FILED

JAN 1 8 2005

LEONARD GREEN, Clerk

No. 04-1901

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

DENNIS DUBUC,

Plaintiff - Appellant,

v.

LINDA PARKER et al.,

Defendants - Appellees.

ORDER

Appellant moves to strike the appellees' proof brief because it contains in the addendum documents which are not part of the district court record. In response, the appellees acknowledge that the documents are not part of the record but oppose the motion to strike and move, alternatively for the court to take judicial notice of the documents in question.

The Federal Rules of Appellate Procedure are clear about what may be in an addendum and documents from other litigation and documents in support of a motion are not appropriate inclusions. If the appellees wish to rely on the documents in their brief, they must file a separate motion to take judicial notice, attaching the documents to the motion. The motion will be referred to the hearing panel which will determine, in its preparation for argument, whether the doctrine of judicial notice is applicable. The motion to strike is GRANTED. The appellees may make the correction in their final brief.

ENTERED PURSUANT TO RULE 45(a)
RULES OF THE SIXTH CIRCUIT

Leonard Green

Leonard Green, Clerk