

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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

Plaintiffs,

**Case No. 07-40098-RWZ**

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

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**PLAINTIFFS' MOTION TO ENLARGE TIME  
TO FILE DOCUMENT NO. 249**

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Plaintiffs Three Angels Broadcasting Network, Inc. and Danny Lee Shelton (“3ABN”) hereby bring this motion to enlarge the time to file Document No. 249 entitled “Plaintiffs’ Response to Defendants’ Motion for Leave to File Two Supplemental Exhibits.” In support of the motion Plaintiffs state as follows:

1. On April 1, 2010 Defendants Gailon Arthur Joy and Robert Pickle (“Pickle and Joy”) electronically filed Document No. 245, entitled “Defendants’ Motion for Leave to File Two Supplemental Exhibits: (A) Warrants for the Arrest of Tommy Shelton, and (B) Press Release Issued by Fairfax County Policy Department.” Defendants did not request a hearing on the motion.

2. Under Local Rule 7.1(b)(2), Plaintiffs’ opposition memorandum was due fourteen days after filing of the motion. The opposition was therefore due on April 15,

2010. Local Rule 5.4(D) states that “all electronic transmissions of documents must be completed prior to 6:00 P.M. EDT to be considered timely filed that day.”

3. The undersigned counsel for Plaintiffs Three Angels Broadcasting Network, Inc. and Danny Lee Shelton electronically filed and served a responsive memorandum to the motion (Document No. 249) on April 15, 2010 at 7:26 P.M. EDT. The undersigned was generally aware of the 6:00 P.M. local rule deadline for electronic filing, but was not mindful of it on April 15, 2010. He was acting under the impression that the filing would be timely if completed before midnight, as would be the case under Minnesota federal court rules where the undersigned primarily practices. The filing was therefore made one hour and twenty-six minutes after the 6:00 p.m. local rule deadline.

4. Defendant Robert Pickle brought the issue of late filing to the undersigned counsel's attention and made demands including that the filing be withdrawn prior to noon on April 19, 2010. If the deadline was not met, Pickle indicated he would move to strike the filing.

5. The undersigned counsel for Plaintiffs requested that Pickle agree to extend the time for filing Document No. 249 by one hour and twenty-six minutes, such that it may be deemed timely filed. The undersigned asked Mr. Pickle to specify any prejudice that may have resulted, and offered to make any reasonable accommodation to cure such prejudice. Mr. Pickle responded that he would not stipulate to extend the time for filing, and would bring a motion to strike. His response, which is attached to the Affidavit of M. Gregory Simpson, is attached. It fails to identify any prejudice resulting from the fact that the filing was late.

6. The Federal Rules of Civil Procedure permit the Court to extend a deadline on motion made after the deadline has expired “if the party failed to act because of excusable neglect.” Fed. R. Civ. P. 6(b)(1)(B).

7. The reason the subject memorandum (Doc. 249) was filed one hour and twenty-six minutes late is the unintentional error of the undersigned. This motion is supported by the Affidavit of M. Gregory Simpson, served and filed herewith.

8. The undersigned hereby attests that the Plaintiffs have complied with the requirements of Local Rule 7.1 by having in good faith conferred with the Defendants and failed to reach a resolution.

Respectfully submitted,

Dated: April 19, 2010

s/ M. Gregory Simpson  
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