

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
Three Angels Broadcasting Network, Inc.,)	
an Illinois non-profit corporation, and)	
Danny Lee Shelton, individually,)	Case No.: 07-40098-FDS
)	
) Plaintiffs,)	
v.)	
)	
Gailon Arthur Joy and Robert Pickle,)	
)	
) Defendants.)	
_____)	

DEFENDANTS’ MEMORANDUM IN SUPPORT OF DEFENDANTS’ MOTION FOR LEAVE TO CAUSE SUBPOENA TO BE SERVED UPON A PORT DIRECTOR OF U.S. CUSTOMS AND BORDER PROTECTION OR OTHER APPLICABLE OFFICER OR AGENCY OF THE UNITED STATES GOVERNMENT, AND IN SUPPORT OF DEFENDANTS’ MOTION FOR LEAVE TO CAUSE SUBPOENA TO BE SERVED UPON THE KEEPER OF THE RECORDS AT DELTA AIRLINES

INTRODUCTION

Though no leave is required for the Defendants to serve subpoenas, yet because a motion is pending relating to the issue of serving third-party subpoenas, Defendants Gailon Arthur Joy and Robert Pickle seek leave of the Court to serve subpoenas *duces tecum* upon a Port Director of U.S. Customs and Border Protection or other applicable officer or agency of the United States government, and upon the keeper of records at Delta Airlines.

FACTS

A Few Early Events Pertaining to the Divorce and Termination of Linda Shelton

After Linda Shelton met Johann and Irmgard Thorvaldsson in Denmark in September 2003, she met Dr. Arild Abrahamsen (hereafter “Abrahamsen”) of Norway in late December 2003 when Abrahamsen visited Three Angels Broadcasting Network, Inc. (hereafter “3ABN”)

toward the end of Abrahamsen's visit to the United States. (Affidavit of Robert Pickle (hereafter "Pickle Aff.") Ex. A at p. 1). At that time Abrahamsen offered to treat Linda Shelton's son, Nathan Moore (hereafter "Moore"), in Norway for drug addiction. (Pickle Aff. Ex. A at p. 2).

While Moore was undergoing treatment in Norway, Brenda Walsh (hereafter "Walsh") and Linda Shelton visited Moore from February 2 through 6, 2004. (*Id.*). Walsh, of 3ABN's *Kids' Time* fame and formerly a very good friend of Linda Shelton, later became a key witness against Linda Shelton in the dispute that led to the marriage breakup of Linda Shelton and Danny Lee Shelton (hereafter "Shelton"), and that led to 3ABN's termination of Linda Shelton. (Pickle Aff. Ex. B at ¶ 4).

The Planned Trip to Florida in April 2004

After Linda Shelton and Walsh returned to the United States, they planned a vacation trip to Florida to stay at Abrahamsen's condominium. (Pickle Aff. Ex. A at p. 3). On March 4, 2004, Walsh reserved the tickets with Delta Airlines for this trip that was to last from April 4 through 9, 2004, and 3ABN paid for the tickets on March 5, 2004. (Pickle Aff. ¶¶ 5–6, Ex. C–E). This trip was later allegedly canceled, and Shelton took credit for foiling this planned trip. (Pickle Aff. Ex. A at ¶ 3, Ex. F at p. 2).

Walsh claims that Linda got the tickets, not Walsh or 3ABN. (Pickle Aff. ¶ 8). (Shelton claims that Linda Shelton, not 3ABN, bought the tickets behind his back. (Pickle Aff. ¶ 9, Ex. G at ¶ 3).) Walsh claims that Walsh's ticket was never used, but that Linda Shelton's ticket was used. (Pickle Aff. ¶ 8). Walsh claims that one reason why the trip to Florida was planned was so that Walsh and Linda Shelton could work on their books on their laptop computers. (Pickle Aff. Ex. H at p. 3). Walsh claims that Linda Shelton did go to Florida to spend time with Abrahamsen, presumably at the same time that the original trip was planned. (*Id.*).

Shelton Claims More Planned Trips, and Claims Vacations Were Actually Taken

By March 19, 2004, Shelton was writing and complaining about Linda Shelton's allegedly planned rendezvous with Abrahamsen in Florida in April, at camp meeting in May, in Norway in June, and in September. (Pickle Aff. Ex. I). In September 2004, Shelton referred to multiple vacations Linda Shelton took with Abrahamsen before Shelton and Linda Shelton's June 25, 2004, divorce:

When a woman or man is married they have no right to take vacations together with members of the opposite sex against their spouses objections. Vacations were taken while we were still married. This is what ultimately caused the divorce.

(Pickle Aff. Ex. J). In a July 7, 2004, email, Shelton refers to a planned Florida trip that had been canceled as well as allegedly contemplated trips to New York, Las Vegas, and Norway; Shelton asserts that Linda Shelton had just returned from a four-day vacation with Abrahamsen. (Pickle Aff. Ex. K). In a September 1, 2004, email, Shelton again refers to the Florida trip planned for the previous April, as well as Linda Shelton's ongoing trips to Norway and Abrahamsen's ongoing trips to the United States to be with each other. (Pickle Aff. Ex. L). Yet later in 2004, Shelton claimed that Abrahamsen had entered the United States three times during the summer and fall of 2004 in order to vacation with Linda Shelton. (Pickle Aff. Ex. F at p. 2).

Shelton asserted that he could monitor every call Abrahamsen made or received, and every number Linda Shelton called. (Pickle Aff. Ex. B at ¶ 6). Walsh asserted that a 3ABN supporter, understood from other sources to be Garwin McNeilus, had "hired and paid for" a private detective who had followed Linda Shelton and had "taped Linda's conversations with the Dr." (Pickle Aff. Ex. H at p. 5). Such assertions, if true, could explain Shelton's in-depth knowledge of Abrahamsen's travels to the United States and Linda Shelton's travels abroad.

Pregnancy Test Kit: Proof of Adultery vs. Joke

On May 7, 2008, a pregnancy test kit was found by Shelton, which was subsequently used by Dr. Walter Thompson, M.D. (hereafter "Thompson"), Shelton, Tommy Shelton, and

Walsh as evidence of Linda Shelton's adultery, since Shelton had previously had a vasectomy. (Doc. 81-11 at pp. 25, 28, 31, 33; Pickle Aff. ¶¶ 15–17, Ex. M at p. 1, Ex. N). In contrast, Linda Shelton claimed, even before May 7, that her purchase of the pregnancy test for Shelton to find when he rummaged through her things was intended to be a joke. (Doc. 81-11 at pp. 25, 28; Pickle Aff. Ex. N).

An investigative report on Save-3ABN.com demonstrates the critical nature of identifying when Abrahamsen and Linda Shelton were together between February 6, 2004, and the finding of the pregnancy of the test kit on May 7, 2004. (Pickle Aff. Ex. O). If there was no rendezvous between those dates, the pregnancy test kit cannot be used as evidence that Linda Shelton committed adultery.

Thompson has asserted that the pregnancy test kit was found around mid-May, five or six weeks after Linda Shelton's alleged trip to Florida, and that 3ABN did not have physical proof that such a trip to Florida had ever taken place. (Pickle Aff. Ex. P at pp. 1, 3, 4). Thompson has also asserted that 3ABN has evidence that such a trip to Florida really did take place. (Doc. 81-11 at p. 25).

While the trip to Florida was originally scheduled by Walsh for April 4 through 9, 2004 (Pickle Aff. Ex. C–E), Shelton's email of April 7, 2004, suggests that Linda Shelton was not in Florida on April 6. (Pickle Aff. ¶ 21, Ex. Q at p. 1).

Contradictory Statements by Shelton, Thompson, and Walsh

On October 27, 2004, Shelton asserted that he foiled the planned trip to Florida, and on July 7, 2004, Shelton asserted that the planned trip to Florida was canceled. (Pickle Aff. Ex. F at p. 2). These assertions coincide with Shelton's March 25, 2004, through April 14 or 23, 2004, assertions that Linda Shelton and Abrahamsen had committed "spiritual adultery" rather than physical adultery. (Doc. 81-10 at p. 27; Pickle Aff. ¶¶ 22–23, Ex. R–T).

On the other hand, on September 15, 2004, Shelton asserted that Linda Shelton had taken vacations with Abrahamsen prior to their divorce, which coincides with his May 16, 2004, assertion that the finding of the pregnancy test kit on May 7, 2004, was evidence of adultery. (Pickle Aff. Ex. J, Ex. M at p. 1). This coincides with his October 27, 2004, statements that were in essence a denial that he had ever accused Linda of “spiritual adultery” rather than physical adultery. (Pickle Aff. Ex. U).

One or the other of Shelton’s sets of statements must be false.

While Thompson asserted on June 13, 2006, that 3ABN has evidence that a trip to Florida really did take place, he has also asserted that 3ABN has no physical proof that the Florida trip really took place. (Doc. 81-11 at p. 25; Pickle Aff. Ex. P at p. 4). It is difficult to imagine how both assertions can be true. Complicating matters even further are Thompson’s claims that he had “made no effort to determine exact dates” of the alleged trip or the finding of the pregnancy test kit, and that he was “reporting only what I believe I was told,” making his statements akin to hearsay. (Pickle Aff. Ex. P at p. 1).

Though Walsh was a key witness against Linda Shelton and had “confided” in Shelton (Pickle Aff. Ex. B at ¶ 4), noticeably absent from the extant, early correspondence by Shelton currently in the Defendants’ possession are any references to a physical relationship between Abrahamsen and Linda Shelton. Sources claim that Walsh originally asserted only that Linda Shelton had been flirtatious in Norway and had conducted an inappropriate telephone relationship with Abrahamsen. (Affidavit of Gailon Arthur Joy (filed under separate cover, hereafter “Joy Aff.”) ¶ 24). However, sources claim that Walsh’s later story was much more elaborate, alleging that Abrahamsen and Linda Shelton had slept together in Norway, that Linda Shelton had had earlier adulterous relationships with other men, and that Linda Shelton had resorted to having an abortion. (Joy Aff ¶¶ 27–31). Again, it is difficult to imagine how Walsh’s

earlier and later stories can both be true, even if Walsh's statement that Linda Shelton had gotten the tickets for the planned Florida trip was not proven false by the documentary trail.

ARGUMENT

I. DOCUMENTS SOUGHT FOR ARE RELEVANT TO THE ISSUES OF THIS CONTROVERSY

Fed. R. Civ. P. 26(b)(1) states in relevant part:

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

The Plaintiffs have placed at issue in this controversy the grounds for Shelton's divorce and Linda Shelton's termination, and Shelton's biblical right to remarry. (Doc. 1 ¶ 50). Key to these issues is the veracity of Walsh, Shelton, and Linda Shelton, and the number, timing, length, and nature of Linda Shelton's interactions with Abrahamsen.

A. Abrahamsen's Travel to the U.S.: Did He Rendezvous with Linda Shelton?

An inquiry into the dates of Abrahamsen's travels to the United States is necessary to determine whether Linda Shelton had the opportunity to vacation with Abrahamsen and commit fornication, and thus give Shelton grounds for divorce (Pickle Aff. ¶ 20).

Linda Shelton's account of the saga appears to limit the relevant time period to no earlier than September 2003. (Pickle Aff. Ex. A at p. 1). Shelton's claims of vacations after his June 25, 2004, divorce as circumstantial evidence of an affair between Linda Shelton and Abrahamsen prior to Shelton's divorce, including specific claims as to the number of times Abrahamsen entered the United States in the spring and fall of 2004 to allegedly vacation with Linda Shelton, extend the relevant time period of inquiry to at least the end of 2004. The Defendants must therefore determine when Abrahamsen entered and exited the United States between September 2003 and at least the end of 2004.

B. Records from Delta Airlines: Were Linda Shelton and Walsh's Tickets Used?

Of particular interest is the contemplated trip to Florida by Linda Shelton and Walsh from April 4–9, 2004, given the fact that without this alleged rendezvous, the Plaintiffs cannot use the pregnancy test kit found on May 7, 2004, as proof that Linda Shelton committed adultery with Abrahamsen. (Pickle Aff. ¶ 18, Ex. O).

Walsh has claimed that her ticket was never used, that Linda Shelton's ticket was used, and that Linda Shelton did go to Florida to meet Abrahamsen. (Pickle Aff. ¶ 8, Ex. H at p. 3). Information from Delta Airlines as to the disposition of both these tickets will determine Walsh's veracity as well as determine whether Linda Shelton or Walsh ever went on the planned trip. Such information from Delta Airlines will of necessity need to include whether either ticket was exchanged for later flights, and when those flights were, since Shelton's email of April 7, 2004, suggests that Linda Shelton was still around as of April 6, 2004 (Pickle Aff. Ex. Q). Thus, it must be determined whether Linda Shelton or Walsh went to Florida on different flights at a later time.

Since the Plaintiffs' accusations of vacations go well beyond the May 7, 2004, finding of the pregnancy test kit, any tickets Linda Shelton may have purchased, used, or been named on from February 6, 2004, through at least the end of 2004 would be relevant to determining whether any of the planned vacations the Plaintiffs have referred to actually took place.

C. Collateral Issue: 3ABN's Payment of Personal, Vacation Air Travel

Information from Delta Airlines regarding the disposition of Linda Shelton and Walsh's tickets may also further confirm whether 3ABN paid for personal, vacation air travel. To the extent that such sums were not properly reported as income to these individuals or not properly reimbursed to 3ABN by these individuals, such confirmation would speak to issues raised in the Defendants' answer to the Plaintiffs' complaint. (Doc. 9 at answers to ¶¶ 9, 13, 14).

D. Collateral Issue: Defamatory Conduct Constitutes Unclean Hands

To the extent that the claims against Linda Shelton and Abrahamsen made by Shelton, Walsh, Thompson, and Tommy Shelton are false, the Plaintiffs and their associates are guilty of defamation and defamation *per se*. If the Plaintiffs thus come with unclean hands to this Court, making their defamatory stories the foundation of the allegations found in ¶ 50 of their complaint, they can hardly receive equitable remedies should they perchance win their case. Thus it is critical to determine the extent to which their claims against Linda Shelton are false in the matter of rendezvous with Abrahamsen in Florida and elsewhere both prior and after Shelton's June 25, 2004, divorce of Linda Shelton.

CONCLUSION

The Defendants believe that the documents they seek from a Port Director of U.S. Customs and Border Protection or other applicable officer or agency of the United States government, and from the keeper of the records of Delta Airlines, are relevant to the claims and defenses of the parties of the instant case. Because the pending motions to compel and to limit the scope of discovery relate to the issuance of third-party subpoenas, the Defendants seek leave of the Court to subpoena documents, even though no such leave is required. The Defendants seek leave of the Court to subpoena documents pertaining to the dates of Abrahamsen's entry into and exit from the United States from September 2003 through the end of 2004, pertaining to the disposition of Walsh and Linda Shelton's tickets from Delta Airlines (including any tickets those tickets were exchanged for), and pertaining to any tickets Linda Shelton may have purchased, used, or been named on from February 6, 2004, through the end of 2004.

Respectfully submitted,

Dated: September 8, 2008

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