

DJW/bh

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

SAMUEL K. LIPARI,

Plaintiff,

CIVIL ACTION

v.

No. 07-2146-CM-DJW

U.S. BANCORP, N.A., et al.,

Defendants.

ORDER

On July 22, 2008, the Court issued a Memorandum and Order (doc. 103) granting in part and denying in part Defendants' Motion to Compel Compliance with Rule 26(a)(1) (doc. 68). In that Order, the Court directed Plaintiff, *inter alia*, to show cause, on or before August 13, 2008, why he should not be required to pay a portion of the reasonable attorney's fees and expenses that Defendants incurred in making their Motion to Compel.¹ Plaintiff has filed no response to the Court's Show Cause Order.

In light of the above, the Court finds that Plaintiff should be required to pay a portion of the reasonable attorney's fees and expenses that Defendants incurred in connection with their Motion to Compel. To aid the Court in determining the proper amount of the award, Defendants' counsel shall file, by **August 27, 2008**, an affidavit itemizing the attorney's fees and expenses that Defendants incurred in bringing their Motion to Compel, along with a pleading setting forth any argument counsel desires to make regarding the proper amount to be apportioned. Plaintiff shall

¹The Court's Order was made pursuant to Fed. R. Civ. P 37(a)(5)(C), which provides that when a motion to compel is granted in part and denied in the party, a court may "apportion the reasonable expenses for the motion."

have until **September 10, 2008** to file a response thereto. Thereafter, the Court will issue an order specifying the amount of the award and the time for payment.

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this 18th day of August 2008.

s/ David J. Waxse
David J. Waxse
U.S. Magistrate Judge

cc: All counsel and pro se parties