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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS : 0

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

Plaintiffs,

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

Case No.

**07-40098FDS**

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**PLAINTIFFS' COMPLAINT**

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Three Angels Broadcasting Network, Inc. (hereinafter "3ABN") and Danny Lee Shelton (hereinafter "Shelton") (hereinafter collective "Plaintiffs"), as and for their Complaint against Defendants Gailon Arthur Joy (hereinafter "Joy") and Robert Pickle (hereinafter "Pickle") (hereinafter collectively "Defendants") do hereby state and allege as follows:

**NATURE OF THE ACTION**

1. This action arises under the trademark laws of the United States, namely Title 15 of the United States Code (15 U.S.C. §1051 *et seq.*) and Title 17 of the United States Code (17 U.S.C. §501 *et seq.*), and under state and federal common law and is for trademark infringement, trademark dilution, defamation, and intentional interference with advantageous economic prospective business advantage.

RECEIPT # 400657  
AMOUNT \$ 350.00  
SUMMONS ISSUED ☒  
LOCAL RULE 4.1 ☒  
WAIVER FORM ☒  
MCF ISSUED ☒  
BY DPTY. CLK. S. Jones  
DATE 4-6-07

### **PARTIES**

2. Plaintiff Three Angels Broadcasting Network, Inc. is a non-profit corporation organized and existing under the laws of the state of Illinois, with its principle place of business located at 3391 Charley Good Road, West Frankfurt, Illinois 62896.

3. Individual Plaintiff Danny Lee Shelton is a resident of Illinois and is the current President of Plaintiff Three Angels Broadcasting Network, Inc.

4. Defendant Gailon Arthur Joy is a resident of Sterling, Massachusetts. Joy is the register of the internet domain name "save3abn.com" and, upon information and belief, is the host, author, and webmaster of the internet web sites "www.save3abn.com" and "www.save3abn.org."

5. Defendant Robert Pickle is a resident of Halstad, Minnesota.

### **JURISDICTION**

6. This court has original subject matter jurisdiction over this matter pursuant to 15 U.S.C. §1121 as an action arising under the Federal Trademark Act and pursuant to 28 U.S.C. §1338 as an action arising under an Act of Congress related to copyright and trademark. This court also has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332 as an action where the matter in controversy is between citizens of different states and the amount in controversy exceeds \$75,000 (exclusive of costs and interest).

7. The Court has personal jurisdiction over Defendant Joy as he is a resident of the District and State of Massachusetts. The Court has personal jurisdiction over Defendant Pickle as he has purposefully availed himself of the jurisdiction of this Court pursuant to the Massachusetts Long Arm statute and the United States Constitution.

**VENUE**

8. Venue in this District is proper pursuant to 28 U.S.C. §1391 because it is the judicial district where one or more of the Defendants resides and because it is a judicial district in which a substantial part of the events giving rise to Plaintiffs' claims and causes of action occurred.

**FACTUAL ALLEGATIONS RELEVANT TO ALL COUNTS**

***Three Angels Broadcasting***

9. Founded in 1985 and incorporated in 1986, 3ABN is an Illinois non-profit corporation, the primary business of which is to operate and manage a Christian television and radio broadcast ministry. Plaintiff Shelton was an original founder of 3ABN and has been continuously involved in the ministry and its operations since its inception. Today, Shelton serves as President of 3ABN and is one of 3ABN's on-air ministry and music presenters.

10. Although many of 3ABN's employees and volunteers, including Plaintiff Shelton, are members of the Seventh-Day Adventist faith, 3ABN is a non-denominational Christian ministry which is not owned by, affiliated with, or financed by any specific church, denomination, or organization.

11. 3ABN, whose ministry focus is "Mending Broken People," offers a broad, Christ-centered slate of programming for adults and children that includes both spiritual (worship, Bible study, inspirational music) and lifestyle (health, cooking, smoking cessation) presentations.

12. Since its inception, Shelton and 3ABN have worked tirelessly to promote 3ABN's ministry and to spread its unique, non-denominational "Return to God" message. For over two decades, 3ABN has spent countless hours and hundreds of thousands of dollars publicizing itself through print and broadcast advertisements, special live events, direct-mail campaigns, and

group presentations. While building a successful worldwide ministry, Plaintiffs have also successfully built considerable name recognition and goodwill for themselves and for their moniker “3ABN.”

13. Today, 3ABN is one of the larger Christian networks in North America and, operating from its headquarters and primary production facility in West Frankfort, Illinois, 3ABN broadcasts 24-hour television and radio programming through a global satellite network with potential viewers and listeners well into the millions. In support of its global ministry, 3ABN also operates a production facility in Nizhny Novogorod, Russia, and television facilities in the Philippines and New Guinea.

14. As a provider of religious, spiritual and ministerial program services, 3ABN depends upon its reputation for theological integrity, operational capability, and financial soundness, in order to attract new viewers and listeners, retain current viewers and listeners, and sustain financial support for the ministry. 3ABN relies extensively and almost exclusively on the donations of viewers and supporters for its continued operation.

### ***3ABN's Trademarks***

15. To protect its rights and goodwill, 3ABN has registered “3ABN” and “Three Angels Broadcasting Network” as trademarks with the United States Patent and Trademark Office.

16. On October 19, 2004, Registration No. 2895078 (Classes 009, 016, 038, and 041) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark 3ABN, claiming a date of first use of January 1985, as applied to “(a) videocassettes, audio cassettes and compact disks on which are recorded video and audio programs in the fields of religion, health, nutrition, education, family

life, and programs directed to children and teenagers;" (b) "books, magazines and newsletters featuring the subjects of religion, health, nutrition, education, family life, and subject matter directed to children and teenagers;" (c) "radio and television broadcast services, satellite broadcasting services, information services provided on a global computer network in the nature of lectures, sermons, articles and study materials in the field of religion, health, nutrition, education, family, life, and subject matter directed to children and teens;" and (d) "production and distribution of radio and television programming for broadcast and audio and video programming for release on a global computer network and directly to the public." A copy of the Certificate of Registration is attached hereto as **Exhibit A**.

17. On May 25, 2004, Registration No. 2844695 (Class 09) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985, as applied to "prerecorded video cassettes and audio cassettes featuring musical performances, sermons, lectures, and interviews in the fields of religion, health, education and family life; and prerecorded compact disks and digital video disks featuring musical performances, sermons, lectures and interviews in the fields of religion, health, education and family life." A copy of the Certificate of Registration is attached hereto as **Exhibit B**.

18. On March 23, 2004, Registration No. 2825028 (Class 016) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to "books, magazines, newsletters, pamphlets all in the fields

of religion, health, education, and family life.” A copy of the Certificate of Registration is attached hereto as **Exhibit C**.

19. On April 20, 2004, Registration No. 2834345 (Class 038) on the Principal Register of the U.S. Patent and Trademark Office was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to “radio and television broadcasting services, satellite broadcasting services.” A copy of the Certificate of Registration is attached hereto as **Exhibit D**.

20. On June 28, 2005, Registration No. 2963899 (Class 041) on the Principal Register of the U.S. Patent and Trademark Office, was duly and legally issued to Three Angels Broadcasting Network, Inc. for the mark Three Angels Broadcasting Network, claiming a date of first use of January 1985 as applied to “production of radio and television programs; distribution of radio and television programs for others; programming, namely, scheduling of audio and video programs on a global computer network; television and radio programming.” A copy of the Certificate of Registration is attached hereto as **Exhibit E**.

21. The registration of the marks set forth in paragraphs 16 through 20 (hereinafter collectively referred to as “3ABN Marks”) constitute *prima facie* evidence of 3ABN’s exclusive right to use and register the 3ABN Marks or any colorable imitations thereof.

22. As a consequence of 3ABN’s continuous and widespread global use, promotion, and marketing of the 3ABN Marks, 3ABN has acquired substantial and protectable goodwill in such Marks. 3ABN has also extensively used and advertised the 3ABN Marks for decades, making the 3ABN Marks instantly recognizable to the public consumer as symbols of 3ABN’s ministry, message, programming, broadcasting, and audio-visual products.



### ***3ABN's Trademark on the Internet***

23. In conjunction with the provision of information services on the global computer network, 3ABN also has a considerable presence on the World Wide Web, with its primary website at "www.3abn.org" (North America) and secondary web sites at "www.3abnaustralia.org.au" (Australia) and "www.3angels.ru" (Russia). These web sites offer pastoral support (prayer requests, online Bible study, etc.), streaming audio and video programs, and information about 3ABN's mission and operations. Visitors can also use the 3ABN website to purchase 3ABN-produced inspirational books and music recordings and to make financial donations to the ministry.

24. In further protection of its trademarks and use of the 3ABN Marks on the internet, 3ABN has also registered over three dozen internet domain names, all of which contain Plaintiff's registered "3ABN" trademark, including but not limited to the following:

3ABN.com  
3ABN.org  
3ABN.tv  
3ABNtelevision.com  
3ABNradio.com  
3ABNmusic.com  
3ABNbooks.com  
3ABNtv.com  
3ABNtv.org

### ***Defendant's Website***

25. In January 2007, 3ABN discovered that Defendant Joy had registered the domain name "save3ABN.com" with NamesDirect.com, Inc. (hereinafter "Infringing Domain"). A copy of the registration information for the domain name is attached hereto as **Exhibit F**.

26. In March, 2007, 3ABN discovered that Defendant Joy had registered the domain name “save3ABN.org” with NamesDirect.com, Inc. (hereinafter “Directing Domain”). A copy of the registration information for the domain name is attached hereto as **Exhibit G**.

27. Defendants have constructed and published a website at the Infringing Domain URL that contains information antithetical to 3ABN’s message. Specifically, the website, “www.save3abn.com” (hereinafter “Infringing Website”), which is registered to Defendant Joy, contains gross misstatements of fact concerning 3ABN’s actions and operations, contains baseless and untrue allegations of criminal conduct by the organization, and disparaging characterizations of 3ABN and its broadcast network.

28. Defendants have also imbedded the Infringing Website with metatags “3ABN,” “3-ABN,” and “Three Angels Broadcasting Network” (hereinafter “Infringing Metatags”), which are words and phrases utilized by internet users’ search-engines to find and locate websites that use the 3ABN Marks.

29. Defendants have also registered the domain name “www.save3ABN.org,” (hereinafter “the Directing Website”) and use the Website at that URL to direct visitors to the “www.save3ABN.com” website.

30. The Infringing Website also contains an unauthorized embedded copy of a copyrighted 3ABN broadcast, which visitors can either launch and watch while on the Infringing Website or duplicate by copying the program, via electronic download, from the Infringing Website.

31. The Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags incorporate a trademark that Three Angels Broadcasting Network, Inc. has continuously used for over twenty years in connection with its ministry, broadcasts, and related



audio and video products. Notwithstanding the reputation and goodwill represented by the 3ABN Marks, and Defendants' awareness thereof, and, upon information and belief, precisely because of said awareness, Defendants (a) willfully registered, used, and plan to continue using the Infringing Domain, and (b) willfully used and plan to continue to use the Infringing Website, Directing Website, and Metatags.

32. The registration and/or the use and planned use of the Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags by the Defendants have been without 3ABN's consent or authorization.

33. The registration and/or the use and planned used of the Infringing Domain, Infringing Website, Directing Website, and Metatags by the Defendants have caused and are likely to cause confusion and mistake in the minds of the public and, in particular, tends to and in fact does deceptively and falsely create the impression that the Infringing Domain, and the content therein, are affiliated with and authorized, sponsored, or approved by 3ABN.

34. Not only would persons familiar with the 3ABN Marks be likely to believe that the Infringing Domain and Infringing Website originate with and are sponsored by 3ABN, but any such confusion could seriously injure 3ABN to the extent that the content of the Infringing Website located at the Infringing Domain negatively reflects upon the reputation, goodwill and character established by 3ABN for its ministry, broadcast, and corporation over the past 22 years. Because of the confusion engendered by Defendants' unauthorized uses of the 3ABN Marks, 3ABN's valuable goodwill with respect to its trademarks is jeopardized by Defendants.

35. The registration and/or the use and planned use of the Infringing Domain by Defendant has been deliberate, designed specifically to trade upon the enormous goodwill and familiarity of the 3ABN Marks, in order to lure the public to a site that disparages and defames

the organization. 3ABN's use of the 3ABN Marks predates any use Defendant may have made in connection with the term "3ABN."

36. The registration and/or the use and planned use of the Infringing Domain, Directing Website, and Infringing Metatags by the Defendant has been deliberate, designed specifically to trade upon the enormous goodwill and familiarity of the 3ABN Marks in order to wrongfully identify Plaintiff as the source of the Infringing "www.save3abn.com" Website.

37. On or about January 30, 2007, 3ABN demanded in writing that Defendants cease and desist from, among other things, all unauthorized use of the 3ABN Marks, including but not limited to the Infringing Domain and Infringing Website. Defendants have to date failed and refused to comply with the demands of that cease and desist letter.

***Defendants' Conspiratorial Conduct***

38. Upon information and belief, Gailon Joy and Robert Pickle are members of the Seventh Day Adventist Church and met former 3ABN director and employee Linda Shelton through their common religious affiliation.

39. Upon information and belief, Linda Shelton has communicated to Gailon Joy and Robert Pickle statements critical of 3ABN, its board of directors, its officers and/or its employees for them to publish as her agents.

40. Upon information and belief, Gailon Joy and Robert Pickle desire to see Linda Shelton reinstated as an employee and director at 3ABN and intend to discredit and damage the ministry as a means of facilitating Linda Shelton's reinstatement.

41. Gailon Joy and Robert Pickle are visitors and frequent participants in various websites and chat rooms that are frequented by members of the Seventh-Day Adventist Church, where Defendants have, by electronic posting, published numerous statements related to 3ABN

and Danny Shelton. Joy also operates a website at “www.save3ABN.com” where he has also published numerous statements related to 3ABN and Danny Shelton. Joy also operates a website at “www.save3ABN.org” where he directs visitors to the “www.save3ABN.com” website.

42. Gailon Joy and Robert Pickle have, upon information and belief, conspired, and colluded to enable, facilitate, encourage, and promote the publication and dissemination of defamatory, disparaging, and slanderous statements regarding 3ABN and its President Danny Shelton at the internet website “www.save3ABN.com,” and other internet websites, wherein numerous false statements regarding 3ABN and its President Danny Shelton have been published by Defendants.

43. Defendants have participated in this conspiracy by jointly authoring many or all of the published statements on “www.save3ABN.com” and by jointly authoring statements published by one or both of them on websites frequented by members of the Seventh-Day Adventist Church, such as “www.blacksda.com,” “www.maritime-sda-online.org,” “www.christianforum.com,” and the Yahoo Prophecy Board forum.

44. Defendants have also participated in this conspiracy by jointly marketing, advertising, and promoting the “www.save3ABN.com” website, which they have done by posting electronic links to the website on numerous bulletin boards and websites frequented by members of the Seventh-Day Adventist Church, by mailing advertising postcards to Seventh-Day Adventist Churches across the United States directing Church Members to the “www.save3ABN.com” website, and by encouraging Internet users to visit the “www.save3ABN.com” website to “learn the truth” about 3ABN and its President Danny Shelton.

45. Defendants have also participated in this conspiracy by each disseminating, distributing, and reprinting the other's published statements.

***Defendants' Untrue Statements***

46. Gailon Joy and Robert Pickle have published numerous untrue statements that 3ABN and its President Danny Shelton have committed financial improprieties with donated ministry funds. Among those untrue statements made by Joy and Pickle are, *inter alia*, that:

a. For the last several years, the international television ministry known as Three Angels' Broadcasting Network (3ABN) has found itself beset by a growing number of moral, ethical, and financial allegations. Despite the serious nature of these allegations, repeated calls for investigation, reform, and accountability have gone unheeded by its officers and directors.

b. Danny Shelton purchased a 3-year-old van using 3ABN funds, then sold the van to a member of his family for just \$10.00.

c. Danny Shelton purchased new furniture with 3ABN funds, put the new furniture in his residence, and put the old furniture from his residence on the 3ABN television set.

d. Danny Shelton used 3ABN funds to purchase used furniture from his sister, Tammy Chance, at nearly new prices (enabling Ms. Chance to buy brand new furniture for her home), for use in a 3ABN guest house, but, instead of putting the used furniture in the 3ABN guest house, Mr. Shelton gave the furniture to yet another family member and used 3ABN funds to purchase brand new furniture for the guest house.

e. The 3ABN Board of Directors has failed in its responsibility to oversee and manage 3ABN's financial assets.

f. Danny Shelton laundered money through 3ABN donations to Cherie Peters, in order to make payments that had been expressly prohibited by the 3ABN Board of directors.

g. 3ABN Board members have personally enriched themselves as officers and directors of 3ABN in violation of the Internal Revenue Code.

h. Danny Shelton wrongfully withheld book royalties from 3ABN and refused to disclose those royalties in proceedings before a court of law related to the distribution of marital assets.

i. Danny Shelton has directed 3ABN Chief Financial Officer Larry Ewing to not answer questions concerning Danny Shelton's personal finances, expenses, bonuses or book royalties in a Family Court proceeding, which was initiated by Linda Shelton regarding division of marital assets and that Mr. Ewing has complied and refused to answer questions posed to him by the Court.

j. Danny Shelton has used the 3ABN corporate plane for personal uses.

k. Danny Shelton spent \$600,000 of 3ABN funds for radio station WDQN without Board approval and paid in excess of its fair market value, which was only \$250,000.

47. Each and every one of the statements set forth above is false and Defendants published them with malice, either knowing them to be false or with wanton and reckless disregard for the truth or falsity of the statements.

48. Gailon Joy and Robert Pickle have published numerous untrue statements that 3ABN and its President Danny Shelton have committed administrative and operational improprieties at 3ABN and that the organization is not properly or competently managed by its

managers, officers, and directors. Among those untrue statements made by Defendants are, *inter alia*, that:

- a. 3ABN engages in nepotism in the hiring and firing of staff.
- b. 3ABN violated the Federal Equal Opportunity Act by taking adverse employment actions against two whistle-blower employees of 3ABN's Trust Services division.
- c. The 3ABN Board of Directors has failed in its responsibility to oversee the governance and administration of the organization.
- d. Danny Shelton and 3ABN would not permit an ecumenical Seventh-Day Adventist-related, fact-finding tribunal proposed and directed by Adventist-laymen's Services and Industries ("ASI") to investigate all allegations related to the ministry and confined the tribunal to only those allegations involving Linda Shelton's removal and the Shelton's' divorce.

49. Each and every one of the statements set forth above is false and Defendants published them with malice, either knowing them to be false or with wanton and reckless disregard for the truth or falsity of the statements.

50. Gailon Joy and Robert Pickle have made numerous published untrue statements that 3ABN and its President Danny Shelton acted without grounds in removing Linda Shelton from the 3ABN Board of Directors, that Danny Shelton had no grounds for divorcing Linda Shelton, that 3ABN and Danny Shelton conspired to hide evidence and information concerning the removal and divorce, and that 3ABN and Danny Shelton have lied and made otherwise purposeful misstatements concerning the Shelton's' divorce and Danny Shelton's remarriage. Among those untrue statements made by Defendants are, *inter alia*, that:



a. Danny Shelton and ASI conspired to exclude Gailon Joy from participating in a fact-finding tribunal regarding Linda Shelton's divorce and removal from 3ABN.

b. Danny Shelton and ASI conspired to prevent various allegations and issues from being included in the fact-finding tribunal.

c. It was Danny Shelton that participated in an extra-marital affair by becoming "involved" in "after hours activities" with 3ABN employee Brenda Walsh.

d. During his marriage to Linda Shelton, Danny Shelton had several inappropriate extra-marital relationships, of which 3ABN staff and board members were aware.

e. Danny Shelton was preparing to divorce Linda Shelton beginning in 2003.

f. Danny Shelton conducted an inappropriate relationship with from August 2004 until they were married in 2006, and 3ABN's officers and directors were aware of the relationship.

g. Danny Shelton lied by claiming to have joint title with Linda Shelton to a Toyota Sequoia automobile.

h. The 3ABN board of directors had no authority to authorize Danny Shelton's adulterous marriage or to allow his continued employment by and direction of 3ABN.

i. Danny Shelton perjured himself through the course of court proceedings relating to his divorce from Linda Shelton.

51. Each and every one of the statements set forth above is false and Defendants published them with malice, either knowing them to be false or with wanton and reckless disregard for the truth or falsity of the statements.

52. Defendants' conduct as heretofore set forth evidences a malicious and purposeful campaign of defamation, slander, and disparagement intended and designed to embarrass, discredit, and defame 3ABN and its President Danny Shelton and to vitiate, dishonor, and impair the reputation and goodwill of 3ABN and its President Danny Shelton.

### **CAUSES OF ACTION**

#### **COUNT I: Infringement of Trademark (15 U.S.C. § 1114)**

53. Plaintiffs restate and reallege Paragraphs 1 through 52 above, and hereby incorporate them by reference, as though fully set forth herein.

54. Plaintiff 3ABN is the creator and proper owner and holder of the trademarks "3ABN" and "Three Angels Broadcasting Network" and has registered the same with the United States Patent and Trademark Office.

55. Defendant Joy has used Plaintiff 3ABN's Marks in the registered domain names "save3abn.com" and "save3abn.org."

56. Defendant Joy has used Plaintiff 3ABN's Marks in the internet websites "www.save3abn.com" and "www.save3abn.org."

57. Defendant Joy has used Plaintiff 3ABN's Marks in the embedded metatags "3ABN," "3-ABN," and "Three Angels Broadcasting Network" on the Infringing Website.

58. Defendant Joy has used Plaintiff 3ABN's Marks in commerce in connection with 3ABN's provision of ministerial and informational services.

59. Defendant Joy's use of Plaintiff 3ABN's Marks is without Plaintiffs' authorization, permission, or license, and does not otherwise constitute a permissible use.

60. Defendant Joy's use of 3ABN's Marks has been willful and deliberate, designed specifically to trade upon the enormous goodwill associated with 3ABN and its 3ABN Marks.

61. Defendant Joy's unauthorized use of 3ABN's Marks is likely to lead the public to believe the Infringing Website is associated with, sponsored by, related to, affiliated with, or originates with 3ABN when, in fact, it is not.

62. Plaintiff has been damaged by Defendant Joy's infringement of its "3ABN" Marks, in an amount to be proven at trial, and is entitled to treble damages, costs, and attorneys' fees, pursuant to 15 U.S.C. §1117.

63. 3ABN's goodwill is of enormous value, and 3ABN will suffer irreparable harm should Defendant Joy's infringement be allowed to continue to the detriment of 3ABN's reputation and goodwill.

64. Defendant Joy's infringement will continue unless enjoined by this Court and with respect to these continuing violations, Plaintiff has no adequate remedy at law and is therefore entitled to injunctive relief.

**COUNT II: Dilution of Trademark (15 U.S.C. §1125(c))**

65. Plaintiff restates and realleges Paragraphs 1 through 64 above, and hereby incorporates them by reference, as though fully set forth herein.

66. Through Plaintiff 3ABN's extensive use of the 3ABN Marks to identify its broadcast ministry, through Plaintiffs' development of goodwill surrounding the Marks by its successful operation and expansion of the broadcast ministry, and through Plaintiffs' promotion and marketing efforts utilizing the Marks, the 3ABN Marks are now recognized worldwide as symbols of a dedicated, principled, Christ-centered ministry that is theologically faithful,

operationally sound, and financially conscientious. 3ABN's Marks are famous marks of inestimable value to 3ABN and are relied upon by the public in distinguishing 3ABN from other ministries, broadcasters, and recording producers.

67. After the 3ABN Marks had become famous, Defendant Joy willfully intended to trade upon 3ABN's reputation and the fame of its Marks by using the Marks in the Infringing Domain, Infringing Website, Directing Website, and Infringing Metatags.

68. The use and planned use of the 3ABN Marks by Defendant Joy has tarnished and disparaged, and thereby diluted, and is likely to continue to tarnish, disparage, and thereby dilute, the distinctive quality of and goodwill associated with the Marks.

69. Defendant Joy's willful dilution of 3ABN's Marks has injured Plaintiff in an amount to be proven at trial.

70. 3ABN's trademarks are of enormous value, and 3ABN will suffer irreparable harm should Defendant Joy's trademark dilution be allowed to continue to the detriment of 3ABN.

71. Defendant Joy's dilutive activities will continue unless enjoined by this Court and, with respect to these continuing violations, 3ABN has no adequate remedy at law and is therefore entitled to injunctive relief.

### **COUNT III: Defamation**

72. Plaintiffs restate and reallege Paragraphs 1 through 71 above, and hereby incorporates them by reference, as though fully set forth herein.

73. Defendants have made numerous false statements of fact with regard to both 3ABN and its President Danny Shelton.

74. Defendants have published those statements on the Internet and at the website “www.save3ABN.com” and have thereby communicated those false statements to someone other than the Plaintiffs.

75. Defendants’ false statements refer to Plaintiffs’ trade, business and profession, contain false accusations of the commission of a crime by both Plaintiffs, and impute serious misconduct to Plaintiffs 3ABN and Danny Shelton and are therefore defamatory *per se*.

76. Defendants’ false statements were purposefully and maliciously designed and made to embarrass, discredit, and defame 3ABN and its President Danny Shelton and to vitiate, dishonor, and impair the reputation and goodwill of 3ABN and its President Danny Shelton.

77. Defendants’ false statements have tended to and have in fact harmed the reputation and goodwill of both 3ABN and its President Danny Shelton, and have served to lower 3ABN and President Danny Shelton in the estimation of the community.

78. As a direct and proximate result of the damage done to Plaintiffs’ reputations by Defendants’ defamatory and disparaging statements, viewers have ceased support of the ministry and donors have reduced or stopped donations to 3ABN.

**COUNT IV: Intentional Interference With Advantageous Economic Relations**

79. Plaintiffs restate and reallege Paragraphs 1 through 78 above, and hereby incorporate them by reference, as though fully set forth herein.

80. Defendants have made numerous false statements of fact with regard to both 3ABN and its President Danny Shelton.

81. Defendants have published those statements in an effort to discredit 3ABN and its President Danny Shelton and in order to cause present and prospective viewers and donors to the ministry to discontinue their financial support of the ministry.

82. Defendants have intentionally interfered, tortiously and/or with improper motive or means, with 3ABN's present and prospective advantageous economic relationships with viewers and donors.

83. As a direct and proximate result of Defendant's actions, viewers and donors have discontinued their financial support of the ministry.

### **JURY DEMAND**

Plaintiff hereby demands a trial by jury for all issues so triable.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully pray:

1. That judgment be entered in favor of Plaintiffs and against Defendants for all claims in Plaintiffs' Complaint on the grounds that Defendants have knowingly and willfully infringed upon and diluted Plaintiffs' trademarks, have willfully and maliciously defamed plaintiffs, and have willfully and intentionally interfered with Plaintiffs' advantageous economic relations.
2. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from infringing on 3ABN's Marks and dilution of 3ABN's Marks.
3. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from using the 3ABN Marks in any internet domain name, internet website name, or internet website metatags.
4. That a permanent injunction issue restraining Defendants, their agents, successors, assigns and all others in concert and privity with Defendants, from using the Infringing Domain, Directing Domain or the Infringing Website.



5. That Defendant Joy be ordered to immediately surrender the Infringing Domain and transfer registration of the Infringing Domain and Directing website to Plaintiff 3ABN, completing all paperwork necessary to transfer and paying all fees and costs associated with transfer of the domain registration.

6. That Defendants be ordered to immediately remove from all print and electronic publications the false statements of fact alleged herein and otherwise established at trial.

7. That Defendants be ordered to immediately publish a retraction of the false statements of fact alleged herein and otherwise established at trial, and to publish that retraction in the same forms and forum and to the same general and specific audience as the false statements were originally made.

8. That compensatory damages be awarded to Plaintiffs in an amount to be determined at trial, but in no event less than \$75,000 (exclusive of costs and interest).

9. That statutory damages be awarded Plaintiffs in an amount to be determined at trial.

10. That Plaintiffs be awarded all costs and fees, including attorneys' fees, incurred in the prosecution of this action.

11. That Plaintiffs are awarded such other and further relief as this Honorable Court may deem just and equitable.

Dated: April 5, 2007

**FIERST, PUCCI & KANE, LLC**

By: 

John P. Pucci, BBO# 407560

J. Lizette Richards, BBO#649413

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Northampton, MA 01060

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