

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

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VINCENT L. AMMONS,

Plaintiff,

v.

DR. DEBB LEMKE,  
DR. BRUCE GERLINGER,  
RENEE ANDERSON,  
BECKY DRESSLER and  
RITA ERICSON,

Defendants.

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ORDER

06-C-20-C

In an order entered herein on August 17, 2007, I denied as unnecessary plaintiff's timely filed motion to modify the record on appeal to include copies of his motions for extensions of time to effect service of process on defendants Gerlinger and Lemke because I believed those documents would be included in the record on appeal as a matter of course. I was mistaken. When I denied the motion, I inadvertently overlooked Circuit Rule 10, which lists motions to extend time as items that are to be excluded from the appeal record unless the district court orders the record to be modified to include them.

Now plaintiff has filed a “second motion to modify record on appeal,” in which he points out that he has obtained a copy of the record on appeal, and that the record does not include docket numbers 18, 19, 22, 23 and 78, as he believed it would. He asks for correction of the record on appeal to include these items.

Fed. R. App. P. 10(e)(2)(B) provides that

If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded

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by the district court before or after the record has been forwarded. . . .

Because plaintiff timely requested that his motions for an extension of time be included in the record on appeal and because the omission of these records was the result of this court’s erroneous belief that the motions would be included in the record, I will grant plaintiff’s second motion to modify the record on appeal and request the clerk to submit a supplemental record to the court of appeals.

#### ORDER

IT IS ORDERED that plaintiff’s second motion to modify the record on appeal is GRANTED. Pursuant to Fed. R. App. P. 10(e)(2), I am requesting the clerk of court to

prepare a supplemental record for the court of appeals comprising docket numbers 18, 19, 22, 23 and 78, and certify and forward this supplemental record promptly to the court of appeals.

Entered this 7th day of November, 2007.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge