

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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DENNIS E. JONES 'EL, MICHA'EL  
JOHNSON, DE'ONDRE CONQUEST,  
LUIS NIEVES, SCOTT SEAL, ALEX  
FIGUEROA, ROBERT SALLIE, CHAD  
GOETSCH, EDWARD PISCITELLO,  
QUINTIN L'MINGGIO, LORENZO  
BALLI, DONALD BROWN, CHRISTOPHER  
SCARVER, BENJAMIN BIESE, LASHAWN  
LOGAN, JASON PAGLIARINI, and  
ANDREW COLLETTE, and  
all others similarly situated,

Plaintiffs,

v.

GERALD BERGE and  
JON LITSCHER,

Defendants.

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ORDER

00-C-421-C

Plaintiff Dennis E. Jones-el has filed a document titled "State of the Case, Evidence and Modified Record for Appeal Pursuant to F.R.A.P. Rule 10(c)(d) and (e)(1)-(2)(A)(B)." In this document, Jones-el appears to be asking this court to permit him to modify the record with respect to appeal nos. 02-3415, 02-3402 and 02-3398, with a copy of a letter marked

“privileged attorney/client correspondence” that Jones-el received sometime in June of 2001, as well as class counsel’s October 12, 2003 motion and memorandum “to enforce the settlement agreement and replace Monitor Steve Hurley.” In addition, it appears that plaintiff Jones-el wants to submit a statement in which he can reveal to the court of appeals his opinion about the status of implementation of the settlement agreement. I construe plaintiff Jones-el’s submission as a motion pursuant to Fed. R. App. P. 10(e) for correction or modification of the record on appeal. The motion will be denied.

Fed. R. App. P. 10 allows a district court to correct a record on appeal when the record does not truly disclose what occurred in the district court or when anything material to the appeal is omitted or misstated by error or accident. Here, plaintiff Jones-el wants the court of appeals to consider events or evidence that this court did not have before it at the time it made the rulings from which Jones-el is appealing. Thus, he is not attempting to correct the form or content of the record as anticipated by Rule 10.

For plaintiff Jones-el’s information, the record on appeal of this case automatically includes all orders entered in the case after Jones-el filed his appeals.

#### ORDER

IT IS ORDERED that plaintiff Dennis E. Jones-el’s motion pursuant to Fed. R. App. P.

10 for correction or modification of the record of appeal nos. 02-3415, 02-3402 and 02-3398 is DENIED.

Entered this 9th day of January, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge