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UNITED STATES COURT OF APPEALS

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FOR THE THIRD CIRCUIT

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21400 UNITED STATES COURTHOUSE
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April 3, 2009

Via Facsimile
and Electronic Mail

Samuel J. Marzarella Esq.

RE: Kamienski v. Hendricks, et al

Case Number: 06-4536

District Case Number: 02-cv-03091

Listed: for Oral Argument on Thursday, April 16, 2009

Dear Counsel:

At the direction of the Court, "On Page 52 of the Brief for Appellees, Counsel for Appellees states: "Defendants never intended for the drug deal to have occurred. Defendants duped the DeTournays into thinking it would occur by lying about having trouble getting the nonexistent money. This is shown by the fact that there was never any money intended to be paid to the DeTounays." On Page 52, of the brief Counsel states: "Between September 10th and September 15th, . . . Defendants assured Buddy Lehman. . .". **Counsel is hereby directed to submit a letter to the Court no later than Wednesday, April 8**, stating whether "Defendants" as used in those paragraphs includes Appellant Kamienski, and if so, where in the Appendix the Court can find testimony to support this claim. If the testimony is not in the Appendix, but in the trial transcript, copies of the relevant pages of the transcript are to be included with the letter; the Court will accept those copies as a Supplemental Appendix, and Counsel should therefore comply with the requirements for submitting an Appendix (number of copies) when submitting the supplemental materials.

Please file the Letter using the "response event" under the argument notices and acknowledgment category in CM/ECF.

Finally, the Brief submitted by Counsel for Appellees refers only to portions of the trial transcript rather than to the Appendix that was submitted. It is therefore virtually useless insofar as it purports to support the representations made in the brief. Counsel is to submit a revised brief that replaces all citations to the trial transcript with citations to the Appendix. If counsel has cited portions of the trial transcript that are not included in the Appendix, **Counsel is hereby directed to provide those additional portions to the court in the form of a supplemental appendix no later than close of business on Friday, April 10th.**

Very truly yours,

Marcia M. Waldron

Marcia M. Waldron, Clerk

By: *Tiffany Washington*
Tiffany Washington, Calendar Clerk
267-299-4905

cc: Timothy J. McInnis Esq.