UNITED STATES COURT OF APPEALS
FIRST CIRCUIT

NO. 10-1389

JAMES THIVIERGE, Plaintiff-Appellant, v. TOWN OF AMESBURY, MAYOR KEZER, TOWN ASSESSOR, TOWN CLERK: AGENT OF THE LIBRARY, Defendants-Appellees	MOTION FOR LEAVE TO FILE SUPPLEMENTAL APPENDIX

Now come the defendants-appellees, and hereby request leave, pursuant to Fed.R.App.P.27(a), to file a Supplemental Appendix with their appellate brief containing certain exhibits and portions of the trial transcript which are necessary to the Court's adjudication of this appeal, but which were not included in plaintiff-appellant's *de minimas* Record Appendix, as well as a docket from the District Court proceedings in this matter, which the *pro se* plaintiff, James Thivierge ("Thivierge"), did not include. As grounds for this Motion, defendants state as follows:

In this appeal, Thivierge challenges a jury verdict for the defendants.[1] Although defense counsel attempted to confer with the pro se plaintiff prior to

[1] In fact, only the Town remained as a true defendant by the time the case was submitted to the jury, as reflected on the Special Verdict forms in the Addendum, as the Court determined at the beginning of trial that the Town Assessor, Town Clerk and Agent of the Library were nominal defendants and later, after a conversation with Thivierge during trial, the Court further determined that the Mayor had only been named in his official capacity. Nevertheless, no separate entry regarding these determinations by the Court was made in the docket.

plaintiff filing his brief, plaintiff did not designate the documents he intended to include in his Appendix pursuant to Fed.R.App.P. 30(b). The exhibits and portions of the transcript are necessary to demonstrate the issues raised in defendants-appellees' brief regarding Thivierge's failure to introduce evidence despite his claim that such evidence was excluded by the Court, and the failure to preserve objections or file a motion for judgment notwithstanding the verdict.

WHEREFORE, the defendants request leave to file a Supplemental Appendix for the reasons described above.

DEFENDANTS-APPELLEES,

By their attorney,

/s/ Katharine I. Doyle
Katharine I. Doyle (BBO# 58957)
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CERTIFICATE OF SERVICE

I hereby certify that on January 21, 2010, I electronically filed the foregoing document with the United States Court of Appeals for the First Circuit. I further certify that on the same date I served a copy of the foregoing document on the *pro se* plaintiff, James Thivierge, by U.S. mail, at: 106 Friend Street, Apt. 12, Amesbury, MA 01913 /s/ Katharine I. Doyle

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