a contested matter, as there should be no disputed issues of fact or law - and this Court should agree that the Defendants (and the Other Defendants in their turn) will interpose every procedural obstacle to that fair and just adjudication. It would be a better time to wait until after the parties have submitted their answers and disclosures to the Court before issuing such an order.
7. This Court should deny the Motion in as much as it seeks to dismiss the case, and withhold a ruling on the extent to which Rule 9014 applies until the defendants have made appropriate statements to the Court that would make clear which of the formalities of Part VII can be dispensed with.
8. In further Opposition whereof the Debtor submits his Memorandum of Law to justify his statements here.

WHEREFORE, the Debtor respectfully request the Court deny the Motion.

RESPECTFULLY SUBMITTED

Gailon Arthur Joy, Debtor,
By His Attorneys,

/s/ Laird J. Heal
Laird J. Heal BBO #533901
78 Worcester Road, P. O. Box 365
Sterling, MA 01564
978-422-0135

Dated: November 30, 2007

CERTIFICATE OF SERVICE

I, Laird J. Heal, certify that a copy of the above Opposition and Memorandum was filed with the Court by Electronic Case Filing on the 30th day of November, 2007, before 4:30 PM.

I further certify that a copy will be sent by placing in the United States Mails, first class postage prepaid, to the following parties if not noted as having received electronic service, including:

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/s/ Laird J. Heal
Laird J. Heal