

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

In Re: Bankamerica Corporation
Securities Litigation,

David Oetting, *Plaintiff-Appellant*

v.

Green Jacobson, P.C., *Appellee*.

Appeal No. 13-2620

David Oetting's Notice of Transcript Order

As requested by this Court's case-opening letter of July 25, 2013, Appellant and NationsBank Class Representative David Oetting notifies all parties to the appeal that he has not and does not intend to order transcripts of any proceedings below. Oetting considers no transcripts necessary to the adjudication of the issues that he raises on appeal:

- 1) Did the district court err as a matter of law when it ordered *cy pres* distribution of millions of dollars of the class's money, including moneys yet to be recovered in pending third-party litigation, where (a) class members had not yet been fully compensated for their alleged damages; (b) the beneficiary was a local St. Louis charity yet the class was nationwide in scope; and (c) the beneficiary had no relationship to the underlying securities litigation?
- 2) Did the district court err as a matter of law in awarding a second round of attorneys' fees to class counsel without providing the class with required Rule 23(h) notice?

- 3) Did the district court err in awarding a second round of attorneys' fees when class counsel had already been handsomely compensated by the original fee award and class counsel breached its fiduciary duty to the class by placing the interests of a third-party charity ahead of the interests of their clients?

/s/ Theodore H. Frank

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Certificate of Service

The filing attorney certifies that on August 8, 2013, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system.