
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.

PROTECTIVE ORDER

Because the discovery and trial of the above-captioned action will involve the production of documents, information and materials that the parties regard as confidential, proprietary or secret in nature, and pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the following provisions shall govern confidentiality with respect to material produced by any party or third party during discovery in these proceedings:

1. This Order shall apply to all documents and other information produced in discovery by any of the above-named parties, or their present or former agents, employees, or representatives (hereinafter individually "Party" and collectively, "Parties") and by any third-party or their present or former agents, employees, or representatives (hereinafter individually "Third Party" and collectively, "Third Parties"), whether produced voluntarily or by subpoena, as to which any Party asserts a claim of trade secret ("Trade Secret Information") or confidentiality ("Confidential Information").

2. Trade Secret Information, which, until further order of this Court, consists of 3ABN's donation information, including but not limited to the donors' names, addresses, phone numbers, social security numbers or any other specific or general identifying information, the date(s) of donation, the amount(s) of donation, the means of donation, the donation designation(s) or the manner of the donations' expenditure, is hereby prohibited from discovery.

3. Confidential Information shall include all documents of a highly sensitive nature and all non-public, proprietary and commercially sensitive material, the disclosure of which will result in clearly defined and serious injury to the designating Party (the "Designating Party").

4. Confidential Information shall not consist of any information which at any time has been: (a) produced, disclosed or made available to the public or otherwise available for public access; and/or (b) disclosed in connection with any governmental public filing and which documents or information could not reasonably be assumed to be or have been intended to be kept confidential. Documents produced to the Federal Communications Commission in connection with the sale, purchase or licensing of radio or television transmission facilities or operations or documents produced to the Department of Justice in connection with any investigation or compliance matter are not documents disclosed in connection with a governmental public filing or otherwise deemed to have been made available to the public.

5. The provisions of this Order extend to all designated Confidential Information, regardless of the manner in which it is disclosed, including but not limited to responses to requests for production of documents and things, interrogatory answers, responses to requests for admissions, deposition transcripts, deposition exhibits, responses to subpoenas and any other discovery materials produced by a Party or a Third Party in response to or in connection with any

discovery conducted in this litigation, and any copies, notes, abstracts or summaries of the foregoing materials.

6. The Parties must initially designate documents or information as Confidential Information prior to the actual production of the document or information by the Designating Party by placing the notation "Confidential" on every page of each document so designated. Confidential Information so designated shall be treated as such by all non-designating parties to this action (collectively, the "Receiving Parties"), unless the Court shall rule otherwise. Designation of witness deposition testimony shall be accomplished by a statement to that effect during the deposition, or by a follow-up written designation, sent within twenty (20) days after receipt of the transcript of that deposition, identifying the specific portions of the deposition transcript and exhibits being designated as Confidential Information. Documents or deposition testimony not so designated are not subject to this Order.

7. If any Third Party produces any documents, information or materials as a result of a subpoena, the subpoenaing Party (the "Receiving Party") shall notify all opposing Parties immediately and prior to review of the documents, information or materials by the Receiving Party and prior to disclosure of the documents, information or materials to any co-parties (i.e. co-Plaintiffs or co-Defendants) (the "Co-Parties"). Within three (3) days of receipt of the Third Party documents, information or materials, the Receiving Party shall make the documents, information or materials available for inspection and designation as Confidential Information by the opposing Parties. Only after the Third Party documents, information or materials have been inspected by the opposing Parties and designated as Confidential Information shall the Receiving Party review the documents, information or materials or disclose the documents, information or materials to Co-Parties. If, after having been provided with notification and an opportunity to

inspect and designate the Third Party documents, information or materials, the opposing Parties have not completed inspection and designation of the Third Party documents, information or materials within thirty (30) days of the date of notice, the Third Party documents shall be deemed not Confidential Information and shall be available for review by the Receiving Party and disclosure to Co-Parties.

8. The designation given by the Parties to documents, information and materials shall apply unless a Party disputing the designation obtains a court order disallowing the designation.

9. All materials produced in connection with this litigation, including but not limited to all materials designated as Confidential Information shall be used for the purposes of this lawsuit only and for no other purpose, including, without limitation, any business or commercial purpose.

10. Inadvertent failure to designate materials produced as "Confidential" may be corrected at any time by written notice, which designation shall operate prospectively pursuant to the terms of this Order.

11. Subject to the requirements set forth below, Confidential Information, including any copies, notes, abstracts or summaries thereof, shall be disclosed to and reviewed by only (a) the Parties, (b) counsel of record, their legal assistants, secretaries and other staff, as well as outside photocopying or graphic production vendors, (c) the Court, court employees, court reporters transcribing testimony herein and notarizing officers, (d) any person whom all the Parties agree, in advance and in writing, may receive such designated information; and (e) expert witnesses or other outside consultants, unless a Party objects pursuant to paragraph 12 below.

12. Confidential Information may be disclosed to expert witnesses provided the Party seeking such use provides the expert witness with a copy of this Order and obtains from the expert witness a signed Certificate in the form annexed hereto as Exhibit A (“Certification”) and provides to all Parties a copy of the Certification at least ten (10) days prior to the day the Party intends to disclose the Confidential Information to the expert witness. Such Confidential Information may not be quoted, copied or otherwise disclosed by the expert witness in any report or opinion, written or oral, that the expert prepares or gives in connection with this action except in accordance with this Order and the expert must be notified of this prohibition, in writing, at the time the Confidential Information is disclosed to him or her. Any Party may object to and make a motion prohibiting disclosure of Confidential Information to any expert and no disclosure shall be made unless the motion is resolved in favor of the Party who retained the expert.

13. Confidential Information may be disclosed to deposition witnesses only if the witness is provided with a copy of this Order and only if the witness signs a Certificate in the form annexed hereto as Exhibit A (“Certification”). All Parties shall be provided a copy of the Certification at least ten (10) days prior to the day the Party intends to disclose the Confidential Information to the deposition witness. Such Confidential Information may not be quoted, copied or otherwise disclosed by the deposition witness in any fashion. Any Party may object to and make a motion prohibiting disclosure of Confidential Information to any deposition witness and no disclosure shall be made unless the motion is resolved in favor of the Party who intends to depose the witness.

14. The originals of all Certifications shall be maintained by the Receiving Party until the final resolution of this litigation. Such Certification shall not be subject to discovery except

upon agreement of all the Parties or further order of the Court after application upon notice and good cause shown.

15. Should any of the Receiving Parties object to the designation by the Designating Party of any particular material as Confidential Information, said Party at any time may notify the Designating Party in writing that he or she objects to the designation, specifying with particularity the material he or she believes has been classified improperly and the basis for his or her contention that said document should not be designated as Confidential Information. Upon receipt by the Designating Party of such written objection, the Parties shall negotiate in good faith to resolve the dispute as to the designation. If the Parties are unable to agree upon the handling of the disputed material, the Receiving Party may file with the Court a motion regarding the designation of such material as Confidential Information. During the pendency of any such objection, dispute or motion, the material in question shall be handled as Confidential Information in accordance with the terms of this Order.

16. In any proceeding initiated by a Receiving Party challenging the propriety of the designation of any material as Confidential Information, the Designating Party shall bear the burden of establishing the propriety of the designation.

17. As used herein, the term "document" shall have the meaning provided in Rule 34 of the Federal Rules of Civil Procedure and any applicable local rule and encompasses any and all writings of any kind, including without limitation, letters, memoranda, notes, transcripts, computer tapes, discs, printouts, cartridges, recordings, keypunch cards, e-mail messages and attachments and all similar materials, whether electrically, mechanically or manually readable. The term "document" is to be given a broad definition and interpretation.

18. No one who has access to Confidential Information pursuant to this Order shall distribute, disclose, divulge, publish or otherwise make available any Confidential Information, copies thereof or extracts or summaries therefrom, to any other person, except persons who are also authorized to view or have access to these materials pursuant to this Order, and except for the Court or employees thereof as necessary in the conduct of this particular litigation, unless such persons have first obtained leave of the Court or the written consent of the Designating Party to disclose such materials.

19. In the event any Party wishes to use Confidential Information at a deposition, all persons other than the deponent, court reporter and other authorized persons as set forth in paragraphs 11 through 13 shall be excused from the deposition during the time that the Confidential Information is being disclosed or discussed. At the time of the deposition or within twenty (20) days after receipt of the deposition transcript, the Designating Party may designate as Confidential Information certain portions of the transcript which contain or relate to Confidential Information, or that relate to matters which are deemed confidential. All portions of deposition transcripts shall be treated as Confidential Information until twenty (20) days after receipt of the deposition transcript by the Designating Party.

20. Within thirty (30) days after final termination of this action, including all appeals, any recipient of Confidential Information under paragraphs 11 through 13 of this Order shall deliver all Confidential Information, including all copies thereof and all documents incorporating or referring to such Confidential Information, in whole or in part, to the Designating Party. The Parties shall not retain any copies or reproductions of any documents produced in this case and, upon return of said documents, shall provide a signed, written statement confirming that all said documents have been returned and no copies have been retained.

21. Neither the final resolution or termination of this lawsuit nor the termination of employment of any person who has access to any Confidential Information shall relieve such person from the obligation of abiding by this Order.

22. If any person receiving documents covered by this Order (the "Receiver") is subpoenaed in another action or proceeding or served with a document demand, and such subpoena or document demand requests Confidential Information that was designated as such by a Party other than the Receiver, the Receiver shall give notice by hand, overnight delivery or facsimile transmission within five (5) business days of receipt of such subpoena or document demand to such Designating Party at the following addresses:

For 3ABN or Danny Shelton:

Gerald S. Duffy or Jerrie M. Hayes
Siegel, Brill, Greupner, Duffy & Foster
1300 Washington Square
100 Washington Ave. So.
Minneapolis, MN 55401
(612) 337-6100

AND John P. Pucci or J. Lizette Richards
Fierst, Pucci & Kane
64 Gothic Street
Northampton, MA 01060
(413) 584-8067

For Gailon A. Joy

P.O. Box 1425
Sterling, MA 01564

For Robert Pickle

1354 County Highway 21
Halstad, MN 56548

25. Nothing contained in this Order shall affect the right, if any, of any Party or witness to make any other type of objection, claim or other response to discovery requests, including, without limitation, interrogatories, requests for admissions, requests for production of documents or questions at a deposition. If, during the course of discovery, any Party shall find a document in its possession that requires confidentiality protections in addition to those set forth

in this Order, such Party may object to production of the document, and should attempt to negotiate in good faith the appropriate level of protection with the other Parties.

26. In every submission or filing with the Court, every document (including motions, memoranda, deposition transcripts or other items) containing Confidential Information shall be filed with the Clerk under seal in an envelope or container on the face of which shall be stamped:

CONFIDENTIAL

This envelope contains documents which are filed under seal in this case by [name of party] and, by Order of this Court, dated _____, shall not be opened nor the contents displayed or revealed except as provided in that Order or by further order of the Court.

27. Submissions filed under seal shall not be available for inspection except by the Court and authorized persons as set forth in paragraphs 11 through 13, nor shall any unauthorized person be present in the courtroom during motion hearings when any Confidential Information is disclosed.

Dated: _____, 200__

Hon. Judge of Federal District Court

EXHIBIT A

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.

CERTIFICATION OF CONFIDENTIALITY

AND NOW, this ____ day of _____, 200__, I hereby certify that I have read the Protective Order issued by the Court in this action on _____, 200__, that I have been provided with a copy of same, that I understand all of its terms and provisions, and that I agree to be bound by it in all respects.

I declare under penalty of perjury that the foregoing is true and correct.

Signature

Print Name

Print Address