

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

January 9, 2015

FOR THE TENTH CIRCUIT

**Elisabeth A. Shumaker
Clerk of Court**

THE BANK OF NEW YORK MELLON,

Petitioner,

v.

AMERICAN FIDELITY ASSURANCE
COMPANY,

Respondent.

No. 14-607
(D.C. No. 5:11-CV-01284-D)

ORDER

Before **LUCERO, HOLMES, and MORITZ**, Circuit Judges.

This matter is before the court on the Petition for Leave to File Interlocutory Appeal, which was filed by the defendant in the underlying case, The Bank of New York Mellon. The petition was filed pursuant to 28 U.S.C. § 1292(b) and Federal Rule of Appellate Procedure 5. The plaintiff below, American Fidelity Assurance Company, filed an answer to the petition, which supports the request in the petition for immediate appeal.

Upon consideration, the petition is granted.

Within 14 days of the date of this order, The Bank of New York Mellon shall pay the \$505 filing fees to the Clerk of the District Court for the Western District of Oklahoma. *See* Fed. R. App. P. 5(d)(1)(A). A notice of appeal is not required. Instead, the date of this order shall serve as the date of the notice of appeal. *Id.* at 5(d)(2).

The clerk of this court is directed to open a new appeal once the district court notifies this court that the filing fees have been paid. *Id.* 5(d)(3).

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script that reads "Lara Smith".

by: Lara Smith
Counsel to the Clerk

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK**

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157

Elisabeth A. Shumaker
Clerk of Court

January 09, 2015

Chris Wolpert
Chief Deputy Clerk

To all counsel of record:

RE: 14-607, Bank of NY Mellon v. American Fidelity Assurance
Dist/Ag docket: 5:11-CV-01284-D

Dear Counsel:

Enclosed please find an order issued today by the court.

Please contact this office if you have questions.

Sincerely,



Elisabeth A. Shumaker
Clerk of the Court

EAS/klp