

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Three Angels Broadcasting Network, an)
Illinois non-profit corporation,)
and)
Danny Lee Shelton, individually,)
Plaintiffs)
vs.)
Gailon Arthur Joy)
and)
Robert Pickle)
Defendants)

C.A. No. 07-40098-FDS

DEFENDANTS' ANSWERS TO PLAINTIFFS COMPLAINT

NOW COME Robert Pickle and Gailon Arthur Joy and offer this as their Answer to the Complaint of the Three Angels Broadcasting Network and Danny Lee Shelton, including the text of the Complaint for the pleasure and convenience of the Court:

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.

Defendants Answer to 1: a: Trademark Infringement: Plaintiffs are left to their proof as to the applicability of the trademark registration as it relates to the allegations of trademark

infringement as the trademarks appear to be specifically limited and therefore the defendant Joy denies the applicability of trademark infringement; b: Trademark Dilution: Plaintiffs are left to their proof as to the applicability of the trademark registration and as to the basis for any dilution thereof, therefore the defendant Joy denies the allegation of the applicability of trademark dilution; c: Defamation: Defendant is left to their proof that USC Title 15, USC Title 17, state or federal common law applies to the allegation of defamation and therefore the defendant Joy denies the applicability of the allegation of defamation; d: Plaintiff is left to their proof that USC Title 15, USC Title 17, state or federal common law applies to the allegation of intentional interference with advantageous economic prospective business advantage and therefore the defendant Joy denies the applicability of the allegation.

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.

Defendants Answer to 2: Plaintiffs are left to their proof that Three Angels Broadcasting Network, Inc is a non-profit corporation organized and existing under the laws of the state of Illinois or that it's principle place of business is located at 3391 Charley Good Road, West Frankfurt, Illinois 62896 and defendant Joy asserts that he has insufficient proof to establish whether Three Angels Broadcasting Network, Inc is a non-profit corporation and therefore asserts the right to amend his answer upon attaining sufficient

evidence to create a foundation for his answer. Therefore denied.

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

Defendants Answer to 3: Plaintiff Danny Lee Shelton is left to his proof that he is a resident of Illinois and Defendants has insufficient evidence upon which to base an answer to the allegation that the Plaintiff is the current President of Plaintiff Three Angels Broadcasting Network, Inc as a recent live televised program of the Plaintiff Three Angels Broadcasting Network, Inc demonstrated that the president may have been conferred upon another person not yet a party to this action by referenced agreements relating to a merger. Therefore denied.

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.

Deft Joy's Answer to 4: Admitted except as to the allegations regarding domain name registration.

Deft Pickle's Answer to 4: Plaintiffs are left to their proof and therefore denied.

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

Deft Joy's Answer to 5: Defendant Joy has insufficient knowledge to admit or deny.

Deft Pickle's Answer to 5: Defendant is a resident of Norman County, Mn, therefore denied.

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).

Defendants Answer to 6: The Plaintiffs are left to their proof as to jurisdiction as it relates to 15 U.S.C. §1121 and 28 U.S.C. §1338; Defendant has insufficient knowledge to know whether 28 U.S.C. §1332 applies and Plaintiffs have provided no such evidence to support such a claim, therefore Defendants denies the controversy exceeds \$75,000, therefore, Jurisdiction is left to the proof of the Plaintiffs. Therefore denied.

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.

Defendant Joy's Answer to 7: Defendants admits he is a resident of the District and State of Massachusetts; Defendants has insufficient knowledge to determine if the Court has Jurisdiction; Therefore denied.

Defendant Pickle's Answer: Defendant Pickle did not waive or object to personal jurisdiction at the first appearance before the court on this matter, and admitted on that basis.

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.

Answer of Defendants to 8: Admitted

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.

Answer of Defendants to 9: Admitted that 3ABN was incorporated as a general not for profit in 1986; However, Defendants has insufficient knowledge to determine if the corporation remains a not for profit entity and in fact alleges sufficient information to question the current status of the corporations non-profit status in as much as the Defendants have, upon information and belief, sufficient information to believe that 3ABN may actually be controlled by Plaintiff Danny Lee Shelton and that Plaintiff treats the corporation as his own asset and purposefully profits from the same.

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.

Answer of Defendants to 10: Denied as Upon information and belief, 3ABN is largely supported by donations of nearly 100,000 Seventh-day Adventist denominational laymen with nearly five thousand providing regular sustaining gifts, several thousand laymen having entrusted sums as gifts, donations, trusts, and tithes of their earnings to 3ABN fully believing that the network teaches the “undiluted three angels messages”, created to “counteract the counterfeit” teachings regarding God’s Ten Commandment law of love; a teaching unique to the Seventh-day Adventist Denomination, broadcast via satellite media to all the world; Upon information and belief 3ABN and Danny Lee Shelton enjoys special affiliation with Adventist-laymen’s Services and Industries, Inc, an SDA lay businessmen's group having direct affiliation with the General Conference of Seventh-day Adventists; Upon information and belief 3ABN and Danny Lee Shelton still subscribes to a “Joint Declaration of Commitment” between the General Conference of Seventh-day Adventists and 3ABN;

And upon declaration of the parties, the Plaintiffs are currently in the process of a merger with Amazing Facts, upon information and belief, a denominational ministry affiliate; Plaintiffs, upon information and belief, has a direct affiliation and joint venture in an entity referred to as the Atlantic Union [Conference of Seventh-day Adventists] Adventist Media, affiliated with 3ABN. Therefore denied.

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.

Answer of Defendants to 11: Plaintiff is left to their proof as to the ministry's focus; Deft believes that upon information and belief SDA laymen everywhere are under the deceptive assumption that the ministry is an SDA laymen's proselytizing outreach media ministry to the entire world.

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."

Answer of Defendants to 12: Plaintiffs are left to their proof of their tireless effort, however, upon information and belief, SDA laymen everywhere have been under the deceptive assumption that 3ABN promotes the messages unique to the Seventh-day Adventist Denomination and that the ministry deceptively has promoted itself as an SDA proselytizing outreach media ministry to the entire world and promoted to SDA church rallies that it was promoting the SDA message and bringing souls into the SDA churches, therefore, upon information and belief the Moniker "3ABN" is an SDA laymen's media ministry moniker with a unique SDA denominational Three Angels Messages. Therefore denied.

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.

Answer of Defendants to 13:Plaintiff 3ABN is left to its proof as to its size, its global network, its "potential" viewers and listeners vs its actual viewers, its facilities in Russia, the Philippines and New Guinea and the return on investment value by the investors of the Seventh-day Adventist Church for the dollars entrusted as gifts, donations, trusts, and tithes of their earnings to 3ABN;However, upon information and belief, not all sums so entrusted may have been appropriately accounted for. Therefore denied.

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. Answer of Defendants to 14:Plaintiff is left to their proof as to their theological integrity, operational capability, financial soundness, or their ability to attract new viewers and listeners, retain viewers and listeners, and ability to sustain financial support. Upon information and belief, the actions of the Plaintiff Danny Lee Shelton, purportedly a founder and either current or former president of 3ABN, has conducted himself in such a

way as to violate theological integrity, undermine operational capability, to prey upon the financial soundness of the entity 3ABN and to inappropriately redirect large sums to his personal benefit with and without properly constituted corporate authority. Upon information and belief, the entity 3ABN has failed to take appropriate steps to curb the actions of Danny Lee Shelton, to set up appropriate accounting processes to account for sums gifted, and are purported to have in some cases, either failed to discipline or have endorse by vote or by “affirmation” to the actions undertaken by Danny Lee Shelton that had the affect to undermine 3ABN. Therefore denied.

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.

Answer of Defendants to 15: If the entity 3ABN is a non-profit religious organization, then it would have no good commercial purpose and therefore would have limited trademark rights and would have no known commercially valuable goodwill, other than its actual or perceived theological integrity or operational integrity. It's financial soundness is, therefore, entirely dependent upon its theological integrity, not its trademark. Therefore, the plaintiffs are left to their proof that it even needed to protect its rights and goodwill. Therefore denied.

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**.

Answer of Defendants to 16: Deft acknowledges that upon information and belief the Plaintiff 3ABN was issued a limited mark for specific limited purposes that the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

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**.

Answer of Defendants to 17: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes and the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

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**.

Answer of Defendants to 18: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes and the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

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**.

Answer of Defendants to 19: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes that the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

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**.

Answer of Defendants to 20: Deft acknowledges that upon information and belief the Plaintiff Three Angels Broadcasting Network was issued a limited mark for specific purposes that the plaintiffs are left to their proof as to the applicability to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under this certificate issued. Therefore denied.

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.

Answer of Defendants to 21: Denied as all marks are limited marks and certain actions of the Plaintiff 3ABN has abrogated its exclusive rights, if any, it would appear it has limited rights or the rights conferred may not be applicable to the subject action. The Plaintiff Danny Lee Shelton has no such trademark or right or recovery whatsoever under the purported *prima facie* certificate issued. Therefore denied.

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.

Answer of Defendants to 22: Plaintiff is left to their proof that they have promoted their marks, limited or otherwise, and defendant asserts that if the entity is deemed a non profit religious organization as asserted by plaintiffs, then goodwill would be of no commercial value and plaintiff is estopped from such claim. Further the defendant asserts that Plaintiff Danny Lee Shelton, and 3ABN by affirmation, has undermined any such goodwill the plaintiffs may have acquired, real or imaginary. Therefore denied.

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.

Answer of Defendants to 23: Plaintiff is left to its proof that it has considerable presence on the World Wide Web, or that they offer commercially valuable services. Upon information and belief, the Plaintiff Danny Lee Shelton, can assert no such claim and therefore denied as to plaintiff Shelton. Therefore denied.

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

Answer of Defendants to 24: Plaintiff is left to its proof that it has registered any other

domain names on the World Wide Web, However, defendant asserts that such registration does nothing to offer any protection to the 3ABN marks. Further the defendant asserts that the Plaintiffs have not reserved at any time the domain names save3ABN.com or save3ABN.org and therefore have no claim to them. Upon information and belief, the Plaintiff Danny Lee Shelton, can assert no such claim and therefore denied as to plaintiff Shelton. Therefore denied.

Defendants 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**.

Answer of Defendants to 25: Affirmed that Defendants registered said domain names, but denied as to such domain names representing an Infringing Domain.

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**.

Answer of Defendants to 26: Plaintiff is left to their proof as to the date the Plaintiffs 3ABN found the domain name. Upon information and belief the Plaintiff Shelton knew or should have known about the domain name at least a month earlier. Therefore denied.

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.

Answer of Defendants to 27: Denied that the defendant constructed an infringing domain; defendant asserts that the messages were and remain factual representations of actual interviews with current and former employees of 3ABN, other sources, actual documentation, editorial comments and letters to the editor. Plaintiff 3ABN is left to its proof that such statements contain baseless allegations of criminal conduct by the organization, either by direct action or affirmation, and that such statements are disparaging characterization of 3ABN. Defendants assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation that resulted in a disparaging characterization of 3ABN. Defendant requests judicial notice that Plaintiff Shelton has asserted no such allegation as to Plaintiff Shelton and is estopped from such an assertion or recovery. Therefore denied.

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.

Answer of Defendants to 28: Defendants have insufficient knowledge upon which to base a response therefore denied, but reserves the right to amend defendants response.

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.

Answer of Defendants to 29: Denied.

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.

Answer of Defendants to 30: Denied as to an Infringing website; Denied that the excerpts are unauthorized. Denied that it constitutes the entire broadcast. Admitted that visitors can watch the excerpts as factual statements of the participants utilized as real-time media quotes demonstrating actual intonation, expression and characterization of the quoted participants. Plaintiffs are left to their proof that anyone could or has duplicated or copied the excerpts quoted. Therefore denied.

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.

Answer of Defendants to 31: Denied that the websites or metatags incorporate a

trademark of Three Angels Broadcasting Network, Inc. Plaintiff is left to their proof as to the reputation and goodwill of the 3ABN marks, real or imaginary. a) Admitted that Defendant Joy registered the domain names save3ABN.com, save3ABN.org; Plaintiff is left to their proof that the defendant plans to continue using these domains and metatags, if any, real or imaginary: b) see defendants answer to a). Therefore denied.

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.

Answer of Defendants to 32: Defendants denies the existence of an infringing domain or infringing website, and asserts that plaintiffs assertion is barred by precedence and without a legal foundation upon which to make a claim. Defendants admits that to properly registered domains and denies a directing domain. Plaintiff is left to their proof regarding any metatags, real or imaginary, and the legal foundation for such a claim. Plaintiff is also left to their proof of the necessity that defendants have 3ABN's consent or authorization. Therefore denied.

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 deceivingly and falsely create the impression that the Infringing Domain, and the content therein, are affiliated with and authorized, sponsored, or approved by 3ABN.

Answer of Defendants to 33: Denied as to "infringing"; Plaintiffs are left to their proof

that the Defendants have caused or are likely to cause confusion or mistake in the minds of the public, real or imaginary; Denied that the website tends to or in fact does deceptively and falsely create the impression it is in any way affiliated with and authorized, sponsored, or approved by 3ABN. Defendant asserts that such an allegation is so factually challenged as to constitute a fraud upon the court by the Plaintiffs and Plaintiffs counsel. Therefore denied.

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.

Answer of Defendants to 34: Denied. Defendants assert that the allegation is so factually challenged as to represent a fraud upon the court. Further, defendant re-assert that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation that resulted in possibility that 3ABN's valuable goodwill with respect to its trademarks, either real or imaginary, is jeopardized and results in a disparaging characterization of 3ABN. Therefore denied.

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."

Answer of Defendants to 35: Denied; Defendants have not charged for nor expected or received profit from the website and plaintiff is estopped by judicial precedence from such an assertion by Plaintiffs. Further the defendant reasserts that it was the actions of the Plaintiff Danny Lee Shelton, either undisciplined, endorsed or allowed by affirmation by 3ABN that potentially disparages and defames, either real or imaginary, the organization 3ABN. Therefore denied.

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.

Answer of Defendants to 36: Denied as to deliberate as a state of mind. Denied as to goodwill and familiarity, real or imaginary. Plaintiff is left to their proof that the website wrongfully identifies the Plaintiff as the source of www.save3ABN.com website. Therefore denied.

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.

Answer of Defendants to 37: Admitted that the defendant received a demand. Denied that Plaintiff had any foundation in law or that defendant was required to comply with the foundationless demand. Denied that defendant had any legally binding reason to comply with the plaintiffs illegal demand. Therefore denied.

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.

Answer of Defendants to 38: Admitted that defendant Joy and Pickle are each members of their respective Seventh-day Adventist company or church. Denied that defendant Joy or Pickle met Linda Shelton through any known 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.

Answer of Defendants to 39: Admitted that defendants Joy and Pickle have communicated with Linda Shelton. Defendants lack a basis for confirming or denying that any such communication contained a statement that was critical of 3ABN, its board of directors, its officers and/or its employees, and plaintiffs are left to their proof. Denied that the defendants publish anything as an agent of said Linda Shelton.

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.

Answer of Defendants to 40: Denied that the defendants have ever expressed any desire to re-instate Linda Shelton as an employee. Denied that the defendants intend to discredit and damage the ministry as a means of facilitating Linda Shelton's reinstatement.

Defendants re-assert that it was the actions of 3ABN and Danny Lee Shelton, either unrestrained, endorsed or allowed by affirmation by 3ABN that potentially discredit or damages the ministry, whether real or imaginary.

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.

Answer of Defendants to 41: Plaintiff is left to their proof that defendant Joy is a frequent visitor or participant in any website or chat-room, other than save3ABN.com. Defendant Joy admits publishing numerous statements related to the plaintiffs and that some statements have been electronically posted to sites other than save3ABN.com, although denied that defendant Joy posted them.

Defendant Pickle admits visiting chat-rooms and has published statements.

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.

Answer of Defendants to 42: Plaintiff is left to their proof of conspiracy and collusion. Defendant admits that he has published many reports of actions by Plaintiffs. Plaintiff is left to their proof that such reports constitute “defamatory, disparaging, and slanderous statements”. Plaintiffs are left to their proof that any statement is a false statement at bar. Therefore denied.

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.

Answer of Defendants to 43: Denied by defendants that any statement is jointly authored. Admitted that published statements have been posted to save3ABN.com, blacksda.com, And Maritime.org. Plaintiffs are left to their proof of any of defendant joys articles posted to christianforum or the Yahoo prophecy board. Defendant Pickle admits to having published on Christian forum and Yahoo Prophecy Board. Plaintiffs are left to their proof that the separate investigations of Joy and Pickle and the reports resultant constitute conspiracy. Therefore denied.

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.

Answer of Defendants to 44: Plaintiffs are left to their proof that there was any joint marketing, advertising, and promoting of save3ABN.com. Denied that defendant Joy posted electronic links. Admitted that defendant Pickle posted electronic links. Denied as to “learn the truth”. Denied that defendants Joy or Pickle mailed any postcards. Admitted that articles written encouraged readers to visit save3ABN.com.

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

Answer of Defendants to 45: Plaintiffs are left to their proof that reprinting or disseminating anyone else's statement, real or imaginary, constitutes conspiracy.

Therefore denied.

Defendants’ Untrue Statements

50. 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:

Answer of Defendants to 46: Plaintiffs are left to their proof that the statements published are untrue, that the defendants knew them to be untrue. The defendants assert that they properly researched each such statement now challenged and that the factually challenged statements, or unresponsive statements of the plaintiffs constitute an absolute defense in fact against the presumption of wanton and reckless disregard of the truth or falsity of the claims. Therefore denied.

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.

Answer of Defendants to 46a: Admitted that the ministry is beset by allegations. Plaintiff is left to their proof that any allegation has been properly acted upon by its officers or board of directors. Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the allegations or have been factually challenged. Therefore, defendants are without sufficient evidence upon which to state a fact based response and request the right to supplement their response upon completion of discovery. Therefore denied.

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.

Answer of Defendants to 46b: Defendants are publishing an allegation that is a restatement of a protected source or sources. Plaintiffs have been unresponsive to the