

**U.S. District Court  
District of Kansas (Kansas City)  
CIVIL DOCKET FOR CASE #: 2:05-cv-02299-CM-GLR**

Medical Supply Chain, Inc. v. Neoforma, Inc. et al  
Assigned to: District Judge Carlos Murguia  
Referred to: Magistrate Judge Gerald L. Rushfelt  
Cause: 15:1 Antitrust Litigation

Date Filed: 07/14/2005  
Date Terminated: 10/24/2006  
Jury Demand: Defendant  
Nature of Suit: 410 Anti-Trust  
Jurisdiction: Federal Question

**Plaintiff**

**Medical Supply Chain, Inc.**

represented by **Medical Supply Chain, Inc.**  
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*TERMINATED: 02/02/2006*

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*TERMINATED: 03/04/2008*

V.

**Defendant**

**Neoforma, Inc.**

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**Defendant**

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**Defendant**

**Volunteer Hospital Association**

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**Defendant**

**Curt Nonomaque**

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**Defendant**

**University Healthsystem Consortium**

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**Defendant**

**Robert J. Baker**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

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**Defendant**

**Andrew S. Duff**

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**Defendant**

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**Defendant**

**Watkins Boulware, PC**

**Defendant**

**Novation LLC**

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**Interested Party**

**Samuel K. Lipari**

represented by **Ira Dennis Hawver**  
(See above for address)  
*TERMINATED: 01/29/2008*

Email All Attorneys  
Email All Attorneys and Additional Recipients

Date Filed	#	Page	Docket Text
07/14/2005			Case transferred in from District of Missouri; Case Number 05-210. Case is an electronically transfer case. (mm) (Entered: 07/14/2005)
07/14/2005	<u>1</u>		COMPLAINT filed by Medical Supply Chain, Inc. (Originally filed in Western District of Missouri on 3/9/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>2</u>		MOTION to Dismiss for Lack of Jurisdiction by Defendant Robert J. Zollars (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>3</u>		MEMORANDUM IN SUPPORT of <u>2</u> MOTION to Dismiss for Lack of Jurisdiction by Defendant Robert J. Zollars (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>4</u>		MOTION to Dismiss or Alternatively to Require Amendment Pursuant to FRCP Rules 8 and 9 by Defendant Neofoma, Inc. (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>5</u>		MEMORANDUM IN SUPPORT of <u>4</u> MOTION to Dismiss (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>6</u>		MOTION to Dismiss by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>7</u>		MEMORANDUM IN SUPPORT of <u>6</u> MOTION to Dismiss (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>8</u>		ANSWER to Complaint with Jury Demand by Jerry A. Grundhoffer.(Originally filed in Western District of Missouri on 4/4/05) (mm) (Entered: 07/14/2005)
07/14/2005	<u>9</u>		ANSWER to Complaint with Jury Demand by Andrew Cesere. (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>10</u>		ANSWER to Complaint with Jury Demand by Andrew S. Duff. (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>11</u>		MOTION to Dismiss for Lack of Jurisdiction by Defendants Curt Nonomaque, Robert J. Baker. (Originally filed in Western District of Missouri on 4/4/05) (mm) (Entered: 07/14/2005)
07/14/2005	<u>12</u>		MEMORANDUM IN SUPPORT of <u>11</u> MOTION to Dismiss for Lack of Jurisdiction by Defendants Curt Nonomaque, Robert J. Baker. (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>13</u>		MOTION to Dismiss by Defendant Shughart, Thomson & Kilroy, P.C. (Originally filed in Western District of Missouri on 4/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>14</u>		MEMORANDUM in Opposition by Plaintiff Medical Supply Chain, Inc. re <u>2</u> MOTION to Dismiss for Lack of Jurisdiction (Originally filed in Western District of Missouri on 4/11/05)(mm) (Entered: 07/14/2005)

07/14/2005	<u>15</u>		MEMORANDUM in Opposition by Plaintiff Medical Supply Chain, Inc. re <u>11</u> MOTION to Dismiss for Lack of Jurisdiction (Originally filed in Western District of Missouri on 4/11/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>16</u>		MEMORANDUM in Opposition by Plaintiff Medical Supply Chain, Inc. re <u>13</u> MOTION to Dismiss (Originally filed in Western District of Missouri on 4/20/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>17</u>		MEMORANDUM in Opposition by Plaintiff Medical Supply Chain, Inc. re <u>4</u> MOTION to Dismiss (Originally filed in Western District of Missouri on 4/20/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>18</u>		REPLY to Response to Motion by Defendant Robert J. Zollars re: <u>2</u> MOTION to Dismiss for Lack of Jurisdiction (Originally filed in Western District of Missouri on 4/22/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>19</u>		REPLY to Response to Motion by Defendants Curt Nonomaque, Robert J. Baker re: <u>11</u> MOTION to Dismiss for Lack of Jurisdiction (Originally filed in Western District of Missouri on 4/26/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>20</u>		REPLY to Response to Motion by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff re: <u>6</u> MOTION to Dismiss (Originally filed in Western District of Missouri on 5/4/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>21</u>		REPLY to Response to Motion by Defendant Neoforma, Inc. re: <u>4</u> MOTION to Dismiss (Originally filed in Western District of Missouri on 5/5/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>22</u>		MOTION for Sanctions by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff (Originally filed in Western District of Missouri on 6/3/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>23</u>		MEMORANDUM IN SUPPORT of <u>22</u> MOTION for Sanctions by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff (Originally filed in Western District of Missouri on 6/3/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>24</u>		MOTION to Stay Rule 26 Conference and Discovery by Defendant Novation LLC (Originally filed in Western District of Missouri on 6/6/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>25</u>		MEMORANDUM in Opposition by Plaintiff Medical Supply Chain, Inc. re <u>24</u> MOTION to Stay (Originally filed in Western District of Missouri on 6/7/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>26</u>		ORDER transferring case to the District of Kansas. (Originally filed in Western District of Missouri on 6/15/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>27</u>		MEMORANDUM in Opposition by Plaintiff Medical Supply Chain, Inc. re <u>22</u> MOTION for Sanctions (Originally filed in Western District of Missouri on 6/17/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>28</u>		MOTION for Reconsideration of transfer to District of Kansas by Plaintiff Medical Supply Chain, Inc. (Originally filed in Western District of Missouri on

		6/27/05)(mm) (Entered: 07/14/2005)
07/14/2005	<u>29</u>	MEMORANDUM in Opposition by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff re <u>28</u> MOTION for Reconsideration (Originally filed in Western District of Missouri on 7/11/05)(mm) (Entered: 07/14/2005)
07/14/2005		ORDER REFERRING CASE to Magistrate Judge Gerald L. Rushfelt (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry)(mm) (Entered: 07/14/2005)
07/20/2005	<u>30</u>	REPLY to Response to Motion by Plaintiff Medical Supply Chain, Inc. re: <u>28</u> MOTION for Reconsideration of <i>transfer</i> (Attachments: # <u>1</u> Affidavit Sam Lipari)(Landrith, Bret) (Entered: 07/20/2005)
07/20/2005	<u>31</u>	DESIGNATION OF PLACE OF TRIAL filed by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff – trial to be held in Kansas City, Kansas. (DeMarea, Andrew) (Entered: 07/20/2005)
07/25/2005	<u>32</u>	RENEWED MOTION to Dismiss and/or Strike by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff(Olthoff, Mark) Title modified on 7/26/2005 (ck ). (Entered: 07/25/2005)
07/27/2005	<u>33</u>	DESIGNATION OF PLACE OF TRIAL filed by Defendant Shughart, Thomson & Kilroy, P.C. – trial to be held in Kansas City, Kansas. (Hardee, Kathleen) (Entered: 07/27/2005)
08/09/2005	<u>34</u>	RENEWED MOTION to Dismiss <i>Complaint for Failure to State a Claim</i> by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker and Novation LLC(Power, John) (Entered: 08/09/2005)
08/09/2005	<u>35</u>	MEMORANDUM IN SUPPORT of <u>34</u> MOTION to Dismiss <i>Complaint for Failure to State a Claim</i> by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC(Power, John) (Entered: 08/09/2005)
08/09/2005	<u>36</u>	MOTION for Sanctions by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker and Novation LLC(Power, John) (Entered: 08/09/2005)
08/09/2005	<u>37</u>	MEMORANDUM IN SUPPORT of <u>36</u> MOTION for Sanctions by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC(Power, John) (Entered: 08/09/2005)
08/09/2005	<u>38</u>	MOTION to Strike <u>32</u> Defendant's Renewed Motion to Dismiss and/or Strike <i>Second Dismissal Motion</i> by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4# <u>5</u> Exhibit 5# <u>6</u> Exhibit 6# <u>7</u> Exhibit 8)(Landrith, Bret) (Entered: 08/09/2005)
08/09/2005	<u>39</u>	MOTION to Consolidate Cases by Plaintiff Medical Supply Chain, Inc.(Landrith, Bret) (Entered: 08/09/2005)

08/15/2005	<u>40</u>		MEMORANDUM in Opposition by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff re Plaintiff's <u>38</u> Motion to Strike <u>32</u> <i>Defendant's Renewed Motion to Dismiss and/or Strike</i> (Olthoff, Mark) Modified on 8/17/2005 to create relationship link to motion to strike. (ck ). (Entered: 08/15/2005)
08/29/2005	41		ORDER REFERRING MOTION: <u>24</u> MOTION to Stay referred to Magistrate Judge Gerald L. Rushfelt. By Judge Kathryn H. Vratil on 08/29/05. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry)(ls) (Entered: 08/29/2005)
08/29/2005	<u>42</u>		MOTION to Amend/Correct <i>GE Defendants' Consolidation Letter</i> by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit Exb 1# <u>2</u> Exhibit Exb 2)(Landrith, Bret) (Entered: 08/29/2005)
08/30/2005	<u>43</u>		MOTION to Strike <i>Novation Defendants' 34 Renewed Motion to Dismiss</i> by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit Exb 2# <u>3</u> Exhibit Exb 3 A# <u>4</u> Exhibit Exb 3 B# <u>5</u> Exhibit Exb 4)(Landrith, Bret) Modified on 8/31/2005 to create relationship link to motion (ck ). (Entered: 08/30/2005)
08/30/2005	<u>44</u>		RESPONSE by Plaintiff Medical Supply Chain, Inc. re <u>36</u> MOTION for Sanctions (Attachments: # <u>1</u> Exhibit Exb 1# <u>2</u> Exhibit Exb 2)(Landrith, Bret) (Entered: 08/30/2005)
08/31/2005	<u>45</u>		MOTION to Clarify <i>Consolidation Order</i> by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit Exb 1# <u>2</u> Exhibit Exb 2)(Landrith, Bret) (Entered: 08/31/2005)
09/06/2005	<u>46</u>		MOTION for Summary Judgment ( <i>First Motion for Partial Summary Judgment</i> ) by Plaintiff Medical Supply Chain, Inc.(Landrith, Bret) (Entered: 09/06/2005)
09/06/2005	<u>47</u>		MEMORANDUM IN SUPPORT of <u>46</u> MOTION for Summary Judgment ( <i>First Motion for Partial Summary Judgment</i> ) by Plaintiff Medical Supply Chain, Inc.(Landrith, Bret) (Entered: 09/06/2005)
09/06/2005	<u>48</u>		EXHIBIT(S) IN SUPPORT of <u>46</u> MOTION for Summary Judgment ( <i>First Partial Motion</i> ) by Plaintiff Medical Supply Chain, Inc. <i>Memorandum Exhibits</i> (Attachments: # <u>1</u> Exhibit Exb 3# <u>2</u> Exhibit Exb 4# <u>3</u> Exhibit Exb 5# <u>4</u> Exhibit Exb 6# <u>5</u> Exhibit Exb 7# <u>6</u> Exhibit Exb 8# <u>7</u> Supplement FBI Complaint# <u>8</u> Supplement Sup 1 Atch 1# <u>9</u> Supplement Sup 1 Atch 2# <u>10</u> Supplement Sup 1 Atch 3# <u>11</u> Supplement Sup 1 Atch 4# <u>12</u> Supplement Sup 1 Atch 5# <u>13</u> Supplement Sup 1 Atch 6# <u>14</u> Supplement Sup 1 Atch 8# <u>15</u> Supplement Sup 1 Atch 8# <u>16</u> Supplement Sup 1 Atch 10# <u>17</u> Supplement Sup 1 Atch 11# <u>18</u> Supplement Sup 1 Atch 12# <u>19</u> Supplement Sup 1 Atch 13)(Landrith, Bret) (Entered: 09/06/2005)
09/15/2005	<u>49</u>		MOTION for Joinder of <i>GE Defendants</i> by Plaintiff Medical Supply Chain, Inc.(Landrith, Bret) (Entered: 09/15/2005)
09/16/2005	<u>50</u>		MEMORANDUM in Opposition by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC re <u>43</u> MOTION to Strike <i>Novation Defendants' 2nd Motion to Dismiss</i> (Power, John) (Entered: 09/16/2005)

09/29/2005	<u>51</u>	MEMORANDUM in Opposition by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff re <u>46</u> MOTION for Summary Judgment ( <i>First Partial Motion</i> ) (Olthoff, Mark) (Entered: 09/29/2005)
09/29/2005	<u>52</u>	MEMORANDUM in Opposition by Defendant Shughart, Thomson & Kilroy, P.C. re <u>46</u> MOTION for Summary Judgment ( <i>First Partial Motion</i> ) (Attachments: # <u>1</u> ) (Hardee, Kathleen) (Entered: 09/29/2005)
09/29/2005	<u>53</u>	MEMORANDUM in Opposition by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff re <u>49</u> MOTION for Joinder of <i>GE Defendants</i> (Olthoff, Mark) (Entered: 09/29/2005)
09/29/2005	<u>54</u>	MEMORANDUM in Opposition by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC re <u>46</u> MOTION for Summary Judgment ( <i>First Partial Motion</i> ) (Power, John) (Entered: 09/29/2005)
09/29/2005	<u>55</u>	MEMORANDUM in Opposition by Defendants Neoforma, Inc., Robert J. Zollars re <u>46</u> MOTION for Summary Judgment ( <i>First Partial Motion</i> ) (Power, John) (Entered: 09/29/2005)
10/09/2005	<u>56</u>	MOTION to Substitute Party by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2) (Landrith, Bret) (Entered: 10/09/2005)
10/11/2005	<u>57</u>	MOTION to Substitute Party by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit 1 Neoforma Sale to GHX # <u>2</u> Exhibit Paragraphs Identifying GHX) (Landrith, Bret) (Entered: 10/11/2005)
10/17/2005	<u>58</u>	REPLY to Response to Motion by Plaintiff Medical Supply Chain, Inc. re: <u>46</u> MOTION for Summary Judgment ( <i>First Partial Motion</i> ) (Attachments: # <u>1</u> Exhibit 1 Order) (Landrith, Bret) (Entered: 10/17/2005)
10/17/2005	<u>59</u>	MOTION to Withdraw as Attorney by Plaintiff Medical Supply Chain, Inc. (Landrith, Bret) (Entered: 10/17/2005)
10/17/2005	<u>60</u>	EXHIBIT(S) IN SUPPORT of <u>59</u> MOTION to Withdraw as Attorney by Plaintiff Medical Supply Chain, Inc. (Landrith, Bret) (Entered: 10/17/2005)
10/20/2005	61	ORDER REASSIGNING CASE. Case reassigned to Judge Carlos Murguia for all further proceedings. Judge Kathryn H. Vratil no longer assigned to case. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry) (ls) (Entered: 10/20/2005)
10/21/2005	<u>62</u>	MEMORANDUM in Opposition by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff, Shughart, Thomson & Kilroy, P.C., Watkins Boulware, PC, Novation LLC, Neoforma, Inc., Robert J. Zollars re <u>56</u> MOTION to Substitute Party (Olthoff, Mark) (Entered: 10/21/2005)
10/24/2005	<u>63</u>	RESPONSE by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC re <u>57</u> MOTION to Substitute Party (Power, John) (Entered: 10/24/2005)

10/25/2005	<u>64</u>		RESPONSE by Defendant Neoforma, Inc. re <u>57</u> MOTION to Substitute Party (Power, John) (Entered: 10/25/2005)
11/15/2005	<u>65</u>		NOTICE of Related Action by Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit Exhibit)(Landrith, Bret) (Entered: 11/15/2005)
11/16/2005	<u>66</u>		ORDER denying without prejudice <u>59</u> Counsel Landrith's Motion to Withdraw as Attorney. Signed by Magistrate Judge Gerald L. Rushfelt on 11/16/2005.(jm) (Entered: 11/16/2005)
12/16/2005	<u>67</u>		MOTION for attorney Stephen N. Roberts to appear pro hac vice by Defendants Neoforma, Inc., Robert J. Zollars (Attachments: # <u>1</u> Affidavit)(Power, John) (Entered: 12/16/2005)
12/16/2005	<u>68</u>		MOTION for attorney Sophie N. Froelich to appear pro hac vice by Defendants Neoforma, Inc., Robert J. Zollars (Attachments: # <u>1</u> Affidavit)(Power, John) (Entered: 12/16/2005)
12/16/2005	<u>69</u>		MOTION for attorney Janice Vaughn Mock to appear pro hac vice by Defendants Neoforma, Inc., Robert J. Zollars (Attachments: # <u>1</u> Affidavit)(Power, John) (Entered: 12/16/2005)
12/16/2005			PRO HAC VICE FEE PAID: On 12/16/2005 in the amount of \$50.00 re: <u>67</u> MOTION for attorney Stephen N. Roberts to appear pro hac vice. Receipt Number 000654. (THIS IS A TEXT ONLY ENTRY–NO DOCUMENT IS ASSOCIATED WITH THIS TRANSACTION) (Entered: 12/16/2005)
12/16/2005			PRO HAC VICE FEE PAID: On 12/16/2005 in the amount of \$50.00 re: <u>68</u> MOTION for attorney Sophie N. Froelich to appear pro hac vice. Receipt Number 000653. (THIS IS A TEXT ONLY ENTRY–NO DOCUMENT IS ASSOCIATED WITH THIS TRANSACTION) (kao) (Entered: 12/16/2005)
12/16/2005			PRO HAC VICE FEE PAID: On 12/16/2005 in the amount of \$50.00 re: <u>69</u> MOTION for attorney Janice Vaughn Mock to appear pro hac vice. Receipt Number 000651. (THIS IS A TEXT ONLY ENTRY–NO DOCUMENT IS ASSOCIATED WITH THIS TRANSACTION) (kao) (Entered: 12/16/2005)
01/04/2006	<u>70</u>		ORDER granting <u>67</u> , <u>68</u> , and <u>69</u> Motions to Appear Pro Hac Vice. Stephen N. Roberts, Sophie N. Froelich, and Janice Vaughn Mock are granted leave to appear pro hac vice on behalf of Neoforma, Inc. and Robert J. Zollars. If pro hac vice counsel has not already done so, counsel is directed to immediately register for electronic notification pursuant to the court's Administrative Procedures by completing a registration form at <a href="http://www.ksd.uscourts.gov/features/forms/pdfforms/efilereg.pdf">www.ksd.uscourts.gov/features/forms/pdfforms/efilereg.pdf</a> . Signed by Magistrate Judge Gerald L. Rushfelt on 01/03/06. (mg) (Entered: 01/04/2006)
01/19/2006	<u>71</u>		ORDER Plaintiff's counsel, Bret Landrith, to file a Motion to Withdraw as Counsel that complies with Local Rule 83.5.5, on or before January 30, 2006. Signed by Judge Carlos Murguia on 1/18/2006.(js) (Entered: 01/19/2006)
01/30/2006	<u>72</u>		Second MOTION to Withdraw as Attorney by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3)(Landrith, Bret) (Entered: 01/30/2006)
02/02/2006	<u>73</u>		ORDER granting in part and denying in part <u>72</u> Motion to Withdraw as Attorney. Signed by Judge Carlos Murguia on 2/2/06. (yh, ). (Entered: 02/02/2006)

		02/02/2006)
02/07/2006	74	CERTIFIED MAIL RECEIPT 7002 2030 0000 9349 8496 returned addressed to Bret Landrith (js) (Entered: 02/07/2006)
02/07/2006	<u>75</u>	ENTRY OF APPEARANCE by Ira Dennis Hawver on behalf of Medical Supply Chain, Inc. (Hawver, Ira) (Entered: 02/07/2006)
02/21/2006	<u>76</u>	MOTION for Hearing re <u>34</u> MOTION to Dismiss <i>Complaint for Failure to State a Claim</i> by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F) (Power, John) (Entered: 02/21/2006)
03/05/2006	<u>77</u>	MEMORANDUM in Opposition by Plaintiff Medical Supply Chain, Inc. re <u>76</u> MOTION for Hearing re <u>34</u> MOTION to Dismiss <i>Complaint for Failure to State a Claim</i> (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3# <u>4</u> Exhibit 4)(Hawver, Ira) (Entered: 03/05/2006)
03/07/2006	<u>78</u>	MEMORANDUM AND ORDER granting <u>22</u> Motion for Sanctions, finding as moot <u>24</u> Motion to Stay, denying <u>28</u> Motion for Reconsideration, granting <u>32</u> Motion to Dismiss, granting <u>34</u> Motion to Dismiss, granting <u>36</u> Motion for Sanctions, denying <u>38</u> Motion to Strike, finding as moot <u>39</u> Motion to Consolidate Cases, finding as moot <u>42</u> Motion to Amend/Correct, denying <u>43</u> Motion to Strike, denying <u>45</u> Motion to Clarify, finding as moot <u>46</u> Motion for Summary Judgment, finding as moot <u>49</u> Motion for Joinder, finding as moot <u>56</u> Motion to Substitute Party, finding as moot <u>57</u> Motion to Substitute Party, finding as moot <u>76</u> Motion for Hearing, granting <u>2</u> Motion to Dismiss for Lack of Jurisdiction, granting <u>4</u> Motion to Dismiss, granting <u>6</u> Motion to Dismiss, granting <u>11</u> Motion to Dismiss for Lack of Jurisdiction, granting <u>13</u> Motion to Dismiss. Signed by Carlos Murguia on 3/7/2006. (js) Modified on 3/8/2006 (Sealed User YH, ). (Entered: 03/07/2006)
03/14/2006	<u>79</u>	NOTICE of Entry of Interested party by Samuel K. Lapari (yh, ) (Entered: 03/15/2006)
03/14/2006	<u>80</u>	MOTION for Reconsideration re <u>78</u> Memorandum adn Order on Motion for Sanctions, Order on Motion to Stay, Order on Motion for Reconsideration, Order on Motion to Dismiss, Order on Motion to Strike, Order on Motion to Consolidate Cases, Order on Motion to Amend/Correct, Order on Motion to Clarify, Order on Motion for Summary Judgment, Order on Motion for Joinder, Order on Motion to Substitute Party, Order on Motion for Hearing, Order on Motion to Dismiss/Lack of Jurisdiction, by Interested Party Samuel K. Lapari (yh, ) (Entered: 03/15/2006)
03/17/2006	<u>81</u>	MOTION to Withdraw as Attorney by Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Attachment) (Hawver, Ira) (Entered: 03/17/2006)
03/21/2006	<u>82</u>	MEMORANDUM in Opposition by Defendant Shughart, Thomson & Kilroy, P.C. re <u>80</u> MOTION for Reconsideration re <u>78</u> Order on Motion for Sanctions, Order on Motion to Stay, Order on Motion for Reconsideration, Order on Motion to Dismiss, Order on Motion to Strike, Order on Motion to Cons (Hardee, Kathleen) Modified on 3/22/2006 (yh, ). (Entered: 03/21/2006)
03/24/2006	<u>83</u>	

		MEMORANDUM in Opposition by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff re <u>80</u> MOTION for Reconsideration re <u>78</u> Order on Motion for Sanctions, Order on Motion to Stay, Order on Motion for Reconsideration, Order on Motion to Dismiss, Order on Motion to Strike, Order on Motion to Cons (Olthoff, Mark) . (Entered: 03/24/2006)
03/27/2006	<u>84</u>	MOTION to Seal <i>Motion to File Exhibits Under Seal</i> by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff (Olthoff, Mark) (Entered: 03/27/2006)
03/27/2006	<u>85</u>	MOTION for Attorney Fees by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff (Olthoff, Mark) (Entered: 03/27/2006)
03/27/2006	<u>86</u>	MEMORANDUM IN SUPPORT of <u>85</u> MOTION for Attorney Fees by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff(Olthoff, Mark) (Entered: 03/27/2006)
03/27/2006	<u>87</u>	ORDER granting <u>84</u> Motion to file exhibits under seal. Signed by Judge Carlos Murguia on 3/27/06. (yh, ) (Entered: 03/27/2006)
03/27/2006	<u>92</u>	MOTION to Amend Complaint re <u>1</u> Complaint by Interested Party Samuel K. Lapari (yh, ) (Entered: 03/29/2006)
03/28/2006	<u>88</u>	MOTION for Leave to file Accounting One Day Out of Time by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC (Power, John) (Entered: 03/28/2006)
03/28/2006	<u>89</u>	MEMORANDUM in Opposition by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC re <u>80</u> MOTION for Reconsideration re <u>78</u> Order on Motion for Sanctions,,,, Order on Motion to Stay,,,, Order on Motion for Reconsideration,,,, Order on Motion to Dismiss,,,,,, Order on Motion to Strike,,,, Order on Motion to Cons (Power, John) (Entered: 03/28/2006)
03/28/2006	<u>90</u>	MOTION to Seal <i>File Accounting Under Seal</i> by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC (Power, John) (Entered: 03/28/2006)
03/28/2006	<u>91</u>	RESPONSE by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC re <u>78</u> Order on Motion for Sanctions, Order on Motion to Stay, Order on Motion for Reconsideration, Order on Motion to Dismiss, Order on Motion to Strike, Order on Motion to Consolidate Cases, Order on Motion to Amend/Correct, Order on Motion to Clarify, Order on Motion for Summary Judgment, Order on Motion for Joinder, Order on Motion to Substitute Party, Order on Motion for Hearing, Order on Motion to Dismiss/Lack of Jurisdiction, <i>Accounting of Attorneys' Fees and Costs</i> (Power, John) Modified on 3/29/2006 (yh, ). (Entered: 03/28/2006)
03/29/2006	<u>93</u>	NOTICE of Exhibits to be Filed Under Seal by US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff (Olthoff, Mark) (Entered: 03/29/2006)

03/29/2006	94		SEALED EXHIBIT(S) IN SUPPORT of <u>85</u> MOTION for Attorney Fees by Defendant US Bank NA (This is a TEXT ENTRY ONLY, no pdf. document is associated with this entry, VAULT)(yh, ) (Entered: 03/30/2006)
03/30/2006	<u>95</u>		MOTION to Strike <u>82</u> Memorandum in Opposition to Motion,, <u>91</u> Response to Order,,, <u>86</u> Memorandum in Support of Motion, <u>85</u> MOTION for Attorney Fees, <u>87</u> Order on Motion to Seal, <u>83</u> Memorandum in Opposition to Motion,, <u>93</u> Notice (Other), <u>88</u> MOTION for Leave to file Accounting One Day Out of Time, <u>89</u> Memorandum in Opposition to Motion,, <u>90</u> MOTION to Seal <i>File Accounting Under Seal</i> by Interested Party Samuel K. Lapari (yh, ) (Entered: 03/31/2006)
04/05/2006	<u>96</u>		Joint MEMORANDUM in Opposition by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff, Shughart, Thomson & Kilroy, P.C., Novation LLC, Neoforma, Inc., Robert J. Zollars re <u>95</u> MOTION to Strike <u>82</u> Memorandum in Opposition to Motion,, <u>91</u> Response to Order,,, <u>86</u> Memorandum in Support of Motion, <u>85</u> MOTION for Attorney Fees, <u>87</u> Order on Motion to Seal, <u>83</u> Memorandum in Opposition to Motion,, <u>93</u> Notice (Other), <u>88</u> , <u>92</u> MOTION to Amend Complaint re <u>1</u> Complaint (Olthoff, Mark) (Entered: 04/05/2006)
04/05/2006	<u>97</u>		REPLY to Opposition to Motion by Interested Party Samuel K. Lapari re: <u>80</u> MOTION for Reconsideration re <u>78</u> Order on Motion for Sanctions, Order on Motion to Stay, Order on Motion for Reconsideration, Order on Motion to Dismiss, Order on Motion to Strike, Order on Motion to Cons (Attachments: # <u>1</u> Appendix A–Novation# <u>2</u> Exhibit B–Pages 35–59# <u>3</u> Exhibit C–Pages 60–exh 6)(yh, ) (Entered: 04/05/2006)
04/12/2006	<u>98</u>		ORDER granting <u>88</u> Motion for Leave to File Accounting Out of Time. Defendants Novation, VHA, UHC, Robert Baker, and Curt Nonomaque shall file their Accounting within five (5) days of the date of this Order. Signed by Magistrate Judge Gerald L. Rushfelt on 4/12/2006. (byk) (Entered: 04/12/2006)
04/12/2006	<u>99</u>		ORDER granting in part and denying in part <u>90</u> Motion to File Accounting Under Seal. Defendants Novation, VHA, UHC, Robert Baker, and Curt Nonomaque are granted leave to file the billing records and Affidavit of Kathleen Bone Spangler and the billing records and Declaration of John K. Power under seal. The court otherwise overrules the motion. Signed by Magistrate Judge Gerald L. Rushfelt on 4/12/2006. (byk) (Entered: 04/12/2006)
04/12/2006	100		SEALED EXHIBITS AND AFFIDAVIT of Kathleen Spangler and billing records by Novation LLC. (This is a TEXT ENTRY ONLY, there is no pdf. document associated with this entry) (CLERK'S OFFICE VAULT) (yh, ) (Entered: 04/12/2006)
05/17/2006	<u>101</u>		NOTICE of Misnomer regarding plaintiff by Samuel K. Lapari (yh, ) (Entered: 05/18/2006)
07/24/2006	<u>102</u>		MOTION to Remand to the Western District of Missouri by Interested Party Samuel K. Lapari (Attachments: # <u>1</u> Exhibit 7 thru 9# <u>2</u> Exhibit 10# <u>3</u> Exhibit 11–14) (yh, ) (Entered: 07/25/2006)
08/02/2006	<u>103</u>		

		Joint MEMORANDUM in Opposition by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, Novation LLC re <u>102</u> MOTION to Remand (Power, John) (Entered: 08/02/2006)
08/07/2006	<u>104</u>	ORDER striking <u>80</u> Motion for Reconsideration, denying <u>81</u> Motion to Withdraw as Attorney, striking <u>92</u> Motion to Amend Complaint, striking <u>95</u> Motion to Strike, striking <u>102</u> Motion to Remand. Signed by Judge Carlos Murguia on 8/7/2006. (js) (Entered: 08/07/2006)
08/08/2006	<u>105</u>	ORDER granting <u>85</u> Motion for Attorney Fees . Signed by Judge Carlos Murguia on 8/8/06. (yh, ) (Entered: 08/08/2006)
08/10/2006	<u>106</u>	Supplemental MOTION for Attorney Fees by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff (Olthoff, Mark) (Entered: 08/10/2006)
08/10/2006	<u>107</u>	MEMORANDUM IN SUPPORT of <u>106</u> Supplemental MOTION for Attorney Fees by Defendants US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff(Olthoff, Mark) (Entered: 08/10/2006)
08/10/2006	<u>108</u>	EXHIBIT(S) IN SUPPORT of <u>107</u> Memorandum in Support of Motion <i>To Be Filed Under Seal</i> . (Olthoff, Mark) (Entered: 08/10/2006)
08/25/2006	<u>109</u>	ORDER granting <u>106</u> Motion for Attorney Fees. Signed by Judge Carlos Murguia on 8/25/2006.(This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (js) (Entered: 08/25/2006)
09/08/2006	<u>110</u>	NOTICE OF APPEAL by Interested Party Samuel K. Lapari, Plaintiff Medical Supply Chain, Inc.. (Hawver, Ira) (Entered: 09/08/2006)
09/08/2006	<u>111</u>	EXHIBITS to <u>110</u> NOTICE OF APPEAL by Interested Party Samuel K. Lapari, Plaintiff Medical Supply Chain, Inc.. (Main Document – Exhibit 1, Attachments: # <u>1</u> Exhibit 2 # <u>2</u> Exhibit 3)(Hawver, Ira) Modified title on 9/12/2006 (kao). (Entered: 09/08/2006)
09/12/2006	<u>112</u>	PRELIMINARY RECORD ON APPEAL transmitted to 10CCA re <u>110</u> Notice of Appeal – Final Judgment. (Attachments: # <u>1</u> Letter to parties # <u>2</u> Docket Sheet # <u>3</u> Transcript Order Form # <u>4</u> Letter to Counsel from 10CCA # <u>5</u> Docketing Statement/Instructions)(kao) (Entered: 09/12/2006)
09/12/2006		APPEAL FEE STATUS: Filing fee NOT PAID re: Notice of Appeal – Final Judgment <u>110</u> . (THIS IS A TEXT ONLY ENTRY–NO DOCUMENT IS ASSOCIATED WITH THIS TRANSACTION) (kao) (Entered: 09/13/2006)
09/19/2006	<u>113</u>	RECEIPT FROM 10CCA of Preliminary Record on Appeal re <u>110</u> Notice of Appeal – Final Judgment; Appeal No. 06–3331. (kao) (Entered: 09/20/2006)
09/19/2006	<u>114</u>	APPEAL DOCKETED in 10CCA on 9/15/2006 and assigned Appeal No. 06–3331 re <u>110</u> Notice of Appeal – Final Judgment filed by Medical Supply Chain, Inc., Samuel K. Lipari. (kao) (Entered: 09/20/2006)
10/03/2006		APPEAL FEE PAID in the amount of \$455 re Notice of Appeal – Final Judgment <u>110</u> filed by Medical Supply Chain, Inc., Samuel K. Lipari. Receipt No. K4631004971. (Appeal No. 06–3331) (THIS IS A TEXT ONLY

		ENTRY-NO DOCUMENT IS ASSOCIATED WITH THIS TRANSACTION) (kao) (Entered: 10/03/2006)
10/03/2006	<u>115</u>	Letter to 10CCA: Stating appeal fee paid re <u>110</u> Notice of Appeal – Final Judgment. (Appeal No. 06-3331) (kao) (Entered: 10/03/2006)
10/19/2006	<u>116</u>	TRANSCRIPT ORDER FORM: No Transcript Required filed by Samuel K. Lipari, Medical Supply Chain, Inc. re <u>110</u> Notice of Appeal – Final Judgment. (kao) (Entered: 10/20/2006)
10/23/2006	<u>117</u>	LETTER TO 10CCA stating record is complete re <u>110</u> Notice of Appeal – Final Judgment. (Appeal No. 06-3331) (kao) (Entered: 10/23/2006)
10/24/2006		***Civil Case Terminated. (yh, ) (Entered: 10/24/2006)
12/11/2007	<u>118</u>	APPEAL MANDATE from 10CCA: DISMISSING appeal as to <u>110</u> Notice of Appeal – Final Judgment filed by Samuel K. Lipari, Medical Supply Chain, Inc. (Appeal No. 06-3331) (Attachment: # <u>1</u> Transmittal Letter)(kao) (Entered: 12/11/2007)
12/27/2007	<u>119</u>	MOTION to Withdraw as Attorney by Interested Party Samuel K. Lipari, Plaintiff Medical Supply Chain, Inc. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Hawver, Ira) (Entered: 12/27/2007)
01/29/2008	<u>120</u>	ORDER granting in part and denying in part <u>119</u> Motion to Withdraw as Attorney. Attorney Dennis Hawver is withdrawn as counsel for plaintiff Samuel Lipari, but remains as counsel for plaintiff Medical Supply Chain, Inc. Signed by Magistrate Judge Gerald L. Rushfelt on 01/29/08. (mg) (Entered: 01/29/2008)
02/13/2008	<u>121</u>	MOTION to Withdraw as Attorney by Plaintiff Medical Supply Chain, Inc.(Hawver, Ira) (Entered: 02/13/2008)
02/13/2008	<u>122</u>	MOTION to Reopen Case by Samuel K. Lipari(yh) (Entered: 02/14/2008)
02/21/2008	<u>123</u>	MEMORANDUM in Opposition by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff, Shughart, Thomson & Kilroy, P.C., Novation LLC, Neoforma, Inc., Robert J. Zollars re <u>122</u> MOTION to Reopen Case <i>DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT</i> (Attachments: # <u>1</u> Exhibit A (Medical Supply Chain, Inc. v. US Bancorp, et al.), # <u>2</u> Exhibit B (December 30 2004 Order), # <u>3</u> Exhibit C (August 7, 2006 Memorandum and Order))(Olthoff, Mark) (Entered: 02/21/2008)
02/26/2008	<u>124</u>	RESPONSE MEMORANDUM to defendant's opposition by Samuel K. Lipari re <u>122</u> MOTION to Reopen Case (yh) (Entered: 02/27/2008)
02/26/2008	<u>125</u>	NOTICE of Concurrent Missouri State Antitrust Action by Samuel K. Lipari (Attachments: # <u>1</u> Appendix Petition, # <u>2</u> Appendix One-Procedure History, # <u>3</u> Appendix Two-Table of Prior and Related Cases, # <u>4</u> Appendix Three-State of Kansas Officials Role, # <u>5</u> Appendix Four-U.S. Bank relationship, # <u>6</u> Appendix Five-GE Relationship, # <u>7</u> Appendix Six-Ex Rel Complaint)(yh) (Entered: 02/27/2008)

03/04/2008	<u>126</u>		ORDER sustaining <u>121</u> Corrected Motion to Withdraw. Attorney Dennis Hawver is hereby withdrawn as counsel for Plaintiff Medical Supply Chain, Inc. Signed by Magistrate Judge Gerald L. Rushfelt on 3/4/2008. (byk) (Entered: 03/04/2008)
03/31/2008	<u>127</u>		ORDER striking <u>122</u> Motion to Reopen Case from the record. Mr. Lipari is directed to show cause within twelve days of this order why he has not violated Federal Rule of Civil Procedure 11(b). Signed by District Judge Carlos Murguia on 3/28/08. Answer to Order to Show Cause <u>128</u> . (mm) Modified on 4/9/2008 to create link to response (yh). (Entered: 03/31/2008)
04/08/2008	<u>128</u>		MOTION to Alter or Amend Judgment and Answer to Order to Show Cause <u>127</u> by Plaintiff Medical Supply Chain, Inc.(yh) Modified on 4/9/2008 to create link (yh). (Entered: 04/09/2008)
04/22/2008	<u>129</u>		RETURN of Certified Mail received re <u>127</u> Order on Motion to Reopen Case, addressed to Samuel K. Lipari Remaild on April 22, 2008 to 297 NE Bayview, Lees Summit, Mo 64064 by certified mail 7006215000031647350. (mm) (Entered: 04/23/2008)
05/16/2008	<u>130</u>		ORDER TO SHOW CAUSE. Show Cause Response due by 5/23/2008. Signed by District Judge Carlos Murguia on 5/16/08.(js) (Entered: 05/16/2008)
05/23/2008	<u>131</u>		RESPONSE by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff, Shughart, Thomson & Kilroy, P.C., Watkins Boulware, PC, Novation LLC, Neoforma, Inc., Robert J. Zollars re <u>128</u> MOTION to Alter Judgment ( Reply deadline 6/6/2008), RESPONSE re <u>130</u> Order to Show Cause by Defendants Volunteer Hospital Association, Curt Nonomaque, University Healthsystem Consortium, Robert J. Baker, US Bancorp N A, US Bank NA, Jerry A. Grundhoffer, Andrew Cesere, Piper Jaffray Companies, Andrew S. Duff, Shughart, Thomson & Kilroy, P.C., Watkins Boulware, PC, Novation LLC, Neoforma, Inc., Robert J. Zollars(Olthoff, Mark) (Entered: 05/23/2008)
05/28/2008	<u>132</u>		CERTIFIED MAIL RECEIPT returned re <u>127</u> and <u>129</u> Order on Motion to Reopen Case. Signed for on 5/5/2008: 7006 2150 0000 3164 7350. (ck) (Entered: 05/28/2008)
05/30/2008	<u>133</u>		REPLY to Response to Motion by Interested Party Samuel K. Lipari re: <u>128</u> MOTION to Alter Judgment (yh) (Entered: 06/02/2008)
06/12/2008	<u>134</u>		NOTICE of unavailability by Samuel K. Lipari (mm) (Entered: 06/13/2008)
07/08/2008	<u>135</u>	19	MEMORANDUM AND ORDER striking <u>128</u> Motion to Alter Judgment. Signed by District Judge Carlos Murguia on 7/7/08. (yh) (Entered: 07/08/2008)
07/08/2008			<b>DOCKET ANNOTATION:</b> <u>135</u> Memorandum and Order on Motion to Alter Judgment. Sent by certified and regular mail (#7002 2030 0001 2208 0432) (yh) (Entered: 07/08/2008)
07/10/2008	<u>136</u>	26	NOTICE OF APPEAL as to <u>135</u> Order on Motion to Alter Judgment by Samuel K. Lipari. (kao) (Entered: 07/10/2008)
07/10/2008			APPEAL FEE STATUS: Filing fee NOT PAID re: Notice of Appeal – Final Judgment <u>136</u> . () (THIS IS A TEXT ONLY ENTRY–NO DOCUMENT IS

		ASSOCIATED WITH THIS TRANSACTION) (kao) (Entered: 07/10/2008)
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>MEDICAL SUPPLY CHAIN, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 05-2299-CM</b>
	)	
<b>NEOFORMA, INC., et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

On March 31, 2008, this court issued an order striking a Rule 60(b) Motion from Samuel Lipari, directing Mr. Lipari to show cause why his filings have not violated Rule 11(b), and warning Mr. Lipari of possible sanctions (Doc. 127). This case is before the court on Mr. Lipari’s filing entitled, “Plaintiff’s Fed. R. Civ. P. 59(e), to Alter or Amend the Judgment and Answer to Order to Show Cause” (Doc. 128). To the extent that Mr. Lipari’s filing is a motion, the court strikes the present filing from the record. In addition, the court prohibits Mr. Lipari from any future *pro se* filings in this case unless timely and proper objections are filed.

**I. Background**

The extended history of this case is discussed in more detail in previous orders of this court and of the Tenth Circuit (Docs. 78, 104, 118). The March 31, 2008 order by this court stated:

[quoting the August 7, 2006 order] The court also finds that Mr. Lipari may not substitute himself for Medical Supply. Federal Rule of Civil Procedure 25(c), which governs the procedural substitution of a party after a transfer of interest, states: “In case of any transfer of interest, the action *may* be continued by or against the original party, *unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action.*” Fed. R. Civ. P. 25(c) (emphasis added). As evidenced by the plain language of Rule 25(c), the court has discretion to allow

Mr. Lipari to substitute. *Prop-Jets, Inc. v. Chandler*, 575 F.2d 1322, 1324 (10<sup>th</sup> Cir. 1978). The court declines to exercise its discretion, however, because this case has been dismissed, and substitution will not change that outcome. (Doc. 104).

Since that filing the status of the parties has not changed. Mr. Lipari is not a plaintiff. The court does not have any notice that Mr. Lipari is now a licensed attorney. Without any intervening change in the interim, the previous conclusions regarding Mr. Lipari's ability to represent plaintiff apply to the present motion. For the above-mentioned reasons, the court strikes Mr. Lipari's pending motion (Doc. 122).

Another portion of the court's previous order is also relevant. At that time, the court warned Mr. Lipari, stating "[c]onsistent with this ruling, the court cautions Mr. Lipari against filing additional motions. Of course, plaintiff may allow Mr. Hawver or other counsel to represent it . . . Future attempts to resurrect this case could result in the court imposing additional sanctions." Mr. Lipari's recent filings (Docs. 122, 125) appear to violate this warning.

Additionally, Mr. Lipari's "Rule 60(b) Motion" misstates several resolved issues, making his arguments frivolous. Mr. Lipari accuses this court of having "bias against the plaintiff" that "clearly results from the court's disbelief that the conduct complained of by the plaintiff occurred." Mr. Lipari challenges the court by noting, "[t]he plaintiff's Missouri state law antitrust claims will be filed in Independence, Missouri unnecessarily duplicating the present litigation if the present federal claims are not reopened." Before the court addressed whether the present federal case should be reopened, Mr. Lipari filed a notice that he filed a "concurrent Missouri antitrust action [on] February 25, 2008 in . . . Independence Missouri." (Doc. 125).

Mr. Lipari's actions and filings appear to violate Federal Rule of Civil Procedure 11(b). Under Rule 11(c)(1)(B), Mr. Lipari is directed to show cause within twelve days of this order why he has not violated Rule 11(b). **If Mr. Lipari fails to demonstrate that he has not violated Rule 11(b), this court will sanction Mr. Lipari by fine and filing restrictions.** (Doc. 127).

Mr. Lipari argues that the court must correct its prior order to correct two clear errors. First, Mr. Lipari asserts that there are intervening decisions that render the prior order inconsistent. To support this assertion, Mr. Lipari relies on an order from this court in another case, *Lipari v. U.S. Bancorp NA*, No. 07-cv-02146-CM-DJW ("*Lipari 2007*"). In an order denying in part a motion to dismiss in that case, this court stated:

Missouri law does, however, allow a dissolved corporation to assign its claims to a third-party. See, e.g., *Smith v. Taylor-Morley, Inc.*, 929 S.W.2d 918 (Mo. Ct. App.

1996) (upholding dissolved corporation's written assignment of rights to a purchase contract). The assignee may sue to recover damages for the dissolved corporation's claims. *Id.* (holding assignee of dissolved corporation's rights under a purchase contract could sue for injuries to dissolved corporation for breach of the purchase contract). Here, plaintiff alleges that he is the assignee of all rights and interests of Medical Supply, including the claims in this lawsuit. Accepting as true all material allegations of the complaint and construing the complaint in favor of plaintiff, the court finds that plaintiff has met his burden at this stage of the proceeding. Defendant's motion is denied with respect to standing.

*Lipari v. U.S. Bancorp NA*, 524 F. Supp. 2d 1327, 1330 (D. Kan. 2007). Because Mr. Lipari considers this case and *Lipari 2007* to be "the same case or controversy," he concludes that he must be allowed to proceed as the assignee in this case. Second, Mr. Lipari contends that this court erred because it lacks the power to strike his motions.

In response to the show cause order, Mr. Lipari accuses the undersigned judge of "unlawfully instruct[ing] the Kansas District Court Clerk to violate established policies of the Kansas District Court" to not give Mr. Lipari proper notice. Mr. Lipari argues that this violates his rights to due process and voids the orders of this court.

## **II. Analysis**

As before, Mr. Lipari's status in this case remains unchanged. For the reasons given before, the court strikes Mr. Lipari's filing to the extent that it is a motion. While the court could conclude its analysis on prior logic alone, the court will briefly address the substantive merits of Mr. Lipari's filing for clarification.

Mr. Lipari requests this court reconsider its prior order. Whether to grant or deny a motion for reconsideration is committed to the court's discretion. *GFF Corp. v. Associated Wholesale Grocers, Inc.*, 130 F.3d 1381, 1386 (10<sup>th</sup> Cir. 1998); *Hancock v. City of Okla. City*, 857 F.2d 1394, 1395 (10<sup>th</sup> Cir. 1988). In exercising that discretion, courts in general have recognized three major grounds justifying reconsideration: (1) an intervening change in controlling law; (2) availability of

new evidence; and (3) the need to correct clear error or prevent manifest injustice. *See Marx v. Schnuck Mkts., Inc.*, 869 F. Supp. 895, 897 (D. Kan. 1994) (citations omitted); D. Kan. Rule 7.3 (listing three bases for reconsideration of order); *see also Sithon Maritime Co. v. Holiday Mansion*, 177 F.R.D. 504, 505 (D. Kan. 1998) (“Appropriate circumstances for a motion to reconsider are where the court has obviously misapprehended a party’s position on the facts or the law, or the court has mistakenly decided issues outside of those the parties presented for determination.”). “A party’s failure to present its strongest case in the first instance does not entitle it to a second chance in the form of a motion to reconsider.” *Id.* at 505.

Here, Mr. Lipari bases his filing on the need to correct clear error or prevent manifest injustice that would result from this court issuing inconsistent rulings regarding his rights as an assignee of Medical Supply Chain, Inc. in this case and in *Lipari 2007*. This court’s rulings in this case and in *Lipari 2007*, however, are not inconsistent. There are two key distinctions. First, the statuses of the two cases when the seemingly inconsistent orders were issued are remarkably different. In this case, the court first held that Mr. Lipari could not represent Medical Supply Chain, Inc., and could not substitute himself as a *pro se* plaintiff, five months after the court dismissed all of Medical Supply Chain’s claims in this case, noting “The court declines to exercise its discretion [to substitute Mr. Lipari as a plaintiff] . . . because this case has been dismissed, and substitution will not change that outcome.” (Doc. 104, at 4). This case has been dismissed. In contrast, the decision in *Lipari 2007* applied the judgment standards for a motion to dismiss for lack of standing, which require this court to accept as true all of Mr. Lipari’s material allegations. Because this case and *Lipari 2007* are at different stages—this case being over, and the other at a relatively early stage—the court’s judgment standards and analyses are necessarily different.

Second, the status of Mr. Lipari in relation to Medical Supply Chain, Inc. at the beginning of

this case is different from Mr. Lipari's status at the beginning of *Lipari 2007*. This case was filed on March 9, 2005. At that time, Medical Supply Chain, Inc. was the only identified plaintiff. Moreover, plaintiff did not file his notice to this court that he was the assignee of the interests of Medical Supply Chain, Inc. until May 17, 2006, identifying the date of assignment as January 27, 2006. When an assignment, or transfer, of interests takes place after the case has started, "the procedure to be followed is governed by Fed. R. Civ. P. 25(c)." *Froning's Inc. v. Johnston Feed Serv.*, 568 F.2d 108, 110 (8<sup>th</sup> Cir. 1978) (also noting that in the absence of a motion under Fed. R. Civ. P. 25(c) to substitute assignees as plaintiffs, "it is not error to continue the action in the name of the original parties."). Thus, in this case, the court analyzes Mr. Lipari's efforts to act as a plaintiff under Fed. R. Civ. P. 25(c), which allows for the court's discretion. Because this case has been dismissed, the court declines to substitute Mr. Lipari as a plaintiff. On the other hand, in *Lipari 2007*, Mr. Lipari filed that case in November 2006 as an assignee of the interests of Medical Supply Chain, Inc. from the beginning. Because he started *Lipari 2007* as a plaintiff, it is not necessary for the court to analyze whether to substitute him as a plaintiff under Fed. R. Civ. P. 25(c).

Because there are distinctions between the court's orders in this case and its order in *Lipari 2007*, the orders are not inconsistent. Because the rulings are not inconsistent, it is not necessary for the court to reconsider its prior order in this case to correct clear error.

Next, Mr. Lipari argues that the court erred by striking his motions because the court lacks authority to strike motions under the Federal Rules of Civil Procedure. Without addressing this court's authority under the Federal Rules of Civil Procedure, it is clear that this court has inherent authority to manage its docket to promote judicial efficiency and the "comprehensive disposition of cases." *See Hartsel Springs Ranch of Col. Inc. v. Bluegreen Corp.*, 296 F.3d 982, 985 (10<sup>th</sup> Cir. 2002). Moreover, this court has the inherent authority to impose sanctions to address abuses of the

judicial process. *Steinert v. Winn Group, Inc.*, 440 F.3d 1214, 1227 n.15 (10<sup>th</sup> Cir. 2006). Striking filings is a method of sanctioning. *Lynn v. Roberts*, No. 03-3464-JAR, 2005 WL 3087841, at \*6 (D. Kan. Nov. 1, 2006). Consequently, in the interests of judicial efficiency, this court's striking of Mr. Lipari's filings was appropriate.

Lastly, the court considers Mr. Lipari's response to the order to show cause why he has not violated Rule 11(b). Instead of attempting to explain or correct his filings, Mr. Lipari chose to accuse the undersigned judge of instructing the "Kansas District Court Clerk to violate established policies of the Kansas District Court," and of violating Mr. Lipari's due process rights.

A district court has the power to sanction a party who fails to follow local rules, federal rules, or a court order. *See Issa v. Comp USA*, 354 F.3d 1174, 1178 (10<sup>th</sup> Cir. 2003); *Lynn v. Roberts*, No. 01-3422-MLB, 2006 WL 2850273, at \*6 (D. Kan. Oct. 4, 2006) (citing *Gripe v. City of Enid, Okla.*, 312 F.3d 1184, 1188 (10<sup>th</sup> Cir. 2003)). Filing restrictions are a method of sanctioning a party that persists in filing frivolous, malicious, or abusive filings. *See Custard v. Lappin*, 260 F. App'x 73, 73 (10<sup>th</sup> Cir. 2008). Filing restrictions are appropriate if they respond to "lengthy and abusive" litigation history. *Guttman v. Widman*, 188 F. App'x 691, 698 (10<sup>th</sup> Cir. 2006). The litigant must receive notice prior to the implementation of such restrictions. *Id.* The restrictions must be carefully tailored for the circumstances and provide guidelines for the litigant for how to obtain permission to file an action. *Id.*

This case has already been dismissed, but Mr. Lipari, who is not a plaintiff, persists in filing motions in this case. The court has warned him that if he continues to attempt to "resurrect" this case it could result in sanctions. Mr. Lipari has responded by filing repetitive motions in this case and by filing other cases in federal and state court that he contends are the "same case or controversy." Because Mr. Lipari has disregarded prior warnings and continues to attempt to act as

plaintiff in this dismissed case, **Mr. Lipari is prohibited from submitting any other filings in this case, 05-2299, unless he is represented by counsel in this case. Mr. Lipari has ten days to file an objection. If no valid objection is filed, the filing restrictions will take effect.**

**IT IS THEREFORE ORDERED** that Mr. Lipari's filing entitled, "Plaintiff's Fed. R. Civ. P. 59(e), to Alter or Amend the Judgment and Answer to Order to Show Cause" (Doc. 128) is stricken from the record.

**IT IS FURTHER ORDERED** that filing restrictions as defined above are imposed against Mr. Lipari.

Dated this 7th day of July 2008, at Kansas City, Kansas.

**s/ Carlos Murguia** \_\_\_\_\_  
**CARLOS MURGUIA**  
**United States District Judge**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

08 JUL 10 PM 2:02

MEDICAL SUPPLY CHAIN, INC., )  
 (Through assignee Samuel K. Lipari) )  
 SAMUEL K. LIPARI )  
                                 *Plaintiff,* )  
                                 v. )  
 NOVATION, LLC )  
 NEOFORMA, INC. )  
 ROBERT J. ZOLLARS )  
 VOLUNTEER HOSPITAL ASSOCIATION )  
 CURT NONOMAQUE )  
 UNIVERSITY HEALTHSYSTEM CONSORTIUM )  
 ROBERT J. BAKER )  
 US BANCORP, NA )  
 US BANK )  
 JERRY A. GRUNDHOFER )  
 ANDREW CECERE )  
 THE PIPER JAFFRAY COMPANIES )  
 ANDREW S. DUFF )  
 SHUGHART THOMSON & KILROY, P.C. )  
                                 *Defendants.* )

TIMOTHY M. O'BRIEN  
CLERK  
BY   tja   DEPUTY  
AT KANSAS CITY, KS  
Case No. 05-2299

**NOTICE OF APPEAL**

Comes now the plaintiff Samuel K. Lipari, the assignee of all rights of the dissolved Missouri corporation Medical Supply Chain, Inc. and makes the following appeal from the trial court's denial of his Rule 60(b) motion on July 7, 2008 based on his lack of standing after determining that the plaintiff had standing as the assignee of all rights of the dissolved Missouri corporation Medical Supply Chain, Inc. in the same matter or Article III controversy under a different style or case number.

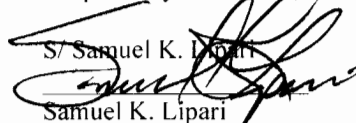
The plaintiff also appeals the order of sanctions or loss of future rights to seek redress imposed by the Hon. Judge Carlos Murguia for relying on Judge Carlos Murguia's own order determining his capacity.

An order denying a Rule 60(b) motion is a final order for purposes of appeal. *Mohammed v. Sullivan*, 866 F.2d 258, 260 (8th Cir. 1989). The US Court of Appeals for the Tenth Circuit has jurisdiction for review to determine that the discretion exercised by the court was not guided by erroneous legal conclusions. *United States v. Johnston*, 146 F.3d 785, 792 (10th Cir.1998) (quoting *Koon v. United States*, 518 U.S. 81, 100, 116 S.Ct. 2035, 135 L.Ed.2d 392 (1996)).

The plaintiff observes that the trial court's disposal of the motion for new trial appears to be in error and a reviewable abuse of discretion similar to that described in *Jennings v. Rivers*, 394 F.3d 850 (10th Cir., 2005) "[I]n the instant case, the district court has not evaluated the denial of plaintiff's Rule

60(b)(1) motion as to Mr. Howell under the appropriate standards.” The inconsistency of standing determinations in the same Article III matter or controversy appears to be the exceptional circumstances requiring relief.

Respectfully Submitted,



S/ Samuel K. Lipari

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*Pro se*

**CERTIFICATE OF SERVICE**

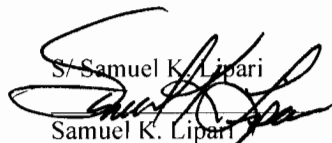
I certify I have sent a copy via electronic case filing to the undersigned opposing counsel and via email on 7/10/08.

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S/ Samuel K. Lipari  
Samuel K. Lipari