

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In re)	Chapter 7, No. 07-43128-JBR
GAILON ARTHUR JOY)	
Debtor)	
GAILON ARTHUR JOY)	Adv. Proceeding No. 07-4173
Plaintiff)	
v.)	
THREE ANGELS BROADCASTING)	
NETWORK, INC.,)	
DANNY LEE SHELTON,)	
JOHN P. PUCCI, ESQ.,)	
GERALD S. DUFFY, ESQ.,)	
FIERST, PUCCI & KANE, LLP,)	
and)	
SIEGEL BRILL GRUEPNER)	
DUFFY & FOSTER, P.A.)	
Defendants)	
)	

**MOTION TO DISMISS ADVERARY PROCEEDING, OR IN THE ALTERNATIVE, TO
TREAT ADVERSARY PROCEEDING AS A CONTESTED MATTER UNDER FEDERAL
RULE OF BANKRUPTCY PROCEDURE 9014**

To the HONORABLE JOEL B. ROSENTHAL, Bankruptcy Judge:

Now come Three Angels Broadcasting Network, Inc. ("3ABN") and Danny Lee Shelton ("Shelton"), defendants in the above-captioned adversary proceeding, and hereby move to dismiss the Plaintiff's Complaint, or in the alternative, seek an Order treating this Adversary Proceeding as a contested matter

pursuant to Fed. R. Bankr. P. 9014. In support thereof, 3ABN and Shelton respectfully represent as follows:

1. On August 14, 2007 ("Petition Date"), the Plaintiff filed a Voluntary Petition under the provisions of Chapter 7 of the United States Bankruptcy Code, which case is pending before this Court as Docket No. 07-43128-JBR (the case underlying this instant Adversary Proceeding).

2. Janice G. Marsh is the duly appointed Chapter 7 Trustee in the Plaintiff's Chapter 7 case and continues to serve in that capacity.

3. On April 6, 2007, 3ABN and Shelton commenced an action in the U.S. District Court for the District of Massachusetts entitled Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation and Danny Lee Shelton v. Gailon Arthur Joy and Robert Pickle, which case is pending as Case No. 4:07-cv-40098-FDS ("Civil Action").

4. 3ABN is an entity founded in Illinois in the mid 1980's to operate and manage a Christian television and radio broadcast ministry; one of its founders is Shelton, also a plaintiff in the Civil Action. 3ABN's slate of programming includes both spiritual and lifestyle presentations, and it has a ministry focus of "Mending Broken People".

5. Over the past two decades, 3ABN has spent enormous resources to promote its message and publicizing itself though advertising, live events, direct mail campaigns, and group presentations. The result of this effort is that 3ABN is now one of the larger Christian networks in North America,

broadcasting 24 hour television and radio programming to viewers and listeners that are estimated to number well into the millions. While it maintains its headquarters in West Frankfort, Illinois, it also operates facilities in Russia, the Philippines and New Guinea.

6. In order to provide its programming, to retain current viewers and listeners and to attract new ones, 3ABN depends on its reputation and goodwill. Most of its operations are funded by the donations of viewers and supporters.

7. To help it protect this reputation and goodwill, 3ABN has registered "3ABN" and "Three Angels Broadcasting Network" as trademarks with the U.S. Patent and Trademark Office.

8. 3ABN also has a significant internet operation, primarily through its website, www.3abn.org (targeting North American audiences), and through secondary websites www.3abnaustralia.org.au (for Australia) and www.3angels.ru (for Russia). These websites offer pastoral support, streaming audio and video programming and information about 3ABN's mission and operations. Visitors to the websites can also purchase books and recordings produced by 3ABN and can make donations to its ministry.

9. In order to protect its trademarks and to use the 3ABN marks on the internet, 3ABN has registered over 3 dozen domain names, all of which contain the "3ABN" trademark, including but not limited to 3ABN.com, 3ABN.org, 3ABN.tv, 3ABNtelevision.com, 3ABNradio.com, 3ABNmusic.com, 3ABNbooks.com, 3ABNtv.com, and 3ABNtv.org.

10. In January 2007, 3ABN discovered that the Debtor had registered the domain name "save3ABN.com". In March 2007, 3ABN further discovered that the Debtor had registered the domain name "save3ABN.org" and that the website at www.save3ABN.org automatically redirects visitors to the www.save3ABN.com website. Neither of these two websites that the Debtor registered was listed as assets in his bankruptcy schedules.

11. According to 3ABN, the website at www.save3ABN.com contains information that is antithetical to 3ABN's message, and contains gross misstatements of fact concerning 3ABN's actions and operations, and contains baseless and untrue allegations of criminal conduct by 3ABN, Shelton and persons involved with 3ABN, and also contains disparaging characterizations of 3ABN, its broadcast network and Shelton.

12. The Debtor has also embedded www.save3ABN.com with the metatags "3ABN", "3-ABN", and "Three Angels Broadcasting Network", which are words and phrases used by internet search engines to locate websites that use 3ABN trademarks.

13. In the Civil Action, 3ABN alleges that the save3ABN.com and save3ABN.org domains and websites, as well as the use of the metatags as described above, incorporate 3ABN's trademark that it has used continuously for over 20 years in connection with its ministry, broadcasts and audio and video programming, and as such, infringes on those trademark rights. Additionally, the Debtor's statements on his website about 3ABN and Shelton are defamatory in nature.

14. The Debtor's use of the save3ABN.com and save3ABN.org domains and websites in the aforementioned manner continues to this date, 3 months after his Chapter 7 bankruptcy filing.

15. The Complaint filed in the Civil Action seeks damages for the Debtor's conduct, as well as injunctive relief requiring, among other things, that the Debtor stop infringing on 3ABN's trademarks and using the 3ABN.com and 3ABN.org domains and websites.

16. 3ABN and Shelton believe that due to the Debtor's continuing infringement of 3ABN's marks and his continuing defamatory conduct, cause exists pursuant to 11 U.S.C. §362(d)(1), to grant them relief from the automatic stay for the purpose of proceeding with the Civil Litigation to obtain injunctive relief related to the Debtor's continued, postpetition, use of the 3ABN.com and 3ABN.org domains and websites. Accordingly, on November 13, 2007, 3ABN and Shelton filed a Motion in the underlying case seeking relief from the automatic stay (along with a Motion for Expedited Determination). A preliminary hearing on the Motion by 3ABN and Shelton was held on November 15, 2007, which was continued to November 21, 2007.

17. On November 15, 2007, the Plaintiff filed this Adversary Proceeding alleging that certain actions that Defendants might have undertaken subsequent to the Petition Date constituted violations of the automatic stay.

18. Fed. R. Bankr. P. 7001 sets forth those bankruptcy related matters that are to be brought by Adversary Proceeding. 3ABN and Shelton do not believe that any of the types of matters

described in Rule 7001 apply to the Complaint filed in this case. Although Rule 7001(1) includes "a proceeding to recover money or property", the instant action seeks redress for alleged automatic stay violations, and in connection therewith, the Plaintiff essentially requests \$5,000.00 for each stay violation, without describing in the Complaint any real injury suffered by the Plaintiff. The only type of "harm" described by the Plaintiff is found (a) in Paragraphs 31 and 39 of the Complaint where he contends that to comply with an existing Order in the Civil Action that simply involves the preservation of evidence would "make it impossible . . . to conduct his normal business operations", and (b) in Paragraph 54 where he states without any specificity that certain actions of the Defendants caused him to lose income. No amount of lost income is described, nor is the causal connection between the Defendants' alleged conduct and such alleged loss of income mentioned.

19. Furthermore, with respect to his statement that the Defendants' efforts to simply preserve evidence make it impossible to conduct his normal business operations, 3ABN and Shelton note that in his Schedules, the Debtor discloses that his business is that of a "Loan Consultant" through the business or trade name of "Nemco". 3ABN and Shelton do not seek the preservation of any information, computer records or electronic evidence pertaining to a loan consultation business that the Debtor may operate; they wish to only preserve the evidence that pertains to his operation of the "save3abn.com" and "save3abn.org" domains and websites, through which 3ABN and Shelton assert that the Debtor is infringing trademark rights and defaming and interfering with the business of 3ABN and Shelton. Nothing is disclosed in the Debtor's schedules about

the "save3abn.com" and "save3abn.org" websites, despite the fact that the "WHOIS" internet registry discloses the Debtor as the registrant of those domains. See WHOIS registry printout attached hereto as Exhibit "A". Lastly, a review of those websites reveals nothing pertaining to any loan consultation business. Accordingly, 3ABN and Shelton maintain that the Plaintiff/Debtor has suffered no actual damages or injury.

20. As he does not appear to have suffered any actual damages, therefore, 3ABN and Shelton maintain that the Debtor's request for \$5,000.00 per alleged stay violation is in the nature of a sanction or punitive damages, which does not seek to recover anything that was lost. Rather, he seeks to impose these sanctions. Rule 7001(1) states that an adversary proceeding includes a proceeding "to recover money". "Recover" implies that something was lost. In this situation, where the Debtor does not appear to have lost anything, he cannot be seeking the "recovery" of anything. Instead, he appears to be seeking the *imposition* of sanctions, and 3ABN and Shelton maintain that an Adversary Proceeding is an inappropriate procedural tool through which to do that.

21. More important however, than the procedural problems with the Debtor's Complaint, is that substantively, he is not entitled to relief. 11 U.S.C. §362(k) requires a Debtor asserting a stay violation to establish a "willful" violation, as well as actual injury. The automatic stay does "not shield the debtor from all the vicissitudes, aggravations and anxiety of everyday life." In re Sullivan, 357 B.R. 847, 854 (Bankr. D. Colo. 2006), quoting In re Peterson, 297 B.R. 467, 470 (Bankr. W.D.N.C. 2003). As noted above, the Debtor did not specify with detail any harm that was allegedly caused by the actions of

Defendants. The preservation of evidence in connection with the Civil Action which itself was precipitated by the Debtor's actions cannot be more than a minor inconvenience, and as stated above, is not related to the Debtor's business disclosed in his Schedules. Additionally, the Debtor's failure to causally connect any of the Defendants' alleged actions with his loss of an unspecified amount of income suggests that there is no real harm to the Debtor.

22. Furthermore, the Court should be aware that at the hearing that took place on November 13, 2007 in the U.S. District Court (in the nature of a status conference to discuss the effect of the litigation as a result of the Debtor's bankruptcy filing), nothing took place to advance the case for 3ABN or Shelton. The District Court, aware of the Debtor's Chapter 7 case, indicated that the Debtor was to deliver certain electronic evidence directly to the Court (not to 3ABN or Shelton). That was done deliberately to simply preserve the status quo, not to advance the case.

23. Additionally, the Debtor participated at the November 13, 2007 hearing in the U.S. District Court (pro se), and did not at that time indicate that the proceedings there should not take place because of his bankruptcy filing. Further, the Debtor's co-Defendant in the District Court case, Robert Pickle, was represented in that case by Laird J. Heal, the Debtor's attorney in this Adversary Proceeding and in the underlying Chapter 7 case. Attorney Heal was present at the District Court hearing on November 13th. As noted above, the Debtor also was in the Courtroom at that hearing. Attorney Heal, the Debtor's bankruptcy attorney, similarly said nothing to the District Court regarding his views of the effect of the automatic stay in

his client's bankruptcy case. If the actions taking place in connection with the District Court proceeding, at which both the Debtor and his bankruptcy attorney actively participated without complaint, violated the stay in any way, he and his attorney waived any rights that flowed from such violations.

24. Therefore, the Debtor's Adversary Proceeding, filed shortly after the November 13th hearing in the District Court, is disingenuous at best, and fails to state a basis for relief. As the Debtor has not described any injury that is causally connected to the Defendants' alleged actions, there can be no claim under Section 362(k). In re Sullivan, 357 B.R. at 854. Accordingly, the Debtor's complaint must be dismissed for failure to state a claim upon which relief can be granted. Fed. R. Bankr. P. 7012.

25. In the alternative, 3ABN and Shelton request that if the Court does not dismiss the Plaintiff's Complaint, that it be treated as a contested matter pursuant to Fed. R. Bankr. P. 9014. In this case, there are not likely to be any significant contested facts -- the interpretation of those facts will be at issue. The letters that the Debtor describes in his Complaint speak for themselves, and the participation of parties in connection with the Civil Action can be reviewed through the docket in that case as well as through transcripts of the relevant hearings or proceedings.

26. The streamlined rules governing contested matters under Rule 9014 are more than ample to resolve this matter in an expeditious manner. There are numerous decisions dealing with stay violations that are brought by Motion (as a contested matter through Rule 9014). See, e.g., In re Hildreth, 357 B.R.

650 (Bankr. M.D. Ala. 2006); In re LTV Steel Co., Inc., 264 B.R. 455 (Bankr. N.D. Ohio 2001); In re Timbs, 178 B.R. 989 (Bankr. E.D. Tenn. 1994). Furthermore, the last sentence of Fed. R. Bankr. P. 1001 states that the Federal Rules of Bankruptcy Procedure "shall be construed to secure the just, speedy, and inexpensive determination of every case and proceeding." Treating this as a Rule 9014 contested matter is all that would be required to secure the "just, speedy, and inexpensive determination" of any issues raised by the Debtor, especially where there are likely to be very few, if any, facts that will be contested.

28. The other defendants named in the Debtor's complaint have all indicated to 3ABN and Shelton that they assent to the relief requested by this Motion.

WHEREFORE, 3ABN and Shelton respectfully request the entry of an Order dismissing the Plaintiff's Complaint, or in the alternative, that said Complaint be treated as a Motion filed under Rule 9014 for all purposes.

THREE ANGELS BROADCASTING
NETWORK, INC.
DANNY LEE SHELTON

Dated: November 20, 2007

By: /s/ George I. Roumeliotis
JOSEPH B. COLLINS, ESQ.
(BBO No. 092660)
GEORGE I. ROUMELIOTIS, ESQ.
(BBO No. 564943)
HENDEL & COLLINS, P.C.
101 State Street
Springfield, MA 01103
Tel. (413) 734-6411
groumeliotis@hendelcollins.com

NetworkSolutions.

Login

Customer Service
Call us toll free

Your cart is empty



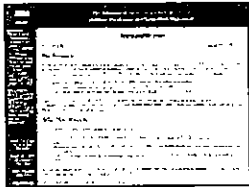
WHOIS Search Results

Available save3abn extensions:

.us	.mobi	.info	.biz	.de	.tv	.co.uk	.eu	.bz
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

[Order Selected Domain\(s\) >>](#)

Your WHOIS Search Results



save3abn.com

Services from Network Solutions:

- [Certified Offer Service](#) - Let us help you get this domain name!
- [Backorder](#) - Try to get this name when it becomes available.
- [SSL Certificates](#) - Get peace of mind with a secure certificate.
- [Enhanced Business Listing](#) - Promote your business to millions of viewers for only \$1 a month!

SAVE over 70%

when you TRANSFER your domains to Network Solutions — your trusted domain name provider!

[Go >](#)

Choose Your Domain Name Provider Wisely and Transfer Domains for \$9.99/yr

Learn the do's and don'ts of search engine optimization. Download our *Guide to Getting Found Online* now.

Learn the Secrets of Search Engine Optimization

Attend our SEO Seminar

[Learn More >](#)

Search Engines

TOP SECRET

The information in this whois database is provided for the sole purpose of assisting you in obtaining information about domain name registration records. This information is available "as is," and we do not guarantee its accuracy. By submitting a whois query, you agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (1) enable high volume, automated, electronic processes that stress or load this whois database system providing you this information; or (2) allow, enable, or otherwise support the transmission of mass, unsolicited, commercial advertising or solicitations via facsimile, electronic mail, or by telephone to entities other than your own existing customers. The compilation, repackaging, dissemination or other use of this data is expressly prohibited without prior written consent from this company. We reserve the right to modify these terms at any time. By submitting an inquiry, you agree to these terms of usage and limitations of warranty. Please limit your queries to 10 per minute and one connection.

Registrant:

G. Arthur Joy
3 Clinton Road, Box 1425
Sterling, MA 01564
US

Registrar: NAMESDIRECT
Domain Name: SAVE3ABN.COM
Created on: 09-JAN-07
Expires on: 10-JAN-08
Last Updated on: 11-JAN-07

Administrative, Technical Contact:
Joy, G. Arthur gabbjoy4@comcast.net
3 Clinton Road, Box 1425
Sterling, MA 01564
US
(978) 422-3464

Domain servers in listed order:
NS1.BLUEHOST.COM
NS2.BLUEHOST.COM

End of Whois Information

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

[Show underlying registry data for this record](#)

Current Registrar: MYDOMAIN, INC.

IP Address: 69.89.27.211 (ARIN & RIPE IP search)
IP Location: US(UNITED STATES)-UTAH-OREM
Record Type: Domain Name
Server Type: Apache 1
Lock Status: clientDeleteProhibited
Web Site Status: Active
DMOZ: no listings
Y! Directory: [see listings](#)
Secure: No
E-commerce: No
Traffic Ranking: 1
Data as of: 31-Jul-2007



Search ➔

SEARCH AGAIN


Enter a search term:

e.g. networksolutions.com

Search by:

Domain Name

- NIC Handle
- IP Address


Search 

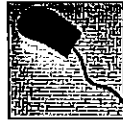


Need to get your business online?

Our professional designers can build a custom Web site for your business.

\$11.95/month, plus a \$499.00 design fee

Go 



PerformanceClicks™ from Network Solutions

Create and manage your pay per click advertising from as low as \$125/month plus \$99 one time set-up fee

Go 



"An outstanding customer service experience"
J.D. Power and Associates



100% Secure Transaction

For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

© Copyright 2007 Network Solutions. All rights reserved.

NetworkSolutions

Login

Customer Service
Call us toll free

Your cart is empty

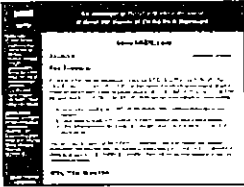
WHOIS Search Results

Available **save3abn** extensions:

<input type="checkbox"/> .us	<input type="checkbox"/> .mobi	<input type="checkbox"/> .info	<input type="checkbox"/> .biz	<input type="checkbox"/> .de	<input type="checkbox"/> .tv	<input type="checkbox"/> .co.uk	<input type="checkbox"/> .eu	<input type="checkbox"/> .bz
------------------------------	--------------------------------	--------------------------------	-------------------------------	------------------------------	------------------------------	---------------------------------	------------------------------	------------------------------

[Order Selected Domain\(s\) >](#)

Your WHOIS Search Results



save3abn.org

Services from Network Solutions:

Certified Offer Service - Let us help you get this domain name!

Backorder - Try to get this name when it becomes available.

SSL Certificates - Get peace of mind with a secure certificate.

Enhanced Business Listing - Promote your business to millions of viewers for only \$1 a month!



SAVE over 70%

when you TRANSFER
your domains to
Network Solutions — your
trusted domain name provider!

[Go >](#)

Choose Your Domain Name
Provider Wisely and Transfer
Domains for \$9.99/yr

Learn the do's and don'ts of
search engine optimization.
Download our Guide to Getting
Found Online now.

Learn the Secrets of Search Engine Optimization

Attend our
SEO Seminar

[Learn More >](#)

Search Engines

TOP SECRET

NOTICE: Access to .ORG WHOIS information is provided to assist persons in determining the contents of a domain name registration record in the Public Interest Registry registry database. The data in this record is provided by Public Interest Registry for informational purposes only, and Public Interest Registry does not guarantee its accuracy. This service is intended only for query-based access. You agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (a) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than the data recipient's own existing customers; or (b) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator or any ICANN-Accredited Registrar, except as reasonably necessary to register domain names or modify existing registrations. All rights reserved. Public Interest Registry reserves the right to modify these terms at any time. By submitting this query, you agree to abide by this policy.

Domain ID:D137232849-LROR
Domain Name:SAVE3ABN.ORG

Created On:14-Jan-2007 05:11:41 UTC
Last Updated On:16-Mar-2007 03:47:36 UTC
Expiration Date:14-Jan-2008 05:11:41 UTC
Sponsoring Registrar:MyDomain, Inc. (R92-LROR)
Status:OK
Registrant ID:DOT-Y11PM3XIRGTX
Registrant Name:G. Arthur Joy
Registrant Street1:3 Clinton Road, Box 1425
Registrant Street2:
Registrant Street3:
Registrant City:Sterling
Registrant State/Province:MA
Registrant Postal Code:01564
Registrant Country:US
Registrant Phone:+1.9784223464
Registrant Phone Ext.:
Registrant FAX:
Registrant FAX Ext.:
Registrant Email:gabbjoy4@comcast.net
Admin ID:DOT-TP9O28IYN38H
Admin Name:G. Arthur Joy
Admin Street1:3 Clinton Road, Box 1425
Admin Street2:
Admin Street3:
Admin City:Sterling
Admin State/Province:MA
Admin Postal Code:01564
Admin Country:US
Admin Phone:+1.9784223464
Admin Phone Ext.:
Admin FAX:
Admin FAX Ext.:
Admin Email:gabbjoy4@comcast.net
Tech ID:DOT-1DO86KGMRTWH
Tech Name:G. Arthur Joy
Tech Street1:3 Clinton Road, Box 1425
Tech Street2:
Tech Street3:
Tech City:Sterling
Tech State/Province:MA
Tech Postal Code:01564
Tech Country:US
Tech Phone:+1.9784223464
Tech Phone Ext.:
Tech FAX:
Tech FAX Ext.:
Tech Email:gabbjoy4@comcast.net
Name Server:NS1.BLUEHOST.COM
Name Server:NS2.BLUEHOST.COM
Name Server:
Name Server:
Name Server:
Name Server:
Name Server:



Search

SEARCH AGAIN

Enter a search term:

e.g. networksolutions.com

Search by:

Domain Name

Name Server:
Name Server:
Name Server:
Name Server:
Name Server:

- [NIC Handle](#)
- [IP Address](#)

Search 

The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

[Show underlying registry data for this record](#)


IP Address: 69.89.27.211 (ARIN & RIPE IP search)
IP Location: US(UNITED STATES)-UTAH-OREM
Record Type: Domain Name
Server Type: Apache 1
Web Site Status: Active
DMOZ: no listings
Y! Directory: [see listings](#)
Web Site Title: Save 3ABN (Three Angels Broadcasting Network)
Meta Keywords: Danny Shelton, Linda Shelton, Tommy Shelton
Secure: No
E-commerce: No
Traffic Ranking: Not available
Data as of: 31-Jul-2007



Need to get your business online?

Our professional designers can build a custom Web site for your business.

\$11.95/month, plus a \$499.00 design fee

Go 



PerformanceClicks™ from Network Solutions

Create and manage your pay per click advertising from as low as \$125/month plus \$99 one time set-up fee

Go 



100% Secure Transaction

For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

© Copyright 2007 Network Solutions. All rights reserved.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In re)	Chapter 7, No. 07-43128-JBR
GAILON ARTHUR JOY)	
Debtor)	
<hr/>		
GAILON ARTHUR JOY)	Adv. Pro. No. 07-4173
Plaintiff)	
v.)	
THREE ANGELS BROADCASTING)	
NETWORK, INC.,)	
DANNY LEE SHELTON,)	
JOHN P. PUCCI, ESQ.,)	
GERALD S. DUFFY, ESQ.,)	
FIERST, PUCCI & KANE, LLP,)	
and)	
SIEGEL BRILL GRUEPNER)	
DUFFY & FOSTER, P.A.)	
Defendants)	

CERTIFICATE OF SERVICE

I, GEORGE I. ROUMELIOTIS, ESQ. of the law firm of HENDEL & COLLINS, P.C., 101 State Street, Springfield, Massachusetts, do hereby certify that on the 20th day of November, 2007, I electronically filed the Motion of Three Angels Broadcasting Network, Inc. and Danny Lee Shelton to Dismiss Adversary Proceeding, or in the Alternative, to Treat Adversary Proceeding as a Contested Matter Under Rule 9014. I further hereby certify

that upon receipt of the Notice of electronic service of said Motion, a copy thereof will be served by first class mail, post prepaid, to any of the parties listed on the attached Exhibit "A" not noted as having received electronic service, said service being made on the 20th day of November, 2007.

/s/ George I. Roumeliotis
GEORGE I. ROUMELIOTIS, ESQ.
(BBO No. 564943)
HENDEL & COLLINS, P.C.
101 State Street
Springfield, MA 01103
Tel. (413) 734-6411
groumeliotis@hendelcollins.com

y:\users\client\three\motion to dismiss (adversary proceeding).doc

EXHIBIT "A"

Richard T. King, Esq.
OFFICE OF THE U.S. TRUSTEE
446 Main Street, 14th Floor
Worcester, MA 01608

Janice G. Marsh, Trustee
THE MARSH LAW FIRM, PC
446 Main Street
Worcester, MA 01608

LAIRD J. HEAL, ESQ.
78 Worcester Road
P.O. Box 365
Sterling, MA 01564

LAIRD J. HEAL, ESQ.
3 Clinton Road
P.O. Box 365
Sterling, MA 01564-0365

MR. GAILON ARTHUR JOY
P.O. Box 1425
Sterling, MA 01564

Gerald S. Duffy, Esq.
Jerrie M. Hayes, Esq.
SIEGEL, BRILL, GREUPNER,
DUFFY & FOSTER, P.A.
100 Washington Avenue South
Suite 1300
Minneapolis, MN 55401

John P. Pucci, Esq.
FIERST, PUCCI & KANE, LLP
64 Gothic Street, Suite 4
Northampton, MA 01060