

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

ROBERT MCBRIDE,

Plaintiff,

v.

CSX TRANSPORTATION INC.,

Defendant.

Case No. 06-cv-1017-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Motion to Supplement Record on Appeal (Doc. 68) filed by Defendant CSX Transportation, Inc. CSX requests that the record on appeal be supplemented to include the video testimonies of Drs. Paul Perry, M.D. and R. Evan Crandall, M.D. The two testified by way of video deposition and the videos were played during the jury trial. Their testimonies were not transcribed. The Federal Rules of Appellate Procedure allow for the record on appeal to be supplemented under certain situations:

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

Fed. R. App. P. 10(e)(2).

The video testimonies of the two doctors are material and were viewed and considered by the jury in reaching its verdict. They are properly part of the record on appeal. Accordingly, the Motion to Supplement (Doc. 68) is **GRANTED**.

**IT IS SO ORDERED.**

**DATED: December 10, 2008**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**