

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

_____)
DANIEL WILLIAMS, and)
EDWARD WILLIAMS,)
)
Plaintiffs,)
)
-vs-)
)
BEEMILLER, INC. d/b/a HI-POINT,)
CHARLES BROWN,)
MKS SUPPLY, INC.,)
INTERNATIONAL GUN-A-RAMA,)
KIMBERLY UPSHAW,)
JAMES NIGEL BOSTIC,)
CORNELL CALDWELL, and)
JOHN DOE TRAFFICKERS 1-10,)
)
Defendants.)
_____)

No. 05-CV-0836S(F)


NOTICE OF APPEAL

FILED
U.S. DISTRICT COURT
WDNY BUFFALO
2006 OCT 25 PM 2:12

Notice is hereby given that Beemiller, Inc. d/b/a Hi-Point Firearms, Charlie Brown, MKS Supply, Inc., and International Gun-A-Rama, defendants in the above-named case, hereby appeal to the United States Court of Appeals for the Second Circuit from the Order entered in this action on the 26th day of September, 2006, denying their objections to the Decision and Order of Magistrate Judge Foschio granting the plaintiffs' motion to remand, on the bases that: (1) a motion to remand is a dispositive motion that cannot be decided by a magistrate judge without the consent of the parties; (2) the district judge failed to review the magistrate judge's Decision and Order *de novo*; (3) the District Court applied the improper legal standard when it found that the removing defendants lacked unanimity regarding consent to remove; and (4) the District Court used the improper legal standard to award fees and costs pursuant to 28 U.S.C. 1447(c).

Dated: New York, New York
October 25, 2006

By: Respectfully submitted,



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