

**IN THE UNITED STATES COURT
DISTRICT OF KANSAS**

SAMUEL K. LIPARI)	
(Assignee of Dissolved)	
Medical Supply Chain, Inc.))	
<i>Plaintiff</i>)	Case No. 07-02146
)	
vs.)	
)	
US BANCORP, NA)	
US BANK, NA)	
<i>Defendants</i>)	

SECOND AMENDED NOTICE OF APPEAL

Comes now the plaintiff Samuel K. Lipari, the assignee of the dissolved Missouri corporation Medical Supply Chain, Inc., appearing *pro se* and makes the following second amended notice of appeal to include this court's December 12, 2008 order which does not change or alter this court's November 26, 2008 order announcing judgment on all remaining claims.

The plaintiff however includes as attachment the defendants' filed status report (exb. 1) intentionally and falsely contradicting the November 26, 2008 order of this court and materially misrepresenting the November 26, 2008 order to the Tenth Circuit Court of Appeals for the purpose of further delaying the plaintiff's entry into the nationwide market for hospital supplies to compete with the Novation LLC hospital supply cartel of which US BANCORP, INC and US BANK NA are members of. US BANCORP, INC and US BANK NA continue to commit sham petitioning in violation of the Sherman Antitrust Acts to prevent the plaintiff from enjoying the benefits of his bargain and for the purpose of depriving the plaintiff of critical inputs required to enter that market.

The plaintiff now timely appeals.

Respectfully submitted,

S/ Samuel K. Lipari

Samuel K. Lipari
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Pro se

Certificate of Service

I certify that on December 17th, 2008 I have served the opposing counsel with a copy of the foregoing notice using the CM/ECF system which will send a notice of electronic filing to the following:

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U.S. BANCORP AND U.S. BANK
NATIONAL ASSOCIATION

S/ Samuel K. Lipari

Samuel K. Lipari

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

SAMUEL K. LIPARI,)	
)	
)	Plaintiff,
)	
vs.)	Case No. 08-3287
)	(Appeal from Kansas District
)	Case No. 07-CV-02146)
U.S. BANCORP, and)	
)	
U.S. BANK NATIONAL ASSOCIATION,)	
)	
Defendants.)	

STATUS UPDATE CONCERNING APPELLATE COURT JURISDICTION

Appellees/Defendants U.S. Bancorp and U.S. Bank NA, through counsel Shughart Thomson & Kilroy, P.C., file this status update concerning appellate jurisdiction. This Court still lacks appellate jurisdiction because no final Order or Judgment has been entered by the Kansas District Court.

On November 26, 2008, the District Court found that appellant/plaintiff's voluntary stipulation was ineffective because such dismissal under such circumstances would not be "without prejudice" to the defendants. *See* Doc. No. 159. The District Court ordered Mr. Lipari to withdraw the stipulation by December 1 or the Court would dismiss the action and order Mr. Lipari to pay fees awarded by Magistrate Waxse. *See id.*

Mr. Lipari did not withdraw his stipulation and on December 5, 2008 the District Court ordered Mr. Lipari to show cause as to why his case should not be dismissed. *See* Doc. No. 164. Mr. Lipari filed his response to the show cause order on December 10, 2008. *See* Doc. No. 169. No further order has been issued and there has been no final order dismissing this case. Therefore, this Court still does not possess appellate jurisdiction.

Respectfully submitted,

s/ Mark A. Olthoff

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U.S. BANCORP and
U.S. BANK NATIONAL ASSOCIATION

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document was served via electronic mail this 11th day of December, 2008, to:

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s/ Mark A. Olthoff

Attorney for Appellees/Defendants