
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.

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION TO STRIKE, OR, IN THE
ALTERNATIVE, FOR LEAVE TO FILE A REPLY TO, DEFENDANT PICKLE'S
SUPPLEMENTAL MEMORANDUM AND AFFIDAVIT**

INTRODUCTION

Plaintiffs Three Angels Broadcasting, Inc. ("3ABN") and Danny Lee Shelton ("Shelton") have moved, pursuant to D. Mass. L. R. 7.1, for an Order striking Defendant Robert Pickle's Supplemental Memorandum in Support of His Opposition to Plaintiffs' Motion for Protective Order and the supporting Affidavit of Robert Pickle, or, in the alternative, for leave to file a reply memorandum within 14 days of service, i.e. by Monday, March 17, 2008.

FACTS

On December 18, 2007, Plaintiffs Three Angels Broadcasting Network, Inc. and Danny Shelton (collectively "Plaintiffs") filed a Motion for Protective Order and Request for Oral Argument in the instant proceeding. Defendant Pickle filed his Opposition to Plaintiffs' Motion on January 2, 2008. On February 28, 2008, this Honorable Court scheduled a hearing on

Plaintiffs' Motion to take place on Friday, March 7, 2008. Thereafter, on Monday, March 3, 2008, at 11:45 P.M., Defendant Pickle filed a Supplemental Memorandum in Support of His Opposition to Plaintiff's Motion for Protective Order and a supporting Affidavit.

Plaintiffs submit this memorandum in support of their Motion to Strike, or, in the Alternative, for Leave to File a Reply Memorandum because Defendant Pickle did not first obtain leave of Court before filing his Supplemental Memorandum and Affidavit, which he was required to do, and because Defendant Pickle's Supplemental Memorandum and Affidavit are untimely and do not permit Plaintiffs adequate opportunity to respond in advance of the hearing on Friday, March 7, 2008.

ARGUMENT

Local Rule 7.1 of the United States District Court for the District of Massachusetts governs motion practice. It provides that a party opposing a motion is to file an opposition within 14 days after service of the motion, together with any affidavits or other documents setting forth or evidencing facts on which the opposition is based. See D. Mass. L. R. 7.1(b)(2). The rule further provides that papers other than a motion and an opposition to the motion, together with any affidavits or other supporting documents filed therewith, may be submitted only with leave of court. See D. Mass. L. R. 7.1(b)(3).

In this instant case, Defendant Pickle had every opportunity to respond in a timely manner and, in fact, did so by filing his Opposition to Plaintiffs' Motion on January 2, 2008. Now, only four days before the scheduled hearing on Plaintiffs' Motion, and over two months after filing his Opposition, Defendant Pickle has filed an eight-page Supplemental Memorandum, along with a supporting Affidavit with voluminous attachments. In contravention of Local Rule 7.1, Defendant Pickle did not first obtain leave of Court to file his supplemental

pleading. Moreover, Defendant Pickle's Supplemental Memorandum has come so late in the game that it deprives Plaintiffs of an adequate opportunity to respond meaningfully to the multi-faceted factual claims and legal arguments Defendant Pickle raises in the Supplemental Memorandum and supporting documents.

CONCLUSION

For these reasons, Plaintiffs seek an Order from this Court striking Defendant Robert Pickle's Supplemental Memorandum in Support of His Opposition to Plaintiffs' Motion for Protective Order and the supporting Affidavit of Robert Pickle, or, in the alternative, for leave to file a reply memorandum within 14 days of service, i.e. by Monday, March 17, 2008.

