

FILED

United States Court of Appeals
Tenth Circuit

December 19, 2008

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

SAMUEL K. LIPARI,

Plaintiff - Appellant,

v.

US BANCORP NA; US BANK NA,

Defendants - Appellees.

Case Nos. 08-3287,
08-3338, and 08-3345
(D. Kans. No 2:07-CV-02146-CM-DJW)

ORDER

All three of the above-referenced appellate cases, 08-3287, 08-3338, and 08-3345, arise out of the same proceeding before the U.S. District Court for the District of Kansas, Lipari v. US Bancorp NA, No. 2:07-CV-02146-CM-DJW.

Case No. 08-3287 is an appeal by the plaintiff prior to the entry of final judgment of various orders. That case was being held in abeyance pending the entry of a final judgment order.

Case No. 08-3338 is another appeal by the plaintiff initiated prior to the entry of judgment. That case is currently pending responses following the entry of a jurisdictional show cause order.

However, the district court on December 12, 2008 entered a final judgment as to

all claims of the plaintiff, dismissed the case and in the same order, affirmed the magistrate judge's order relating to \$700.00 in defendants' attorneys fees that the plaintiff has been ordered to pay. On December 17, 2008, the plaintiff filed a third notice of appeal referencing this final judgment.

Once a final judgment is entered, a prematurely filed notice of appeal ripens. Fed. R. App. P. 4(a)(2); Dodd Ins. Services, Inc. v. Royal Ins. Co., 935 F.2d 1152, 1154 n.1 (10th Cir. 1991). And, as previously noted, the plaintiff has filed another notice of appeal following the entry of final judgment.

The court directs as follows. Case Nos. 08-3287, 08-3338, and 08-3345 are consolidated for purposes of record preparation, briefing, and court consideration. Although other orders issued in these now consolidated appeals remain in effect, the parties are excused from filing any additional responses to jurisdictional show cause orders. Any previously ordered abatements are now lifted.

Because the plaintiff-appellant is proceeding without counsel, the district court shall transmit to this court a single record on appeal for all three appeals pursuant to Tenth Cir. R. 11.2. The record on appeal shall be transmitted on or before January 26, 2009.

All motions and briefs filed in these consolidated appeals will include all three case numbers on the cover in the case caption.

The consolidated opening brief of the plaintiff-appellant addressing all claims of error properly before the court in the three consolidated appeals will be due within 40

days after the record on appeal is filed. Fed. R. App. P. 31(a)(1). The consolidated response brief of the defendants-appellees and any consolidated reply brief of the plaintiff-appellant will then be due as provided in the applicable rules.

Entered for the Court
ELISABETH A. SHUMAKER
Clerk of Court,

A handwritten signature in black ink, appearing to read "Douglas E. Cressler", written over a horizontal line.

by:
Douglas E. Cressler
Chief Deputy Clerk