

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-5074

ENERGY SECURITY OF AMERICA CORP.
and ALBERT CALDERON,

Plaintiffs-Appellants,

v.

UNITED STATES,

Defendant-Appellee.

Appeal from the United States Court of Federal Claims
in 08-CV-373, Senior Judge Eric G. Bruggink.

ON MOTION

Before PROST, Circuit Judge.

ORDER

The appellants move to correct the record to confirm that a page apparently missing in the trial court electronic record is part of the record on appeal. The appellants state that the United States consents.

To the extent that the appellants seek to clarify that page 116 of its complaint was before the trial court, because the United States consents, we agree that the record on appeal includes that page. Fed. R. App. P. 10(e) (record may be corrected by stipulation of the parties). To the extent that the appellants seek an order directing the Court of Federal Claims to correct its electronic record to include that page, the motion is unnecessary. The record is not forwarded to this court. Fed. Cir. R. 11. Instead, the parties file a joint appendix including the documents cited in their brief. Fed. Cir. R. 30.

Thus, if the document was before the trial court, it may be included in the joint appendix and may be referenced in the briefs. It is not necessary to correct the electronic record to include the missing page.

Accordingly,

IT IS ORDERED THAT:

The motion is granted to the extent that the parties agree that the record on appeal includes page 116 of the appellants' complaint, which is apparently missing from the Court of Federal Claims' electronic record. A copy of this order shall be transmitted to the merits panel assigned to hear this case.

FOR THE COURT

AUG 31 2009

Date

/s/ Jan Horbaly

Jan Horbaly
Clerk

cc: Reina Ann Calderon, Esq.
Michael N. O'Connell, Jr., Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

AUG 31 2009

JAN HORBALY
CLERK