

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

SAMUEL K. LIPARI,)	
)	
Plaintiff,)	
)	
Vs.)	Case No. 07-CV-02146-CM-DJW
)	
U.S. BANCORP, and)	
)	
U.S. BANK NATIONAL ASSOCIATION,)	
)	
Defendants.)	

**DEFENDANTS’ REPLY IN SUPPORT OF THEIR
MOTION FOR PROTECTIVE ORDER ON PLAINTIFF’S
CORPORATE NOTICE OF DEPOSITION *DUCES TECUM* MOTION**

Defendants U.S. Bancorp and U.S. Bank National Association, through counsel, file this Reply in Support of Their Motion for Protective relating to plaintiff’s Corporate Notice of Deposition *Duces Tecum* (Doc. No. 82).

Plaintiff does not address the specific grounds for a protective order set forth in defendants’ motion but, rather, incorporates by reference his earlier memorandum opposing Defendant’s Motion for Protective Order related to plaintiff’s Request for Production. While plaintiff once again incorrectly states that defendants are seeking a “blanket” protective order as to all discovery,¹ the instant motion pertains only to plaintiff’s improper Notice of Deposition *Duces Tecum* for a corporate designee. As noted in defendants’ motion (Doc. No. 82), plaintiff seeks a corporate designee to testify to each of the 263 paragraphs in his Petition, and to produce documents that relate to each of the 263 paragraphs. Plaintiff makes no argument that his notice is proper under Fed. R. Civ. P. 30(b)(6). Nor does he disagree with the cases upon which

¹ Defendants produced documents pursuant to Fed. R. Civ. P. 26(a) and also produced documents pursuant to certain of the requests for production despite their objections.

defendants rely, *Budget Dress Corp. v. Joint Bd. of Dress and Waistmakers' Union of Greater New York*, 24 F.R.D. 506, 508 (S.D.N.Y. 1959) (quashing corporate designee notice that sought designees “who have knowledge of the facts set forth in the pleadings herein.”) or *Park & Tilford Distillers Corp v. Distillers Co.*, 19 F.R.D. 169, 171 (S.D.N.Y. 1956) (quashing corporate designee notice that sought “such other directors, officers or employees as have knowledge or information concerning the matters or any of them referred to in the complaint.”).

Instead, plaintiff asserts that “the proposed protection against deposing U.S. Bancorp specifically on identified paragraphs in the Complaint is a suspension of the Federal Rules of Civil Procedure in this forum not yet achieved by Kansas state officials or Mr. John Wood, a U.S. Attorney for the Western District of Missouri on behalf of the defendants.” Plaintiff’s arguments are inexplicable, particularly as to his reference to U.S. Attorney John Wood and his supposed relationship to this case. And they are all the more confusing given plaintiff’s aversion to responding to defendants’ request for documents and to appearing for his deposition.

Plaintiff’s deposition notice is plainly improper and exceeds the bounds of what is reasonable under Fed. R. Civ. P. 30(b)(6). Accordingly, defendants have shown good cause for why this *particular* notice and discovery not be had. Fed. R. Civ. P. 26(c)(1)(A).

For these reasons and for the reasons stated in defendants’ Motion and Supporting Memorandum, the plaintiff’s Notice of Deposition is improper under the Federal Rules of Civil Procedure and the defendants request this Court grant their Motion for Protective Order.

Respectfully submitted,

/s/ Jay E. Heidrick

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ATTORNEYS FOR DEFENDANTS

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ASSOCIATION

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing document was filed electronically with the above-captioned court, with notice of case activity to be generated and sent electronically by the Clerk of said court (with a copy to be e-mailed to any individuals who do not receive electronic notice from the Clerk) this 13th day of June, 2008, to:

Mr. Samuel K. Lipari
297 NE Bayview
Lee's Summit, MO 64064

/s/ Jay E. Heidrick
Attorney for Defendants