

APPEAL,TERMED

**U.S. District Court
District of Colorado (Denver)
CIVIL DOCKET FOR CASE #: 1:14-cv-02822-RPM**

Phillips et al v. LuckyGunner, LLC et al
Assigned to: Judge Richard P. Matsch
Case in other court: Arapahoe County District Court,
2014CV31946
Cause: 28:1332 Diversity-Petition for Removal

Date Filed: 10/16/2014
Date Terminated: 03/27/2015
Jury Demand: Plaintiff
Nature of Suit: 360 P.I.: Other
Jurisdiction: Diversity

Plaintiff

Sandy Phillips
*individually and as surviving parrent of
Jessica Ghawi, decedent*

represented by **Paul Wayne Rodney**
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ATTORNEY TO BE NOTICED

Plaintiff

Lonnie Phillips
*individually and as surviving parent of
Jessica Ghawi, decedent*

represented by **Paul Wayne Rodney**
(See above for address)
ATTORNEY TO BE NOTICED

Thomas William Stoever , Jr.
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ATTORNEY TO BE NOTICED

V.

Defendant

Lucky Gunner
*a Tennessee Corporation
doing business as
BulkAmmo.com*

represented by **James Brian Vogts**
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Defendant

Sportsman's Guide, The
a Minnesota Corporation

represented by **Donald Mark Chance, Jr.**
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ATTORNEY TO BE NOTICED

Defendant

Brian Platt
doing business as
BTP Arms

represented by **Bruce A. Montoya**
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 ATTORNEY TO BE NOTICED

Defendant

Gold Strike E Commerce LLC
an Arizona Corporation, and John Does
1-10, unknown individuals
doing business as
 BulletProofArmorHQ.com

Intervenor

United States of America

represented by **Lesley Rebecca Farby**
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 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/16/2014	<u>1</u>	NOTICE OF REMOVAL by LuckyGunner, LLC (<i>with consent of all Defendants</i>) from Arapahoe County District Court, Case Number 2014CV31946. (Filing fee \$ 400, Receipt Number 1082-4095329), filed by LuckyGunner, LLC. (Attachments: # <u>1</u> Exhibit A — Original Complaint, # <u>2</u> Exhibit B — Amended Complaint, # <u>3</u> Exhibit C — Summons, # <u>4</u> Exhibit D — Consents to Removal, # <u>5</u> Exhibit E — Declaration, # <u>6</u> Exhibit F — State Ct. File (part 1 of 4), # <u>7</u> Exhibit F — State Ct. File (part 2 of 4), # <u>8</u> Exhibit F — State Ct. File (part 3 of 4), # <u>9</u> Exhibit F — State Ct. File (part 4 of 4))(Lothson, Andrew) (Entered: 10/16/2014)
10/16/2014	<u>2</u>	NOTICE of Entry of Appearance by Andrew A. Lothson on behalf of LuckyGunner, LLC (Lothson, Andrew) (Entered: 10/16/2014)
10/16/2014	<u>3</u>	MOTION to Dismiss <i>Purusant to Fed. R. Civ. P. 12(b)(6) and Memorandum In Support</i> by Defendant LuckyGunner, LLC. (Lothson, Andrew) (Entered: 10/16/2014)
10/16/2014	<u>4</u>	CORPORATE DISCLOSURE STATEMENT. (Lothson, Andrew) (Entered: 10/16/2014)

10/16/2014	<u>5</u>	MOTION for Leave to File Excess Pages by Defendant LuckyGunner, LLC. (Lothson, Andrew) (Entered: 10/16/2014)
10/16/2014	6	Case assigned to Judge Richard P. Matsch and drawn to Magistrate Judge Craig B. Shaffer. Text Only Entry (dbera,) (Entered: 10/16/2014)
10/16/2014	<u>7</u>	COMPLAINT against Gold Strike E Commerce LLC, Lucky Gunner, Brian Platt, Sportsman's Guide, The, filed by Lonnie Phillips, Sandy Phillips.(dbera,) (Entered: 10/16/2014)
10/16/2014	<u>8</u>	AMENDED COMPLAINT against Gold Strike E Commerce LLC, Lucky Gunner, Brian Platt, Sportsman's Guide, The, filed by Lonnie Phillips, Sandy Phillips.(dbera,) (Entered: 10/16/2014)
10/16/2014	9	Magistrate Judge Consent Form issued pursuant to Local Rule (dbera,) (Entered: 10/16/2014)
10/16/2014	10	FIRST AND FINAL NOTICE TO ATTORNEY(S) IN REMOVED, TRANSFERRED OR OTHER CASES: Pursuant to D.C.COLO.LCivR 11.1(a), an attorney must be a member of the U.S. District Court's bar to make an appearance and receive notice in any case before the court. The attorney records of the court reflect that the following counsel is a member of the U.S. District Courts Bar, but has not entered an appearance in this case: Thomas W. Stoever, Jr. In order to make an appearance in this case and receive any further notice regarding this case, counsel must file an entry of appearance in this case. Absent any Notice of Entry of Appearance filed, no further direct notices to counsel will be sent. Text only entry. (dbera,) (Entered: 10/16/2014)
10/17/2014	<u>11</u>	ORDER Granting <u>5</u> Motion for Leave to File Excess Pages: the parties in this civil action may file pleadings without page limitations, by Judge Richard P. Matsch on 10/17/2014.(jsmit) (Entered: 10/17/2014)
10/17/2014	<u>12</u>	NOTICE of Entry of Appearance by Marc F. Colin on behalf of Lucky GunnerAttorney Marc F. Colin added to party Lucky Gunner(pty:dft) (Colin, Marc) (Entered: 10/17/2014)
10/17/2014	<u>13</u>	NOTICE of Entry of Appearance by Paul Wayne Rodney on behalf of All Plaintiffs Attorney Paul Wayne Rodney added to party Lonnie Phillips(pty:pla), Attorney Paul Wayne Rodney added to party Sandy Phillips(pty:pla) (Rodney, Paul) (Entered: 10/17/2014)
10/17/2014	<u>14</u>	NOTICE of Entry of Appearance by Thomas William Stoever, Jr on behalf of All Plaintiffs Attorney Thomas William Stoever, Jr added to party Lonnie Phillips(pty:pla), Attorney Thomas William Stoever, Jr added to party Sandy Phillips(pty:pla) (Stoever, Thomas) (Entered: 10/17/2014)
10/17/2014	<u>15</u>	NOTICE OF CASE ASSOCIATION Pursuant to Local Rule 3.2 by Defendant Lucky Gunner (Lothson, Andrew) (Entered: 10/17/2014)
10/20/2014	<u>16</u>	NOTICE of Entry of Appearance by Patrick Joseph Rooney on behalf of Sportsman's Guide, TheAttorney Patrick Joseph Rooney added to party Sportsman's Guide, The(pty:dft) (Rooney, Patrick) (Entered: 10/20/2014)
10/20/2014	<u>17</u>	NOTICE of Entry of Appearance by Donald Mark Chance, Jr on behalf of Sportsman's Guide, TheAttorney Donald Mark Chance, Jr added to party Sportsman's Guide, The(pty:dft) (Chance, Donald) (Entered: 10/20/2014)
10/21/2014	<u>18</u>	NOTICE of Entry of Appearance by Peter A. T. Carlson on behalf of Sportsman's Guide, TheAttorney Peter A. T. Carlson added to party Sportsman's Guide, The(pty:dft) (Carlson, Peter) (Entered: 10/21/2014)
10/21/2014	<u>19</u>	NOTICE of Entry of Appearance by Phillip Robert Zuber on behalf of Brian PlattAttorney Phillip Robert Zuber added to party Brian Platt(pty:dft) (Zuber, Phillip) (Entered: 10/21/2014)
10/21/2014	<u>20</u>	NOTICE of Entry of Appearance by Bruce A. Montoya on behalf of Brian PlattAttorney Bruce A. Montoya added to party Brian Platt(pty:dft) (Montoya, Bruce) (Entered: 10/21/2014)

10/22/2014	<u>21</u>	MOTION to Dismiss for Failure to State a Claim by Defendant Brian Platt. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Zuber, Phillip) (Entered: 10/22/2014)
10/23/2014	<u>22</u>	MOTION to Dismiss <i>Pursuant to Rule 12(b)(6)</i> by Defendant Sportsman's Guide, The. (Rooney, Patrick) (Entered: 10/23/2014)
10/24/2014	<u>23</u>	CORPORATE DISCLOSURE STATEMENT. (Carlson, Peter) (Entered: 10/24/2014)
10/27/2014	<u>24</u>	CERTIFICATE of Mailing/Service re <u>23</u> Corporate Disclosure Statement, <u>16</u> Notice of Entry of Appearance, <u>17</u> Notice of Entry of Appearance, <u>18</u> Notice of Entry of Appearance, <u>22</u> MOTION to Dismiss <i>Pursuant to Rule 12(b)(6)</i> by Defendant Sportsman's Guide, The. (Carlson, Peter) (Entered: 10/27/2014)
11/05/2014	<u>25</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>3</u> MOTION to Dismiss <i>Purusant to Fed. R. Civ. P. 12(b)(6) and Memorandum In Support</i> , <u>22</u> MOTION to Dismiss <i>Pursuant to Rule 12(b)(6)</i> , <u>21</u> MOTION to Dismiss for Failure to State a Claim by Plaintiffs Lonnie Phillips, Sandy Phillips. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Stoever, Thomas) (Entered: 11/05/2014)
11/06/2014	<u>26</u>	ORDER Granting <u>25</u> Motion for Extension of Time re <u>3</u> , <u>21</u> , and <u>22</u> : deadline for Plaintiffs' consolidated response to the motions to dismiss is December 3, 2014, and defendants shall file their replies on or before January 9, 2015, by Judge Richard P. Matsch on 11/6/2014.(jsmit) (Entered: 11/06/2014)
12/03/2014	<u>27</u>	RESPONSE to <u>3</u> MOTION to Dismiss <i>Purusant to Fed. R. Civ. P. 12(b)(6) and Memorandum In Support</i> , <u>22</u> MOTION to Dismiss <i>Pursuant to Rule 12(b)(6)</i> , <u>21</u> MOTION to Dismiss for Failure to State a Claim filed by Plaintiffs Lonnie Phillips, Sandy Phillips. (Stoever, Thomas) (Entered: 12/03/2014)
12/03/2014	<u>28</u>	NOTICE re <u>27</u> Response to Motion, <i>Plaintiffs' Constitutional Challenge Pursuant to F.R.C.P. 5.1</i> by Plaintiffs Lonnie Phillips, Sandy Phillips (Stoever, Thomas) (Entered: 12/03/2014)
12/10/2014	<u>29</u>	CERTIFICATE of Mailing/Service re <u>28</u> Notice of Plaintiffs' Constitutional Challenge Pursuant to F.R.C.P. 5.1. (Attachments: # <u>1</u> Notice of Claim of Unconstitutionality) (evana,) (Entered: 12/10/2014)
12/12/2014	<u>30</u>	NOTICE of Receipt of Constitutional Challenge by Interested Party United States of America (Farby, Lesley) (Entered: 12/12/2014)
01/09/2015	<u>31</u>	REPLY to Response to <u>21</u> MOTION to Dismiss for Failure to State a Claim filed by Defendant Brian Platt. (Zuber, Phillip) (Entered: 01/09/2015)
01/09/2015	<u>32</u>	REPLY to Response to <u>3</u> MOTION to Dismiss <i>Purusant to Fed. R. Civ. P. 12(b)(6) and Memorandum In Support</i> filed by Defendant Lucky Gunner. (Lothson, Andrew) (Entered: 01/09/2015)
01/09/2015	<u>33</u>	REPLY to Response to <u>22</u> MOTION to Dismiss <i>Pursuant to Rule 12(b)(6)</i> filed by Defendant Sportsman's Guide, The. (Rooney, Patrick) (Entered: 01/09/2015)
02/02/2015	<u>34</u>	NOTICE re <u>27</u> Response to Motion, <i>Intervention</i> by Interested Party United States of America (Attachments: # <u>1</u> Proposed Document Memorandum in Support of the Constitutionality of the Protection of Lawful Commerce in Arms Act)(Farby, Lesley) (Entered: 02/02/2015)
02/04/2015	<u>35</u>	MINUTE ORDER Setting Hearing on Motions <u>22</u> , <u>21</u> , and <u>3</u> for 3/16/2015 02:00 PM in Courtroom A, Second Floor, the Byron White United States Courthouse, 1823 Stout Street, Denver, Colorado, by Judge Richard P. Matsch on 2/4/2015. (evana,) (Entered: 02/04/2015)
02/04/2015	<u>36</u>	NOTICE of Entry of Appearance by James Brian Vogts on behalf of Lucky GunnerAttorney James Brian Vogts added to party Lucky Gunner(pty:dft) (Vogts, James) (Entered: 02/04/2015)
02/23/2015	<u>37</u>	RESPONSE to <u>34</u> Notice (Other), by <i>The United States Of Intervention And Memorandum</i> by Plaintiffs Lonnie Phillips, Sandy Phillips. (Stoever, Thomas)

		(Entered: 02/23/2015)
02/23/2015	<u>38</u>	MOTION for Entry of Default as to <i>Defendant Gold Strike E Commerce LLC d/b/a BULLETPROOFBODYARMORHQ.COM</i> by Plaintiffs Lonnie Phillips, Sandy Phillips. (Attachments: # <u>1</u> Exhibit 1)(Stoever, Thomas) (Entered: 02/23/2015)
02/25/2015	<u>39</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Intervenor United States of America (Zee, Michael) (Entered: 02/25/2015)
02/25/2015	40	Clerk's ENTRY OF DEFAULT as to Gold Strike E Commerce LLC re <u>38</u> MOTION for Entry of Default as to Defendant Gold Strike E Commerce LLC d/b/a BULLETPROOFBODYARMORHQ.COM, by Clerk. Text Only Entry (evana,) (Entered: 02/25/2015)
03/13/2015	<u>41</u>	NOTICE of Entry of Appearance by Michael Andrew Zee on behalf of United States of America Attorney Michael Andrew Zee added to party United States of America(pty:intv) (Zee, Michael) (Entered: 03/13/2015)
03/13/2015	<u>42</u>	NOTICE of Entry of Appearance by Ronald L. Wilcox on behalf of Sportsman's Guide, The Attorney Ronald L. Wilcox added to party Sportsman's Guide, The(pty:dft) (Wilcox, Ronald) (Entered: 03/13/2015)
03/16/2015	<u>43</u>	NOTICE of Filing by Plaintiffs Lonnie Phillips, Sandy Phillips (Attachments: # <u>1</u> Exhibit 1 – Aurora Code)(Stoever, Thomas) (Entered: 03/16/2015)
03/16/2015	<u>44</u>	MINUTE ENTRY for proceedings held before Judge Richard P. Matsch: Motion Hearing held on 3/16/2015. Taking under advisement <u>3</u> Motion to Dismiss. Taking under advisement <u>21</u> Motion to Dismiss for Failure to State a Claim. Taking under advisement <u>22</u> Motion to Dismiss. Court indicates that a written order shall follow. FTR: K. Terasaki. (rkeec) (Entered: 03/16/2015)
03/27/2015	<u>45</u>	OPINION ORDERED that plaintiffs claims as to all defendants and this civil action are dismissed. Pursuant to C.R.S. §13-21-504.5, defendants Lucky Gunner and the Sportsmans Guide are entitled to an award of reasonable attorney fees and costs to be determined after filing motions pursuant to D.C.Colo.L.Civ.R.54.3 within 14 days after entry of judgment pursuant to this order, by Judge Richard P. Matsch on 3/27/15.(ktera) (Entered: 03/27/2015)
03/27/2015	<u>46</u>	JUDGMENT in favor of Gold Strike E Commerce LLC, Lucky Gunner, The Sportsman's Guide, Brian Platt against Sandy Phillips and Lonnie Phillips re: <u>45</u> Opinion. Pursuant to C.R.S. §13-21-504.5, defendants Lucky Gunner and the Sportsman's Guide are entitled to an award of reasonable attorney fees and costs to be determined after filing motions pursuant to D.C.Colo.L.Civ.R.54.3 within 14 days after entry of judgment, by Judge Richard P. Matsch on 3/27/15. (ktera) Modified on 3/27/2015 (Entered: 03/27/2015)
04/10/2015	<u>47</u>	MOTION for Attorney Fees <i>Under Rule 54(d) and D.C. Colo.LCivR 54.3</i> by Defendant Brian Platt. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Affidavit, # <u>3</u> Affidavit)(Montoya, Bruce) (Entered: 04/10/2015)
04/10/2015	<u>48</u>	MOTION for Attorney Fees by Defendant Lucky Gunner. (Attachments: # <u>1</u> Exhibit A — Affidavit of Marc Colin, # <u>2</u> Exhibit B — Affidavit of James Vogts)(Lothson, Andrew) (Entered: 04/10/2015)
04/10/2015	<u>49</u>	Proposed Bill of Costs <i>and Itemization</i> by Defendant Lucky Gunner. (Attachments: # <u>1</u> Exhibit Itemization of Bill of Costs)(Lothson, Andrew) (Entered: 04/10/2015)
04/10/2015	<u>50</u>	MOTION for Attorney Fees <i>and Costs</i> by Defendant Sportsman's Guide, The. (Carlson, Peter) (Entered: 04/10/2015)
04/10/2015	<u>51</u>	AFFIDAVIT re <u>50</u> MOTION for Attorney Fees <i>and Costs</i> by Defendant Sportsman's Guide, The. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Carlson, Peter) (Entered: 04/10/2015)
04/10/2015	<u>52</u>	Proposed Bill of Costs by Defendant Sportsman's Guide, The. (Carlson, Peter) (Entered: 04/10/2015)
04/10/2015	<u>53</u>	AFFIDAVIT re <u>52</u> Proposed Bill of Costs by Defendant Sportsman's Guide, The. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Carlson, Peter) (Entered: 04/10/2015)

04/10/2015	<u>54</u>	Proposed Bill of Costs (<i>Supplemental</i>) by Defendant Sportsman's Guide, The. (Carlson, Peter) (Entered: 04/10/2015)
04/10/2015	<u>55</u>	Amended MOTION for Attorney Fees by Defendant Brian Platt. (Attachments: # <u>1</u> Affidavit Affidavit of Bruce A. Montoya, # <u>2</u> Affidavit Affidavit of Phillip R. Zuber)(Montoya, Bruce) (Entered: 04/10/2015)
04/27/2015	<u>56</u>	NOTICE OF APPEAL as to <u>45</u> Order on Motion to Dismiss,, Order on Motion to Dismiss for Failure to State a Claim,,, <u>46</u> Judgment,, by Plaintiffs Lonnie Phillips, Sandy Phillips (Filing fee \$ 505, Receipt Number 1082-4385058) (Stoever, Thomas) (Entered: 04/27/2015)
04/27/2015	<u>57</u>	LETTER to <i>Edward Butler, Legal Officer</i> , by Defendant Sportsman's Guide, The. (Carlson, Peter) (Entered: 04/27/2015)