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UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

ROBERT ZELLNER, a Wisconsin resident,
Plaintiff – Appellant

v.

Case No: 10-2729

DARYL HERRICK, a Wisconsin resident,
in his official capacity as Superintendent of
the Cedarburg School District, et al,
Defendants – Appellees

and

ALLSTATE INSURANCE COMPANY,
Intervening Defendant-Appellee

U.S.C.A. - 7th Circuit
FILED
JUL 8 0 2010 SP
GINO J. AGNELLO
CLERK
DOC. #

**MOTION OF PLAINTIFF-APPELLANT ROBERT
ZELLNER TO CORRECT AN ERROR IN THE
CAPTION OF THIS CASE; AND TO DELETE
ATTORNEYS FRANCIS W. DEISINGER AND
CHRISTINE BENSON FROM SERVICE LIST**

Plaintiff-Appellant Robert Zellner (“Zellner”), by
his undersigned counsel, respectfully moves this court
pursuant to Fed R. App. P. 27 for orders (i) correcting an
error in the caption of this case to remove Allstate
Insurance Company as Intervening Defendant-Appellee;
and (ii) deleting Attorneys Francis W. Deisinger and

Christine Benson from all service lists related to this appeal proceeding.

As and for the grounds for these motions, Zellner states as follows:

1. The final orders to be reviewed in this appellate proceeding were entered by the district court on January 22, 2009 and on June 25, 2010, respectively; and the final judgment was entered by the district court on June 25, 2010;
2. Zellner timely filed his Notice of Appeal on July 20, 2010.
3. **As it relates to Allstate Insurance Company and Attorney Christine Benson:**
 - a) On April 13, 2009, a Stipulation for Dismissal of Intervenor Defendant, Allstate Insurance Company, was filed and docketed as Document 54. A true and correct copy of that document is attached as Exhibit A.
 - b) In addition to the dismissal of Allstate Insurance Company, that document (Exhibit A) provided that *“[A]ll service lists should delete Allstate Insurance*

Company and its counsel, ... Attorney Christine Benson."

(emphasis supplied)

- c) Based upon that stipulation (Exhibit A), on April 14, 2009, the district court entered an Order for Dismissal of Intervenor-Defendant Allstate Insurance Company, which was docketed as Document 55. A true and correct copy of that document is attached as Exhibit B.

4. As it relates to Attorney Francis W. Deisinger:

- a) On September 10, 2009, a Stipulation for Dismissal of all claims against defendants John Pendergast, Linda Borkenhagen, and Daryl Herrick as individuals, but not in their official capacities, was filed and docketed as Document 79. A true and correct copy of that document, which was signed by Attorney Deisinger and all other counsel who represented the said defendants *in their individual capacities*, is attached as Exhibit C.
- b) Attorney Lori M. Lubinsky did not sign that document, as she was and remains sole counsel of record for the defendants-appellees Herrick, Pendergast and

Borkenhagen *in their official capacities*, as well as for the defendant-appellee Cedarburg School District.

c) Based upon that stipulation (Exhibit C), on September 11, 2009, the district court entered the Order of Dismissal that was docketed as Document 80. A true and correct copy of that document is attached as Exhibit D.

Accordingly, the error in the caption in this case should be corrected to delete any reference to Allstate Insurance Company; and Attorneys Deisinger and Benson should be removed from the service list.

Dated this 28th day of July, 2010



Michael P. Erhard
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6717 Mineral Point Road, Suite 200
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Telephone: (608) 237-1999
Fax: (608) 237-6323
Attorney for Plaintiff-Appellant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT ZELLNER

Plaintiff,

v.

Case No. 08-C-0315

DARYL HERRICK, JOHN PENDERGAST,
JAMES R. KOROM, LINDA BORKENHAGEN
AND CEDARBURG SCHOOL DISTRICT

Individual Defendants.

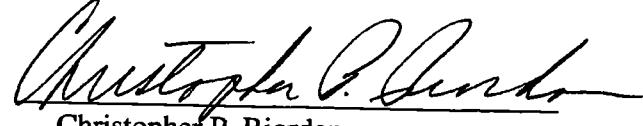
**STIPULATION FOR DISMISSAL OF INTERVENOR DEFENDANT,
ALLSTATE INSURANCE COMPANY**

It is hereby stipulated, by and between the undersigned, that the policies of insurance, Allstate Homeowners Insurance Policy No. 1 02 146657 and Allstate Personal Umbrella Policy No. 0 02 900849, issued by the Intervenor-Defendant, Allstate Insurance Company, to the Defendant, James Korom, do not provide coverage for the allegations set forth in the plaintiff's April 16, 2008 Complaint; therefore, Allstate Insurance Company is relieved of its obligation to defend and/or indemnify James Korom in this case, and Allstate Insurance Company is dismissed from this action without costs to any party. All service lists should delete Allstate Insurance Company and its counsel, Attorney Michelle Stoeck (mstoeck@hillslegal.com) and Attorney Christine Benson (cbenson@hillslegal.com).

EXHIBIT A

Dated this 10th day of April, 2009.

von BRIESEN & ROPER, S.C.
Coverage Counsel for Defendant,
James Korom

By: 
Christopher P. Riordan
State Bar No. 1018825

von Briesen & Roper, S.C.
411 E. Wisconsin Avenue, Suite 700
Milwaukee, WI 53201-3062
Telephone: (414) 276 1122
Facsimile (414) 276 6281
E-mail: criordan@vonbriesen.com

Dated this 13th day of April, 2009.

HILLS LEGAL GROUP, LTD.
Coverage Counsel for Intervenor-Defendant,
Allstate Insurance Company

By: Christine M. Benson
Christine M. Benson
State Bar No. 1000579

By: Michelle M. Stoeck
Michelle M. Stoeck
State Bar No. 1034579

Hills Legal Group, Ltd.
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Waukesha, WI 53188
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cbenson@hillslegal.com

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF WISCONSIN

ROBERT ZELLNER

Plaintiff,

Case No. 08-C-0315

v.

DARYL HERRICK, JOHN PENDERGAST,
JAMES R. KOROM, LINDA BORKENHAGEN
AND CEDARBURG SCHOOL DISTRICT,

Individual Defendants,

and

ALLSTATE INSURANCE COMPANY,

Intervenor-Defendant.

**ORDER FOR DISMISSAL OF INTERVENOR-DEFENDANT,
ALLSTATE INSURANCE COMPANY**

Based upon the Stipulation for Substitution of Attorneys previously executed by counsel on June 16, 2008, and separately filed with the Court,

IT IS HEREBY ORDERED: The policies of insurance, Allstate Homeowners Insurance Policy No. 1 02 146657 and Allstate Personal Umbrella Policy No. 0 02 900849, issued by the Intervenor-Defendant, Allstate Insurance Company, to the Defendant, James Korom, do not provide coverage for the allegations set forth in the plaintiff's April 16, 2008 Complaint; therefore, Allstate Insurance Company is relieved of its obligation to defend and/or indemnify

Exhibit B

James Korom in this case, and Allstate Insurance Company is dismissed from this action without costs to any party.

Dated this 14th day of April, 2009.

BY THE COURT:

s/ Rudolph T. Randa

HON. RUDOLPH T. RANDA
Chief Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT ZELLNER,

Plaintiff,

v.

Case No. 08-C-315

DARYL HERRICK, et al.,

Defendants.

STIPULATION FOR DISMISSAL

IT IS STIPULATED and agreed by the parties, by and through their undersigned counsel, that all claims in this action against defendants John Pendergast, Linda Borkenhagen, and Daryl Herrick as individuals, but not in their official capacities, may be dismissed pursuant to Fed. R. Civ. P. 41(a)(1), with prejudice and without costs to any party.

IT IS FURTHER STIPULATED and agreed that an order to this effect may be entered without further notice.

Exhibit C

Dated this 31st day of August, 2009.

s/ David O. Krier

Francis W. Deisinger

WI State Bar ID No. 1009509

fdeisinger@reinhartlaw.com

David O. Krier

WI State Bar ID No. 1059033

dkrier@reinhartlaw.com

Attorneys for Defendants Daryl

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Borkenhagen

Reinhart Boerner Van Deuren s.c.

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Telephone: 414-298-1000

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and

s/ Michael P. Erhard

Michael P. Erhard

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Attorneys for Plaintiff Robert Zellner

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and

s/ Lynne M. Mueller

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and

s/ Terry J. Booth

Terry J. Booth
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Mutual Insurance Company
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and

s/ Steven B. Rynecki

Steven B. Rynecki
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Attorneys for Defendant Cedarburg
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UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

U.S.C.A. - 7th Circuit
FILED

JUL 30 2010 *RMS*

GINO J. AGNELLO
CLERK

UNITED STATES OF AMERICA

Plaintiff - Appellee,

vs.

KENNETH GAYTAN,

Defendant - Appellant.

Appeal No. 09-3601

Case No. 1:06-cr-00815

Appeal From a Judgment of the United States District Court
For the Northern District of Illinois

**DEFENDANT-APPELLANT KENNETH GAYTAN'S MOTION FOR AN EXTENSION
OF TIME AND DECLARATION IN SUPPORT THEREOF**

Appellant Kenneth Gaytan moves, pursuant to Fed. R. App. P. 26(b) and Cir. R. 26, for an extension of time in which to file the appellant's brief and short appendix. The grounds for this motion are as follows:

1. On May 14, 2010, this Court appointed Thomas L. Shriner, Jr. of Foley & Lardner LLP to represent Mr. Gaytan in this matter. Counsel was appointed pursuant to the provisions of the Criminal Justice Act. The Court ordered Mr. Gaytan to file his brief and short appendix on or before August 12, 2010.

2. Mr. Gaytan is currently incarcerated at the Federal Correctional Institution in Elkton, Ohio.

3. Appointed counsel was not involved with Mr. Gaytan's trial in the district court and was not present for the testimony in his jury trial. Appointed counsel has yet to receive

certain files from the trial counsel and has been informed these documents should be forthcoming. Because the transcripts and trial counsel's records are lengthy and the issues complex, I need time to review the transcripts and evidence as a whole, to research the issues, to draft the brief, and to permit Mr. Gaytan enough time to review his appeal brief.

4. Mr. Gaytan asks for a 30-day extension to the Court's briefing schedule, so that his brief and appendix would be due to be filed on or before September 13, 2010.

5. On July 29, 2010, I spoke with Assistant U.S. Attorney Maureen E. Merin to inform her of my intention to file this Motion and she agreed not to contest it.

Accordingly, Mr. Gaytan requests that the Court extend his deadline to file his brief in this case until September 13, 2010.

Under penalty of perjury, I declare that the facts set forth above are true and correct.

Dated: July 29, 2010.



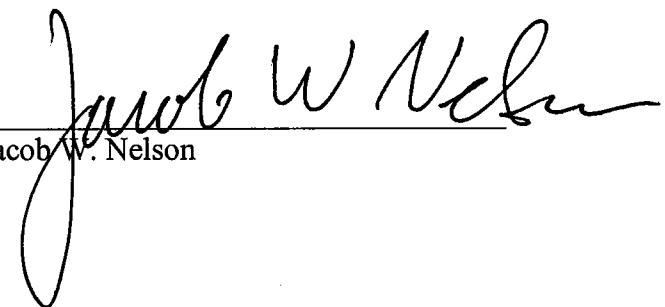
Thomas L. Shriner, Jr.
Peter J. Stone
Jacob W. Nelson
Attorneys for Defendant-Appellant
Kenneth Gaytan

FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
414-271-2400
414-297-4900 (fax)

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of Defendant-Appellant's Motion for an Extension of Time and Declaration in Support Thereof to be served on July 29, 2010, by U.S. Mail addressed to:

Maureen E. Merin
Office of the United States Attorney
219 S. Dearborn St, Fifth Floor
Chicago, IL 60604


Jacob W. Nelson

U.S.C.A. - 7th Circuit
FILED
JUL 30 2010 RMS
GINO J. AGNELLO
CLERK

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

ROBERT ZELLNER, a Wisconsin resident,
Plaintiff – Appellant

v.

Case No: 10-2729

DARYL HERRICK, a Wisconsin resident,
in his official capacity as Superintendent of
the Cedarburg School District, et al,
Defendants – Appellees

and

ALLSTATE INSURANCE COMPANY,
Intervening Defendant-Appellee

U.S.C.A. - 7th Circuit
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**MOTION OF PLAINTIFF-APPELLANT ROBERT
ZELLNER TO CORRECT AN ERROR IN THE
CAPTION OF THIS CASE; AND TO DELETE
ATTORNEYS FRANCIS W. DEISINGER AND
CHRISTINE BENSON FROM SERVICE LIST**

Plaintiff-Appellant Robert Zellner (“Zellner”), by
his undersigned counsel, respectfully moves this court
pursuant to Fed R. App. P. 27 for orders (i) correcting an
error in the caption of this case to remove Allstate
Insurance Company as Intervening Defendant-Appellee;
and (ii) deleting Attorneys Francis W. Deisinger and

Christine Benson from all service lists related to this appeal proceeding.

As and for the grounds for these motions, Zellner states as follows:

1. The final orders to be reviewed in this appellate proceeding were entered by the district court on January 22, 2009 and on June 25, 2010, respectively; and the final judgment was entered by the district court on June 25, 2010;
2. Zellner timely filed his Notice of Appeal on July 20, 2010.
3. **As it relates to Allstate Insurance Company and Attorney Christine Benson:**
 - a) On April 13, 2009, a Stipulation for Dismissal of Intervenor Defendant, Allstate Insurance Company, was filed and docketed as Document 54. A true and correct copy of that document is attached as Exhibit A.
 - b) In addition to the dismissal of Allstate Insurance Company, that document (Exhibit A) provided that “[A]ll service lists should delete Allstate Insurance

Company and its counsel, ... Attorney Christine Benson."

(emphasis supplied)

c) Based upon that stipulation (Exhibit A), on April 14, 2009, the district court entered an Order for Dismissal of Intervenor-Defendant Allstate Insurance Company, which was docketed as Document 55. A true and correct copy of that document is attached as Exhibit B.

4. As it relates to Attorney Francis W. Deisinger:

a) On September 10, 2009, a Stipulation for Dismissal of all claims against defendants John Pendergast, Linda Borkenhagen, and Daryl Herrick as individuals, but not in their official capacities, was filed and docketed as Document 79. A true and correct copy of that document, which was signed by Attorney Deisinger and all other counsel who represented the said defendants *in their individual capacities*, is attached as Exhibit C.

b) Attorney Lori M. Lubinsky did not sign that document, as she was and remains sole counsel of record for the defendants-appellees Herrick, Pendergast and

Borkenhagen *in their official capacities*, as well as for the defendant-appellee Cedarburg School District.

c) Based upon that stipulation (Exhibit C), on September 11, 2009, the district court entered the Order of Dismissal that was docketed as Document 80. A true and correct copy of that document is attached as Exhibit D.

Accordingly, the error in the caption in this case should be corrected to delete any reference to Allstate Insurance Company; and Attorneys Deisinger and Benson should be removed from the service list.

Dated this 28th day of July, 2010



Michael P. Erhard
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Telephone: (608) 237-1999
Fax: (608) 237-6323
Attorney for Plaintiff-Appellant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT ZELLNER

Plaintiff,

v.

Case No. 08-C-0315

DARYL HERRICK, JOHN PENDERGAST,
JAMES R. KOROM, LINDA BORKENHAGEN
AND CEDARBURG SCHOOL DISTRICT

Individual Defendants.

**STIPULATION FOR DISMISSAL OF INTERVENOR DEFENDANT,
ALLSTATE INSURANCE COMPANY**

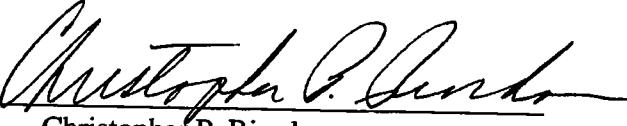
It is hereby stipulated, by and between the undersigned, that the policies of insurance, Allstate Homeowners Insurance Policy No. 1 02 146657 and Allstate Personal Umbrella Policy No. 0 02 900849, issued by the Intervenor-Defendant, Allstate Insurance Company, to the Defendant, James Korom, do not provide coverage for the allegations set forth in the plaintiff's April 16, 2008 Complaint; therefore, Allstate Insurance Company is relieved of its obligation to defend and/or indemnify James Korom in this case, and Allstate Insurance Company is dismissed from this action without costs to any party. All service lists should delete Allstate Insurance Company and its counsel, Attorney Michelle Stoeck (mstoeck@hillslegal.com) and Attorney Christine Benson (cbenson@hillslegal.com).

EXHIBIT A

Dated this 16th day of April, 2009.

von BRIESEN & ROPER, S.C.
Coverage Counsel for Defendant,
James Korom

By:


Christopher P. Riordan
State Bar No. 1018825

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Facsimile (414) 276 6281
E-mail: criordan@vonbriesen.com

Dated this 13th day of April, 2009.

HILLS LEGAL GROUP, LTD.
Coverage Counsel for Intervenor-Defendant,
Allstate Insurance Company

By:

Christine M. Benson

Christine M. Benson
State Bar No. 1000579

By:

Michelle M. Stoeck

Michelle M. Stoeck
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cbenson@hillslegal.com

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF WISCONSIN

ROBERT ZELLNER

Plaintiff,

Case No. 08-C-0315

v.

DARYL HERRICK, JOHN PENDERGAST,
JAMES R. KOROM, LINDA BORKENHAGEN
AND CEDARBURG SCHOOL DISTRICT,

Individual Defendants,

and

ALLSTATE INSURANCE COMPANY,

Intervenor-Defendant.

**ORDER FOR DISMISSAL OF INTERVENOR-DEFENDANT,
ALLSTATE INSURANCE COMPANY**

Based upon the Stipulation for Substitution of Attorneys previously executed by counsel on June 16, 2008, and separately filed with the Court,

IT IS HEREBY ORDERED: The policies of insurance, Allstate Homeowners Insurance Policy No. 1 02 146657 and Allstate Personal Umbrella Policy No. 0 02 900849, issued by the Intervenor-Defendant, Allstate Insurance Company, to the Defendant, James Korom, do not provide coverage for the allegations set forth in the plaintiff's April 16, 2008 Complaint; therefore, Allstate Insurance Company is relieved of its obligation to defend and/or indemnify

Exhibit B

James Korom in this case, and Allstate Insurance Company is dismissed from this action without costs to any party.

Dated this 14th day of April, 2009.

BY THE COURT:

s/ Rudolph T. Randa

HON. RUDOLPH T. RANDA
Chief Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT ZELLNER,

Plaintiff,

v.

Case No. 08-C-315

DARYL HERRICK, et al.,

Defendants.

STIPULATION FOR DISMISSAL

IT IS STIPULATED and agreed by the parties, by and through their undersigned counsel, that all claims in this action against defendants John Pendergast, Linda Borkenhagen, and Daryl Herrick as individuals, but not in their official capacities, may be dismissed pursuant to Fed. R. Civ. P. 41(a)(1), with prejudice and without costs to any party.

IT IS FURTHER STIPULATED and agreed that an order to this effect may be entered without further notice.

Exhibit C

Dated this 31st day of August, 2009.

s/ David O. Krier

Francis W. Deisinger
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David O. Krier
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Attorneys for Defendants Daryl
Herrick, John Pendergast, and Linda
Borkenhagen
Reinhart Boerner Van Deuren s.c.
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Telephone: 414-298-1000
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and

s/ Michael P. Erhard

Michael P. Erhard
WI State Bar ID No. 1015393
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Attorneys for Plaintiff Robert Zellner
Erhard & Payette LLC
High Point Plaza
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and

s/ Lynne M. Mueller

Lynne M. Mueller
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and

s/ Terry J. Booth

Terry J. Booth
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and

s/ Steven B. Rynecki

Steven B. Rynecki
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Attorneys for Defendant Cedarburg
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Facsimile: 414-276-6281

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ROBERT ZELLNER,

Plaintiff,

v.

Case No. 08-C-315

DARYL HERRICK, et al.,

Defendants.

ORDER OF DISMISSAL

Upon the attached stipulation of the parties,

IT IS ORDERED THAT all claims in this action against defendants John Pendergast, Linda Borkenhagen, and Daryl Herrick as individuals, but not in their official capacities, are hereby DISMISSED with prejudice and without costs to any party.

Dated at Milwaukee, Wisconsin this 10th day of September, 2009.

BY THE COURT:

s/ Rudolph T. Randa
Hon. Rudolph T. Randa
Chief Judge

Exhibit D

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

ROBERT ZELLNER, a Wisconsin resident,
Plaintiff – Appellant

v.

Case No: 10-2729

DARYL HERRICK, a Wisconsin resident,
in his official capacity as Superintendent of
the Cedarburg School District, et al,
Defendants – Appellees

and

ALLSTATE INSURANCE COMPANY,
Intervening Defendant-Appellee

U.S.C.A. - 7th Circuit
FILED
JUL 30 2010 SP
GINO J. AGNELLO
CLERK
BBS: #

CERTIFICATE OF SERVICE

I, Michael P. Erhard, hereby certify under penalty
of perjury that I caused copies of the following
documents:

1. “Motion of Plaintiff-Appellant Robert Zellner to Correct
an Error in the Caption of this Case; and to Delete
Attorneys Francis W. Deisinger and Christine Benson
from Service List”;
2. “Seventh Circuit Transcript Information Sheet”; and

3. "Circuit Rule 26.1 Disclosure Sheet"

to be served by U.S. Mail on the following persons on the
28th day of July 2010:

Attorney Lori M. Lubinsky
Axley Brynelson LLP
P.O. Box 1767
Madison, WI 53701-1767

Attorney Francis W. Deisinger
Reinhart Boerner Van Deuren s.c.
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Attorney Christine M. Benson
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