

**UNITED STATES COURT OF APPEALS
TENTH CIRCUIT**

SAMUEL K. LIPARI,)	
)	
)	Plaintiff,
)	
vs.)	Case No. 08-3338
)	(Appeal from Kansas District
)	Case No. 07-CV-02146)
U.S. BANCORP, and)	
)	
U.S. BANK NATIONAL ASSOCIATION,)	
)	
Defendants.)	

**RESPONSE TO SHOW CAUSE ORDER CONCERNING APPELLATE COURT
JURISDICTION**

Appellees/Defendants U.S. Bancorp and U.S. Bank NA, through counsel Shughart Thomson & Kilroy, P.C., file this Response to the Clerk’s December 9, 2008 Order to Show Cause regarding Appellate Jurisdiction in Case No. 08-3338.

When the Appellant/Plaintiff, Mr. Lipari, filed his “Amended Notice of Appeal” on December 3, 2008, the District Court had not entered a final dispositive order or judgment disposing of the entirety of the district court case. On December 12, 2008, Judge Murguia entered a final order dismissing plaintiff’s suit with prejudice and awarding attorney fees to the defendants in the amount of \$700.00. *See* Doc. #171.

Because the District Court’s December 12, 2008 order has now disposed of all claims in the underlying action, this Court may now possess appellate jurisdiction. *See* 28 U.S.C. § 1291; *U.S. v. Brown*, 348 F.3d 1200, 1206 (10th Cir. 2003) (only final orders are appealable as of right and an order is not final until it disposes of all remaining claims). Previously, this Court ordered the original appeal remain in abeyance pending final disposition. *See* Order, dated November 14, 2008, entered in Case No. 08-3287.

Mr. Lipari asserts a nonsensical argument in his Answer to the Show cause Order in this case that “The jurisdiction of the Tenth Circuit court however is just the jurisdiction to determine its own jurisdiction or lack thereof.” *Appellant’s Answer to Show Cause*, pg. 3. Mr. Lipari goes on to argue that only the Eighth Circuit Court of Appeals possesses jurisdiction to hear these claims.

Appellees/defendants believe this Court, if any, may have appellate jurisdiction over a case appealed from a district court in this Circuit. Mr. Lipari’s arguments about an appeal to the Eighth Circuit from a District of Kansas judgment are frivolous, as his appeals have twice been rejected already. *See* Orders of the Eighth Circuit Court of Appeals, attached hereto as Exhibit A. Nevertheless, Mr Lipari is continuing his efforts at piecemeal appeals of the district court decisions. *See* “Second Amended” appeal notice the Tenth Circuit and “Third Amended” appeal notice to Eighth Circuit, attached as Exhibit B. Mr. Lipari’s unreasonable and arguably vexatious multiplication of these proceedings is unworthy. Beyond any doubt, however, the appeal in Case No. 08-3338 is a nullity.

Respectfully submitted,

s/ Jay E. Heidrick

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ATTORNEYS FOR APPELLEES/DEFENDANTS
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 19th day of December, 2008, to:

Mr. Samuel K. Lipari
3520 NE Akin Boulevard
Suite 918
Lee Summit, MO 64064

s/ Jay E. Heidrick

Attorney for Appellees/Defendants

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 08-3087

Samuel K. Lipari,

Plaintiff - Appellant

v.

US Bancorp, NA; US Bank NA,

Defendants - Appellees

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:06-cv-01012-FJG)

JUDGMENT

The motion of appellee for dismissal of this appeal is granted. The appeal is hereby dismissed. See Eighth Circuit Rule 47A(b).

October 09, 2008

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

Exhibit A

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 08-3428

Samuel K. Lipari,

Plaintiff - Appellant

v.

US Bancorp, NA; US Bank NA,

Defendants - Appellees

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:06-cv-01012-FJG)

JUDGMENT

The motion of appellee for dismissal of this appeal is granted. The appeal is hereby dismissed. See Eighth Circuit Rule 47A(b).

November 11, 2008

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 08-3428

Samuel K. Lipari,

Appellant

v.

US Bancorp, NA and US Bank NA,

Appellees

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:06-cv-01012-FJG)

ORDER

The motion to recall the mandate filed by Appellant Lipari has been considered by the court and is denied.

December 09, 2008

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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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ATTORNEY FOR DEFENDANTS
U.S. BANCORP AND U.S. BANK
NATIONAL ASSOCIATION

S/ Samuel K. Lipari

Samuel K. Lipari

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

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Pro se

Certificate of Service

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

S/ Samuel K. Lipari

Samuel K. Lipari