
UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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.: 07-40098-FDS

AFFIDAVIT OF ROBERT PICKLE

NOW COMES Robert Pickle of Halstad Township, Norman County, Minnesota, who deposes and testifies to the following under pain and penalty of perjury:

1. Attached hereto as **Exhibit A** are relevant pages of Plaintiffs' Brief of the Appellees for First Circuit case no. 08-2457.
2. Attached hereto as **Exhibit B** is Defendants' Brief of Defendants-Appellants for First Circuit case no. 08-2457.
3. Attached hereto as **Exhibit C** is a table I have prepared giving corresponding references in the district court record for references to the joint appendix and exhibits cited in Brief of Defendants-Appellants.
4. Attached hereto as **Exhibit D** is an email I sent to Attorney Jerrie Hayes ("Hayes") and her colleague James Greupner ("Greupner"), alerting them to the fact that Plaintiffs' productions of 12,825 pages of non-confidential Rule 26(a)(1) materials had included

Greupner's rollover contribution form, which contained Greupner's unredacted social security number, birthdate, and financial account numbers.

5. The productions also included the resume of Kristen LeBrasseur, who was seeking employment at Hayes and Greupner's law firm, an email by Callie Marie Wahl to Char Wahl regarding Char Wahl's wedding, and a 2007/08 law school academic calendar, which presumably had to do with Callie Marie Wahl. It is my understanding that Char Wahl worked at Hayes' law firm.

6. I never told Hayes where the nine pages of extraneous material were found among the 12,825 pages contained in three unindexed PDF files, and I was surprised that they could locate the material and serve replacement CD's so rapidly. It made me wonder if we were being set up to see if we would publish the extraneous information. But the main point is that we never published it, just like we have never published Shelton's tax returns or the correspondence regarding Melody Shelton Firestone and Tammy Shelton Chance.

7. Pastor Glenn Dryden ("Dryden") now pastors the Community Church of God in Dunn Loring, Virginia, and used to pastor the Ezra Church of God in West Frankfort, Illinois. Tommy Shelton also used to pastor these churches, and thus Dryden has had opportunity to minister to the child molestation victims of Tommy Shelton, as well as the families of those victims. Tommy Shelton is the brother of Danny Lee Shelton ("Shelton").

8. Attached hereto as **Exhibit E** is Dryden's August 14, 2006, email to me. Attached hereto as **Exhibits F-G** are copies of the original documents Dryden sent Three Angels Broadcasting Network, Inc. ("3ABN") Board chairman Walter Thompson ("Thompson") on May 14, 2003, which told Thompson that Tommy Shelton had molested 6 boys.

9. Filed conventionally as **Exhibit H** in connection with this affidavit is a DVD with folders on it, the contents of which I will describe below.

10. Dryden gave me recordings of two phone messages left by Danny Shelton on the Ezra Church of God's answering machine on May 23, 2003, at 10:25 am and 11:50 am. These recordings are found in the MP3 file in the folder on Ex. H labeled in part **Folder 1**.

11. I have accurately transcribed the recording of the 10:25 am message as follows:

Hi Glenn, this is Danny Shelton. Uh, I was wanting to talking to you for a few minutes, if I could. I'm leaving though in about an hour. It's 10:25 I think I'm, A.M. on Friday. I'm leaving in about an hour for Canada, uh, for tomorrow and tomorrow night, but I'll be back, uh, over the weekend.

I want to talk to you a little bit about a letter that I found that, that didn't have a signature but uh, anyway, they said you put it together.

And I wanted to talk to you about this bill that you're saying been introduced that the governor's going to sign. I've done homework on it. I've put an attorney to see about the statute of limitations, and basically [clears throat] what happens if the statutes run out it does not go back [clears throat] any, any [clears throat] excuse me, any person that's over 28 years of age, uh, cannot the statute of limitations run out. It will not go back. If the statutes of limitations, is what I want to tell you, has run out already, which it has in this case, you can't go back.

This is only if somebody, say it's been 8 years, uh, since it of been happened, uh, then that will be stretched to 20 years. But if the 10 years is already passed, in this case which it has, uh, then that statute left, the new bill does not affect that.

I've got this through an attorney who went through not only the state's attorney that didn't know but the, the uh appellate courts and all the way to the state level. And I thought you should know that because for you to be putting out some of these letters that you're putting out, you might want to be careful what, what you're putting out or what you're saying, and that you don't [clears throat] bring reproach, uh, against yourself, ah, for not giving factual information. But anyway, you want to call me you can call me at, uh, ***-****. Thanks.

12. I have accurately transcribed the recording of the 11:50 am message as follows:

Hi Glenn. This is, uh, Danny Shelton again. I'm headed off uh, uh, to Canada, but I wanted to give another message.

Someone since I just left my last message brought me a letter that you have written to people in the church, uh, somewhere that you thought Tommy may be going, and you say that he has molested 6, uh, boys, uh, in that church.

And, I think you really need to be careful about that, because you're setting yourself up for, to be liable actually, because there has been no charges, and that there's been, there has been no, been, there has been no, uh, charges formally made, there's never been admitted to, there's been nothing.

I've talked to an attorney about it, and what you really should say is there have been some accusations against him, or allegedly he has done this. But when you set yourself in writing as you did, uhm, I just think for your own sake you need to be careful about that.

Uh, because what you say is very powerful. People look to you as you know, uh, as a pastor. So that's one of your complaints, uh, about uh Tommy.

So you want to make sure that your own, it seems to me, that you want to make sure that ch[??] safe waters yourself, and that you're very, very careful of what you say and not to get yourself, ah, in a position that ruins your credibility.

So I'm just saying this, I'm willing to talk to you about it some [??] talk to me. Thanks. Bye.

13. Shelton referred to two different letters from Dryden in the above messages, when Dryden had sent but one letter. That was puzzling. In reviewing these recordings in January or February 2009, I realized that Shelton's second message was referring to Dryden's one and only letter, which Shelton said he had been given after leaving his first message. I also realized that Shelton's first message couldn't have been referring to a letter after all, but was in fact referring to the action items Dryden sent with his letter.

14. Thus, we now had proof that Shelton had the action items, one of which items was a call to Tommy Shelton to apologize to the Community Church of God in Virginia for deceit and inappropriate behavior, a church Tommy Shelton pastored from around 1995 to around 2000. Thus, Shelton must have known that there were incidents more recent than 30 years.

15. Attached hereto as **Exhibit I** is 3ABN's news page from 3ABN's website, dated January 27, 2005, which contains links to *3ABN World* issues from 2004, the first issue of which

appeared in September 2004 and was online, as stated, by August 24, 2004. Attached hereto as **Exhibit J** is 3ABN's news page dated February 24, 2005, which no longer contains links to any of the 2004 issues.

16. Attached hereto as **Exhibits K–N** are printouts of possible links to archived pages for the four 2004 *3ABN World* issues. I successfully obtained the October and December issues from the links dated February 5, 2005. (Ex. L, N). However, when I searched in the fall of 2007 for the September and November issues, no similar links came up. This suggests that the issues had disappeared from 3ABN's web server before it was crawled on February 5, 2005. My searches apparently created archives of the URL's I tried to use, dated around the time I made the search attempts. (Ex. K, M). However, the links are inoperable and go to an error page.

17. I requested issues of *3ABN World* from the Plaintiffs partly in order to obtain the missing issues, but they refused to produce them. In January 2009 I paid a library to obtain copies. Attached hereto as **Exhibit O** is an article from the September 2004 issue referencing the book by Shelton and Shelley Quinn ("Quinn") on the Sabbath, *Antichrist Agenda: Ten Commandments Twice Removed* ("AA"), of which *Ten Commandments Twice Removed* is an excerpt. Attached hereto as **Exhibit P** is an article from the November 2004 issue about *Mending Broken People*, which Kay Kuzma began writing in 1997.

18. I will seek leave from the Court to file under seal **Exhibits Q–R**. These two documents are purchase orders for printing from Smith & Butterfield which Plaintiffs designated confidential. They will speak to the issue of how long before the publication date of an issue of *3ABN World* might that issue come back from the printer. Interestingly, while Plaintiffs did produce a lot of invoices and purchase orders for the printing of *3ABN World*, they did not produce any for the printing of the 2004 issues, as if those issues never existed.

19. Attached hereto as **Exhibit S** is a web page dated July 27 and August 24, 2004,

which announced *3ABN World* and provided a link to the September 2004 issue.

20. Attached hereto as **Exhibit T** are relevant pages from AA in which Quinn states she rewrote Shelton's completed manuscript after making a visit to 3ABN.

21. As a publisher, I do not see any way that Shelton could have started and completed his manuscript, and Quinn could have rewritten it between Shelton's June 25, 2004, Guam divorce and when the September 2004 issue of *3ABN World* went to press.

22. The confidentiality order under ¶ 1 specifically prohibits unilateral redactions by a party in material that party wishes to designate confidential. Nevertheless, Plaintiffs unilaterally redacted information from board minutes and other documents, without providing a redaction log that identified the nature of the redacted information. This particularly hampered our efforts to verify Nicholas Miller's allegations regarding attempted transfers of property to Brandy Elswick and the 3ABN Board's prohibition against Brandy Elswick being on the payroll.

23. Attached hereto as **Exhibit U** is Plaintiffs' motion to dismiss Defendant Joy's adversarial proceeding. Attached hereto as **Exhibit V** is the transcript of Plaintiffs' Rule 2004 examination of Defendant Joy.

24. Attached hereto as **Exhibit W** is one of several, similar emails written by Thompson that were sent to me. This one is dated January 5, 2008, and claims that the Bankruptcy Court had shut down Save3ABN.com. This was most certainly not true.

25. I will seek leave of the court to file under seal **Exhibits X–Y**, which speak to the question of whether Plaintiffs believed the allegations against Leonard Westphal to be true.

26. Attached hereto as **Exhibits Z–AA** are the case closure letters from the California Department of Fair Employment and Housing and the EEOC. I am unaware of any public mention of the EEOC investigation by 3ABN prior to Plaintiffs filing their motion to dismiss.

27. On Exhibit H in the folders labeled in part **Folders 2–4** are the three unindexed

PDF files Plaintiffs served on us on March 28 and April 8, 2008, on three separate DVD's. These files came without any indexes whatsoever. The one change that I made to these copies was that I replaced the extraneous pages referred to in ¶¶ 4–6 above.

28. Plaintiffs later served revised versions of CD #1 and CD #2, which are on Exhibit H in the folders labeled in part **Folders 5–6**. The revised PDF's were 6 and 3 pages shorter respectively.

29. It took a considerable amount of time to index the 12,825 pages in these unindexed PDF files. The results of all that work can be seen in the folders on Exhibit H labeled in part **Folders 7–9**.

30. In the folder on Exhibit H labeled in part **Folder 10** are the non-confidential materials Plaintiffs claimed were responsive to my requests to produce, served on June 13, 2008.

31. I will seek leave to file under seal as **Exhibit BB** a CD or DVD containing documents produced by Plaintiffs which Plaintiffs designated confidential. On that DVD will be four folders labeled in part **Folders 1–4**. Folder 1 will contain the 207 pages of Rule 26(a)(1) materials which I scanned into PDF's. Folders 2 and 3 will contain the PDF's produced by Plaintiffs on June 20 and 27, 2008, allegedly responsive to my requests to produce. Folder 4 will contain some additional minutes missing from an earlier production.

32. Plaintiffs' discovery in Folder 10 on Exhibit H, and in Folders 1–3 on Exhibit BB was provided without any index whatsoever. The original names for all the files were simply Bates numbers. I spent considerable time adding to these filenames some descriptive text that would give some sort of idea what was in each file. In some cases I split larger files into separate documents. Some documents are illegible, a lot are duplicative, and anything substantive seems to have been produced by accident. Redactions were done by Plaintiffs without first obtaining our consent, and thus were not done pursuant to ¶ 1 of the confidentiality order.

33. Attached hereto as **Exhibit CC** is my October 23, 2008, letter which I emailed to Remnant's counsel that day in order to begin the 7-day process for using confidential material. I received replies to my letter of October 23, 2008, from counsel for Remnant and Plaintiffs in the U.S. Mail delivered to my home on October 27, 2008.

34. I've gotten at least 14 different emails from Remnant's counsel, and a lot more from Plaintiffs' counsel. The fact that the replies to the above mentioned letter came via U.S. Mail struck me as unusual.

35. Attached hereto as **Exhibits DD–EE** are minutes of the board of trustees of the Community Church of God in Dunn Loring, Virginia. These minutes document how Shelton was threatening a defamation lawsuit over the child molestation allegations against Tommy Shelton by December 14 or 31, 2006.

FURTHER DEPONENT TESTIFIES NOT.

Signed and sealed this 24th day of April, 2009.

/s/ Bob Pickle

Bob Pickle
Halstad, MN 56548
Tel: (218) 456-2568

Subscribed and sworn to me
this 24th day of April, 2009.

/s/ Lori J. Rufsvold
Notary Public—Minnesota

My Commission Expires Jan. 31, 2010