

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Chief Judge Wiley Y. Daniel

Civil Action No. 09-cv-01747-WYD-BNB

STU EMMERT, an individual; and
PATRICIA EMMERT, an individual,

Plaintiffs,

v.

OPM ENTERPRISES, INC., d/b/a PRIDE WORLDWIDE MOVING & STORAGE, a Colorado corporation; and
BEKINS VAN LINES, LLC, a Delaware limited liability company,

Defendants.

ORDER TO REMAND

THIS MATTER is before the Court on Plaintiffs' Stipulated Motion to Remand, filed August 24, 2009 [#10]. Defendant Bekins Van Lines, LLC filed a Notice of Removal in this case on July 23, 2009 [#1], asserting that removal was proper pursuant to 28 U.S.C. §§ 1441 and 1446. In addition, Defendant Bekins represented that upon information and belief, none of the other Defendants had been served as of the time the Notice of Removal was filed. In the Unopposed Motion to Remand, Plaintiffs states that Defendant Bekins was served on June 23, 2009, and Defendant Pride Worldwide Moving & Storage was served on June 26, 2009, and that “[b]oth Returns of Service were filed with the Court.” Presumably, Plaintiffs are referring to the Douglas County District Court, because no returns of service are part of the record in this case. In any

event, 28 U.S.C. § 1446(b) requires that all served defendants join or consent to the removal petition within thirty days of service, commencing when the first defendant is served. It now appears that Defendant Pride was served on June 26, 2009, and has not joined or consented to the Notice of Removal filed July 23, 2009. In addition, Plaintiff states that Defendant Bekins does not object to remand.

In consideration of the foregoing, it appears that remand is proper. Accordingly, it is

ORDERED that this matter be REMANDED to the Douglas County District Court.

Dated: August 25, 2009

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Chief United States District Judge