

**UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT  
OFFICE OF THE CLERK**

Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80257  
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Elisabeth A. Shumaker  
Clerk of Court

October 17, 2008

Douglas E. Cressler  
Chief Deputy Clerk

Samuel K. Lipari  
3520 Ne Akin Boulevard  
Suite 918  
Lee's Summit, MO 64064

**RE: 08-3287, Lipari v. US Bancorp NA, et al**  
Dist/Ag docket: 2:07-CV-02146-CM-DJW

Dear Mr. Lipari:

Enclosed please find an order issued today by the court.

Please contact this office if you have questions.

Sincerely,



Elisabeth A. Shumaker  
Clerk of the Court

cc: Andrew M. DeMarea  
Mark A. Olthoff

EAS/na

**UNITED STATES COURT OF APPEALS**  
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**Elisabeth A. Shumaker**  
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SAMUEL K. LIPARI,

Plaintiff - Appellant,

v.

No. 08-3287

US BANCORP NA; US BANK NA,

Defendants - Appellees.

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**ORDER**

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The plaintiff in Case No. 07-CV-2146 in the U.S. District Court for the District of Kansas filed a “Notice of Appeal” designating various orders of the district court he seeks to appeal. Preliminary documents were transmitted to this court and this appeal was opened. However, it is less than completely clear that all claims as to all parties in the underlying case have been disposed of. Without a final disposition of all claims as to all parties, appellate jurisdiction would be lacking in this case. See, e.g., B. Willis, C.P.A., Inc. v. BNSF Ry. Corp., 531 F.3d 1282, 1295-96 (10<sup>th</sup> Cir. 2008).

It appears that the district court entered an order on September 4, 2008, that dismissed all claims of the plaintiff “except plaintiff’s misappropriation of trade secrets claim.” *Order*, p. 13. However, the plaintiff then filed a “Stipulation” on

October 15, 2008 in which he states that he “stipulates a dismissal of Count III Trade Secrets Misappropriation.” *Stipulation*, p. 2. The next day, on October 16, 2008, the plaintiff filed a notice of appeal.

Nevertheless, it does not appear that the district court has entered a ruling on the stipulation to dismiss the remaining claim.

Within twenty-one days from the date of this order, the parties are directed to file memoranda expressing their respective positions on this court’s jurisdiction to hear an appeal at this time. The memoranda are limited to appellate jurisdiction, and may not address any issues relating to the merits of the appeal. The filing of preliminary documents will proceed, but any briefing on the merits is abated pending the disposition of jurisdictional issues or until further order of the court.

If indeed all claims as to all parties have in essence been disposed of, it might be in the best interests of all concerned to, if necessary, ask the district court to address the stipulation and if appropriate, enter a final judgment order in order to clarify the issue of appellate jurisdiction.

Entered for the Court  
ELISABETH A. SHUMAKER  
Clerk of Court



by:  
Douglas E. Cressler  
Chief Deputy Clerk