

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

SAMUEL K. LIPARI,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Case No. 2:07-cv-02146-CM
)	
U.S. BANCORP and)	
U.S. BANK NATIONAL ASSOCIATION,)	
)	
<i>Defendants.</i>)	

ANSWER TO ORDER

Comes now the plaintiff Samuel K. Lipari through his attorney, Dennis Hawver, and respectfully answers the court’s request on page 5 of its November 16th Memorandum and Order for a listing of state claims in preceding litigation.

1. The plaintiff through his now dissolved corporation Medical Supply Chain, Inc. raised the following claims in counts VII through XIII of the amended complaint of *Medical Supply Chain, Inc. v. US Bank, et al (Medical Supply I)* against the current defendants US Bank NA and US Bancorp: Misappropriation Of Trade Secrets, Tortuous Interference With Prospective Contracts, Tortuous Interference With Contracts, Breach Of Contract, Promissory Estoppel, Fraudulent Misrepresentation, and Violation Of Good Faith And Fair Dealing.

2. The plaintiff through his now dissolved corporation Medical Supply Chain, Inc. raised the following claims in the complaint for *Medical Supply Chain, Inc. v. Novation LLC, et al (Medical Supply II)* that are raised again in the present action against the defendants US Bank NA and US Bancorp: Damages For Tortious Interference With Contract Or Business Expectancy, Damages For Breach Of Contract, and Damages For Fraud And Deceit.

3. The current complaint in *Lipari v. US Bancorp* (Jackson County Case No. 0616-CV-32307) consists of the following state claims: Cause Of Action For Breach Of Contract, Cause Of Action For Fraud, Cause Of Action For Trade Secret Misappropriation, Cause Of Action For Breach Of Fiduciary Duty, Cause Of Action For Prima Facie Tort

4. The current complaint continues to allege the state law claim Damages For Breach Of Fiduciary Duty which is the ripening of claims for Violation Of Good Faith And Fair Dealing in *Medical Supply I* that in *Medical Supply II* became later occurring conduct of US Bank and US Bancorp with General Electric after the filing of *Medical Supply I* for the purpose of defeating the plaintiff's escrow or trust account fiducial rights to a trust duty owed by US Bank and US Bancorp.

5. Trade Secret Misappropriation is pled in *Medical Supply II* at paragraphs 271, 295, and under the averment: "5.The Defendants' Theft of Medical Supply's Intellectual Property" at paragraphs 316-322, 425, 428, and appears under Count XII Breach of Fiduciary Duty paragraphs 544, 546 and 547. The plaintiff has pled a state law claim for misappropriation in the preceding cases:

"Missouri is not a "notice pleading" state. Beginning with Article IV of the Civil Code of 1849, requiring that the petition contain a "plain and concise statement of the facts constituting a cause of action," [emphasis added], Missouri has remained a "fact pleading" state. Given a clear opportunity in 1942 to adopt the federal system of notice pleading, the General Assembly purposefully avoided this approach and, not coincidentally, any procedure permitting summary judgment. The Civil Code, as adopted, requires that the petition "contain a short and plain statement of the facts showing that the pleader is entitled to relief." § 509.050.1(1), RSMo Supp.1992; Rule 55.05(1)."

ITT Commercial Finance Corp. v. Mid-America Marine Supply Corp., 854 S.W.2d 371 at pg. 379 (Mo., 1993)

6. Samuel Lipari has informed his counsel that after losing the appeal of the dismissal of his federal claims, he will pursue his Missouri state law based antitrust claims for Damages For Combination And Conspiracy In Restraint Of Trade Or Commerce (26 Mo. § 416.031(1), § 416.121(1),(1)); Injunctive Relief For Combination And Conspiracy In Restraint Of Trade Or Commerce (26 Mo. § 416.031(1), § 416.071(1), (2), §416.121(1)(1)); Damages For Monopolization (26 Mo. § 416.031(2), § 416.121(1),(1)); and Injunctive Relief For Monopolization (26 MO. § 416.031(2), § 416.071(1), (2), § 416.121(1),(2)) from *Medical Supply II* against Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff, Shughart Thomson & Kilroy , UHC, Robert J. Baker, VHA, Inc., Curt Nonomaque, Novation LLC, Robert J. Zollars and the successors in interest to Neoforma, Inc. in the 16th Circuit Court of Jackson County, Missouri. Samuel Lipari plans to file against the remaining *Medical Supply II* defendants unless he receives his clearly established contract damages and the required recitals to end this litigation from US Bank and US Bancorp.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was served via electronic case filing, on this 27th day of November, 2007 to:

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